

Queensland



**PRIMARY INDUSTRIES AND
OTHER LEGISLATION
AMENDMENT ACT 2003**

Act No. 82 of 2003

Queensland



PRIMARY INDUSTRIES AND OTHER LEGISLATION AMENDMENT ACT 2003

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	10
2	Commencement	10
PART 2—AMENDMENT OF ANIMAL CARE AND PROTECTION ACT 2001		
3	Act amended in pt 2.	10
4	Amendment of s 166 (Failure to comply with information requirement) . . .	11
PART 3—AMENDMENT OF CHICKEN MEAT INDUSTRY COMMITTEE ACT 1976		
5	Act amended in pt 3.	11
6	Replacement of s 14 (Powers)	11
14	Powers	11
PART 4—AMENDMENT OF EXOTIC DISEASES IN ANIMALS ACT 1981		
7	Act amended in pt 4.	12
8	Insertion of new s 10A	12
	10A Restricted movements	12
9	Amendment of s 11 (Effect of notification)	13
10	Amendment of s 14 (Entry and exit places)	13
11	Amendment of s 15 (Check points)	13
12	Amendment of s 30 (Claims for compensation)	14
13	Amendment of sch 2 (Dictionary)	15
PART 5—AMENDMENT OF FISHERIES ACT 1994		
14	Act amended in pt 5.	15

*Primary Industries and Other Legislation Amendment No. 82, 2003
Act 2003*

15	Amendment of s 5 (Meaning of “fish”)	15
16	Amendment of s 20 (Chief executive’s functions)	16
17	Amendment of s 22 (Integrated development approval system regulations and guidelines)	16
18	Amendment of s 37 (Management plan may declare closed season, closed waters etc.)	17
19	Amendment of s 43 (Declaration of closed season, closed waters etc.)	17
20	Amendment of pt 5, div 3, hdg	17
21	Replacement of ss 49–51	17
	49 Authorities that may be issued under Act	18
22	Amendment of s 52 (Things authorised by authorities)	18
23	Amendment of s 59 (Refusal to issue or renew)	18
24	Insertion of new pt 5, div 3, sdiv 2A	19
	<i>Subdivision 2A—Additional requirements for deciding applications for resource allocation authorities</i>	
	60A Matters chief executive must consider	19
25	Amendment of s 61 (Conditions imposed on issue or renewal)	19
26	Insertion of new s 65C	19
	65C Waiver of fee or requirement on transfer or amendment	19
27	Replacement of s 67 (Suspension or cancellation of authorities by chief executive)	21
	67 Suspension or cancellation of authority by chief executive	21
28	Amendment of s 68 (Procedure for cancellation or suspension by chief executive)	21
29	Insertion of new ss 68A and 68B	22
	68A Suspension or cancellation of authority for dishonoured payment	22
	68B Suspension or cancellation of authority by court	23
30	Insertion of new s 69A	23
	69A Effect of suspension on issue or transfer of another authority	23
31	Amendment of s 73 (Registers of authorities)	24
32	Insertion of new pt 5, div 3A	24
	<i>Division 3A—Fisheries development approvals</i>	
	<i>Subdivision 1—Particular fisheries development also requires a resource allocation authority</i>	

*Primary Industries and Other Legislation Amendment No. 82, 2003
Act 2003*

76A	Application of sdiv 1	24
76B	Requirement for resource allocation authority	25
76C	Nature of fisheries development approval for which resource allocation authority required	25
<i>Subdivision 2—Assessment of development applications for fisheries development approval generally</i>		
76D	Matters chief executive must consider for Planning Act	26
<i>Subdivision 3—Assessment of development applications for construction or raising of waterway barrier works</i>		
76E	Application for fish movement exemption notice	26
76F	Deciding application for fish movement exemption notice	27
76G	When chief executive may approve applications relating to waterway barrier works	28
<i>Subdivision 4—Conditions on fisheries development approvals generally</i>		
76H	Relationship between sdiv 4 and Planning Act	29
76I	Conditions on fisheries development approvals generally	29
76J	Conditions on fisheries development approvals relating to aquaculture	29
76K	Conditions on fisheries development approvals for constructing or raising waterway barrier works	31
76L	Conditions on fisheries development approvals for works in a declared fish habitat area or removal etc. of marine plants	31
<i>Subdivision 5—Amending conditions on fisheries development approvals</i>		
76M	Definition for sdiv 5	32
76N	When chief executive may amend conditions of fisheries development approval	32
76O	Procedure for amendment	33
76P	No compensation for amendment	34
76Q	Appeal to Planning and Environment Court about amendment	34
76R	Court process for appeals.	35
<i>Subdivision 6—Provisions about development offences</i>		
76S	Purpose of sdiv 6	35
76T	Penalties for carrying out assessable development without permit	35
76U	Penalties for non-compliance with particular development approvals	36
76V	Additional requirement for development carried out in emergency	36

*Primary Industries and Other Legislation Amendment No. 82, 2003
Act 2003*

33	Insertion of new s 88B.	36
	88B Carrying out particular development without resource allocation authority	37
34	Omission of pt 5, div 8 (Fish ways)	38
35	Amendment of s 118 (Statistical returns to be kept)	38
36	Amendment of s 119 (Codes of practice)	38
37	Amendment of s 124 (Chief executive may rehabilitate or restore land etc.)	38
38	Insertion of new s 140A	38
	140A Functions of inspectors	39
39	Amendment of s 145 (Entry to places)	39
40	Amendment of s 184 (Evidentiary provisions)	39
41	Amendment of s 196 (Appeals to tribunal)	40
42	Insertion of new s 219A	40
	219A Executive officers must ensure corporation complies with Act.	40
43	Amendment of s 223 (Regulation making power)	41
44	Insertion of new pt 12, div 4	41
	<i>Division 4—Transitional provisions for Primary Industries and Other Legislation Amendment Act 2003</i>	
	<i>Subdivision 1—Definitions</i>	
240	Definitions for div 4.	42
	<i>Subdivision 2—Continuing effect of particular authorities or approvals</i>	
241	Continuing effect of existing licences or permits	42
242	Continuing effect of existing approvals for waterway barrier works.	44
243	Continuing effect of existing aquaculture licences for wild oyster harvesting.	44
	<i>Subdivision 3—Effect of commencement on particular applications in progress</i>	
244	Applications in progress for particular relevant authorities.	45
245	Applications in progress for aquaculture licences for wild oyster harvesting	46
	<i>Subdivision 4—Effect of commencement on particular appeals</i>	
246	Definitions for sdiv 4	46
247	Application of sdiv 4	47
248	Appeal to be decided under provisions before commencement	47

*Primary Industries and Other Legislation Amendment No. 82, 2003
Act 2003*

249	Effect of tribunal decision to issue relevant authority	47
250	Effect of tribunal decision to refer matter back to chief executive—development authority	48
251	Effect of tribunal decision to refer matter back to chief executive—particular aquaculture licences	48
252	Effect of tribunal decision to not issue relevant authority	49
	<i>Subdivision 5—Effect of commencement on prescribed criteria</i>	
253	Continuing effect of criteria prescribed for s 67	49
45	Amendment of schedule (Dictionary)	49
	PART 6—AMENDMENT OF FOOD PRODUCTION (SAFETY) ACT 2000	
46	Act amended in pt 6.	52
47	Amendment of s 6 (Exemption from application of Act)	52
48	Amendment of s 7 (Definitions)	53
49	Amendment of s 10 (Meaning of “primary produce”)	53
50	Replacement of pt 2, div 1, hdg.	54
51	Omission of pt 2, div 2 hdg.	54
52	Insertion of new pt 2, div 2	54
	<i>Division 2—Board of directors</i>	
16A	The board.	54
16B	Role of board	54
16C	Composition of board	55
16D	Chairperson to report to Minister.	55
16E	Chairperson to give business plan to Minister.	56
16F	Additional provisions about board.	56
53	Replacement of pt 2, div 3, hdg.	56
54	Amendment of s 17 (Appointment of chief executive officer)	56
55	Amendment of s 18 (Conditions of appointment).	56
56	Amendment of s 19 (Qualifications for appointment).	57
57	Amendment of s 21 (Chief executive officer to manage Safe Food’s affairs and prepare business plans)	57
58	Omission of s 22 (Chief executive officer to give business plans to Minister)	58
59	Insertion of new ss 23A–23C	58

	23A Safe Food's seal	58
	23B Judicial notice of certain signatures	58
	23C Authentication of documents	58
60	Amendment of s 24 (Delegation)	59
61	Omission of s 31 (Time and place of first meeting)	59
62	Amendment of s 67 (Suspension or cancellation—grounds)	59
63	Insertion of new pt 11, div 4	59
	<i>Division 4—Transitional provision for Primary Industries and Other Legislation Amendment Act 2003</i>	
	140U References in existing documents	59
64	Amendment of schedule (Dictionary)	60
65	Insertion of new sch 1	61
	SCHEDULE 1	
	ADDITIONAL PROVISIONS ABOUT BOARD OF SAFE FOOD	
	PART 1—DIRECTORS	
	1 Qualifications for appointment	62
	2 Duration of appointment	62
	3 Terms of appointment	62
	4 Termination of appointment	63
	PART 2—BUSINESS AND MEETINGS OF BOARD	
	5 Conduct of business	63
	6 Committees	63
	7 Times and places of meetings	63
	8 Quorum	63
	9 Presiding at meetings	64
	10 Departmental officer may attend board meetings	64
	11 Conduct of meetings	64
	12 Minutes	65
	PART 7—AMENDMENT OF GRAIN INDUSTRY (RESTRUCTURING) ACT 1991	
66	Act amended in pt 7	66
67	Amendment of s 2 (Objects of this Act)	66

68	Amendment of s 3 (Definitions)	66
69	Omission of pts 3 and 4.	67
70	Omission of s 56 (Returns)	67
	PART 8—AMENDMENT OF INTEGRATED PLANNING ACT 1997	
71	Act amended in pt 8.	67
72	Amendment of s 1.3.5 (Definitions for terms used in “development”).	67
73	Insertion of new s 3.2.2A	67
	3.2.2A Approved operational works for marine plants required for certain developments	68
74	Amendment of s 3.4.2 (When the notification stage applies)	68
75	Amendment of s 4.1.28 (Appeals by submitters)	68
76	Insertion of new s 4.1.28A	68
	4.1.28A Additional and extended appeal rights for submitters for particular development applications	69
77	Amendment of s 4.3.7 (Giving a false or misleading notice)	69
78	Insertion of new s 5.7.7A	70
	5.7.7A Documents particular entities required to keep available for inspection and purchase.	70
79	Insertion of new ch 5, pt 8A	70
	PART 8A—NOTIFICATION STAGE FOR PARTICULAR AQUACULTURE DEVELOPMENT	
	<i>Division 1—Preliminary</i>	
	5.8A.1 Purpose of notification stage under this part	71
	5.8A.2 When notification stage under this part applies.	71
	5.8A.3 When can notification stage start.	72
	<i>Division 2—Public notification</i>	
	5.8A.4 Public notice of proposed development.	73
	5.8A.5 Notification period for development applications	73
	5.8A.6 Requirements for certain notices.	74
	5.8A.7 Notice of compliance to be given to assessment manager and concurrence agency	74
	5.8A.8 Circumstances when applications may be assessed and decided without certain requirements	75
	5.8A.9 Making submissions	75

	5.8A.10 Submissions made during notification period effective for later notification period	76
	<i>Division 3—End of notification stage</i>	
	5.8A.11 When does notification stage end	76
	<i>Division 4—Changed referral agency provisions for applications to which this part applies</i>	
	5.8A.12 Referral agency must not respond before notification stage ends ..	76
	5.8A.13 Adjusted referral agency assessment period	77
80	Amendment of sch 8	77
81	Amendment of sch 8A (Assessment manager for development applications)	80
82	Amendment of sch 9 (Development that is exempt from assessment against a planning scheme)	83
83	Amendment of sch 10 (Dictionary).....	84
	PART 9—AMENDMENT OF PLANT PROTECTION ACT 1989	
84	Act amended in pt 9	85
85	Replacement of pt 6 hdg	85
	PART 6—PROVISIONS ABOUT ADMINISTRATIVE DECISIONS	
	<i>Division 1—General provision</i>	
	21LA Failure to decide particular decisions taken to be refusal	86
	<i>Division 2—Reconsideration of decisions’.</i>	
86	Amendment of s 21M (Application for reconsideration of administrative decisions).....	87
87	Insertion of new pt 6, div 3 hdg.....	87
	PART 10—MINOR AMENDMENTS	
88	Acts amended in schedule	88
	SCHEDULE	
	MINOR AMENDMENTS OF ACTS	
	CHICKEN MEAT INDUSTRY COMMITTEE ACT 1976.....	89
	PLANT PROTECTION ACT 1989.....	89
	POLICE POWERS AND RESPONSIBILITIES ACT 2000.....	89
	STOCK ACT 1915	90

Queensland



**Primary Industries and Other Legislation
Amendment Act 2003**

Act No. 82 of 2003

**An Act to amend legislation about primary industries, and for other
purposes**

[Assented to 6 November 2003]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Primary Industries and Other Legislation Amendment Act 2003*.

2 Commencement

(1) The following provisions commence on assent—

- (a) parts 2, 3, 4, 6, 7, 9, 10 and the schedule;
- (b) the following provisions of part 5—
 - (i) sections 14 to 15, 26 to 30, 35, 40 and 42;
 - (ii) section 44 to the extent it inserts new division 4, subdivision 5;
 - (iii) section 45(2) to the extent it inserts definitions “executive officer” and “transfer”.

(2) The remaining provisions commence on a day to be fixed by proclamation.

PART 2—AMENDMENT OF ANIMAL CARE AND PROTECTION ACT 2001

3 Act amended in pt 2

This part amends the *Animal Care and Protection Act 2001*.

4 Amendment of s 166 (Failure to comply with information requirement)

Section 166(2)(b)—

omit, insert—

- ‘(b) if the information sought by the requirement is not in fact relevant to—
- (i) for a requirement about a suspected contravention of this Act—the suspected contravention; or
 - (ii) for a requirement about whether an animal welfare direction has been complied with—the compliance or non-compliance with the direction.’

PART 3—AMENDMENT OF CHICKEN MEAT INDUSTRY COMMITTEE ACT 1976

5 Act amended in pt 3

This part amends the *Chicken Meat Industry Committee Act 1976*.

6 Replacement of s 14 (Powers)

Section 14—

omit, insert—

‘14 Powers

‘(1) The committee—

- (a) may do anything necessary or convenient to be done for performing its functions; and
- (b) without limiting paragraph (a), may charge for services and facilities it provides.

‘(2) Without limiting subsection (1), the committee has the powers given to it under this or another Act.

‘(3) A charge under subsection (1)(b) must not be more than the reasonable cost of providing the service or facility.’.

PART 4—AMENDMENT OF EXOTIC DISEASES IN ANIMALS ACT 1981

7 Act amended in pt 4

This part amends the *Exotic Diseases in Animals Act 1981*.

8 Insertion of new s 10A

After section 10—

insert—

‘10A Restricted movements

‘(1) After the notification of a restricted area, the Minister may, by notice, declare that the movement of any of the following within, into or out of the restricted area is restricted—

- (a) all persons or particular classes of persons;
- (b) all animals or particular classes or species of animals;
- (c) carcasses or animal products of all animals or particular classes or species of animals;
- (d) all or particular kinds of animal pathogens or biological preparations;
- (e) all or particular kinds of fittings or fodders;
- (f) all or particular kinds of vehicles or vessels;
- (g) any other property or thing that is likely to spread, or is capable of spreading, an exotic disease.

‘(2) A notice under subsection (1) is subordinate legislation.’.

9 Amendment of s 11 (Effect of notification)

Section 11, heading and subsection (1)—

omit, insert—

‘11 Licence required for restricted movements

‘(1) A person, other than an inspector, must not make, cause or allow a restricted movement for a restricted area unless the person—

- (a) holds a licence, in the approved form, from an inspector for the movement; and
- (b) complies with any conditions stated on the licence.

Maximum penalty—2 000 penalty units or 2 years imprisonment.’.

10 Amendment of s 14 (Entry and exit places)

Section 14(3)—

omit, insert—

‘(3) A person, other than an authorised person for the place of entry or exit, must not pass through the place unless the person—

- (a) stops and—
 - (i) if the movement is a restricted movement for the restricted area—produces, for inspection by the authorised person, a licence mentioned in section 11 for the movement; or
 - (ii) otherwise—gives the authorised person enough information to reasonably satisfy the authorised person that the movement is not a restricted movement for the restricted area; and
- (b) obtains permission from the authorised person to pass through the place.

Maximum penalty—1 000 penalty units or 1 year’s imprisonment.’.

11 Amendment of s 15 (Check points)

Section 15(2)—

omit, insert—

‘(2) A person, other than an authorised person for the check point, must not pass through the check point unless the person—

(a) stops and—

(i) if the movement is a restricted movement for the restricted area—produces, for inspection by the authorised person, a licence mentioned in section 11 for the movement; or

(ii) otherwise—gives the authorised person enough information to reasonably satisfy the authorised person that the movement is not a restricted movement for the restricted area; and

(b) obtains permission from the authorised person to pass through the check point.

Maximum penalty—1 000 penalty units or 1 year’s imprisonment.’.

12 Amendment of s 30 (Claims for compensation)

(1) Section 30(3) and (4)—

omit, insert—

‘(3) If, when the restriction period relating to the animal or property ends, the end market value of the animal or property is more than the amount of compensation paid under an application under subsection (1), the owner may apply for additional compensation, within 30 days after the restriction period ends.

‘(4) The amount of additional compensation payable is the difference between the amount of compensation paid under the application under subsection (1) and the end market value of the animal or property.’.

(2) Section 30(6)—

insert—

‘“**end market value**”, of an animal or property, means the market value of the animal or property at the end of the restriction period relating to the animal or property, based on the age and condition of the animal or property—

(a) for an animal—

(i) if the animal was affected with an exotic disease—immediately before it was affected; or

(ii) if the animal was not affected with an exotic disease—immediately before it was destroyed; or

(b) for property—immediately before it was destroyed.

“restriction period”, relating to an animal or property, means the period for which the animal or property is located in an area that is in quarantine or is a restricted area.’.

13 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

‘ **“authorised person”**, for a place of entry or exit or a check point, means—

(a) the inspector in charge of the place or check point; or

(b) if the chief inspector has authorised another person to be in charge of the place or check point—the other person.

“restricted movement”, for a restricted area, means a movement the Minister has declared, under section 10A, is restricted for the restricted area.’.

PART 5—AMENDMENT OF FISHERIES ACT 1994

14 Act amended in pt 5

This part amends the *Fisheries Act 1994*.

15 Amendment of s 5 (Meaning of “fish”)

Section 5(2)(c), ‘, sea’ to ‘turtles’—

omit.

16 Amendment of s 20 (Chief executive's functions)

(1) Section 20(1A)—

insert—

‘(ga) to ensure a function or power conferred, under this Act, on an entity is performed or exercised in a way that is consistent with the objectives of this Act; and’.

(2) Section 20(1A)(ga) and (h)—

renumber as section 20(1A)(h) and (i).

17 Amendment of s 22 (Integrated development approval system regulations and guidelines)

(1) Section 22, heading—

omit, insert—

‘22 Integrated development assessment system regulations and guidelines’.

(2) Section 22(1), after ‘guidelines about’—

insert—

‘, any of the following, in relation to the chief executive's powers or functions under the Planning Act’.

(3) Section 22(1), ‘; and’—

omit, insert—

‘;’.

(4) Section 22—

insert—

‘(1A) Also, a regulation may declare a statutory instrument or another document to be a code for IDAS under the Planning Act.’.

(5) Section 22(1A) and (2)—

renumber as section 22(2) and (3).

18 Amendment of s 37 (Management plan may declare closed season, closed waters etc.)

(1) Section 37—

insert—

‘(3A) However, a closed waters declaration does not apply to an activity authorised by a development approval unless the declaration expressly states that it applies to the activity.’.

(2) Section 37(3A) and (4)—

renumber as section 37(4) and(5).

19 Amendment of s 43 (Declaration of closed season, closed waters etc.)

(1) Section 43—

insert—

‘(3A) However, a closed waters declaration does not apply to an activity authorised by a development approval unless the declaration expressly states that it applies to the activity.’.

(2) Section 43(4), example, ‘section 37(4)’—

omit, insert—

‘section 37(5)’.

(3) Section 43(3A) to (5)—

renumber as section 43(4) to (6).

20 Amendment of pt 5, div 3, hdg

Part 5, division 3, heading, after ‘Authorities’—

insert—

‘*issued under Act*’.

21 Replacement of ss 49–51

Sections 49 to 51—

omit, insert—

‘49 Authorities that may be issued under Act

‘(1) A regulation or management plan may prescribe the authorities that the chief executive may issue under this Act.

‘(2) A regulation or management plan may also provide that an authority may or may not be issued for a stated activity or thing.’.

22 Amendment of s 52 (Things authorised by authorities)

Section 52—

insert—

‘(4) Also, a resource allocation authority does not confer on the holder—

- (a) any right of ownership or tenure over the land, waters or resources mentioned in the authority; or
- (b) the right to carry out the development mentioned in the authority, unless the development is also authorised under the Planning Act.¹.

23 Amendment of s 59 (Refusal to issue or renew)

Section 59(1), examples 2 and 3—

omit, insert—

- ‘2. The applicant has been convicted of a fisheries offence.
3. The applicant has had any of the following (a “**fisheries authority**”) cancelled or suspended—
 - a licence, permit, concession or other authority issued under fisheries legislation
 - a fisheries development approval.’.

¹ See also the Planning Act 4.3.1 (Carrying out assessable development without permit) and section 76T (Penalties for carrying out assessable development without permit).

24 Insertion of new pt 5, div 3, sdiv 2A

Part 5, division 3—

insert—

‘Subdivision 2A—Additional requirements for deciding applications for resource allocation authorities

‘60A Matters chief executive must consider

‘In deciding an application for a resource allocation authority, the chief executive must have regard to the impact of the development mentioned in the authority on each of the following—

- (a) coastal management under the *Coastal Protection and Management Act 1995*;
- (b) the protection of Queensland waters as required under the *Environmental Protection Act 1994*;²
- (c) the management of marine parks under the *Marine Parks Act 1982*.’.

25 Amendment of s 61 (Conditions imposed on issue or renewal)

Section 61, heading, ‘renewal’—

omit, insert—

‘renewal—general’.

26 Insertion of new s 65C

After section 65—

insert—

‘65C Waiver of fee or requirement on transfer or amendment

‘(1) This section applies if the chief executive is satisfied a transfer or an amendment of an authority is necessary—

2 See the *Environmental Protection Water Policy 1997* for the way the environmental values of Queensland waters are to be protected.

- (a) to give effect to—
 - (i) a settlement between spouses or former spouses; or
 - (ii) bankruptcy; or
 - (iii) winding up or administration under the Corporations Act; or
 - (iv) section 70C(3); or
- (b) to administer a deceased estate; or
- (c) because of the loss, at sea, of the boat being used in relation to the authority, through storm, capsize, collision or fire.

‘(2) On an application made under subsection (3), the chief executive must, according to the application—

- (a) waive the prescribed fee for an application for transfer or amendment of the authority; or
- (b) waive the requirement under a regulation or a management plan, on application to transfer or amend the authority, to do any of the following before the chief executive grants the application—
 - (i) surrender another authority;
 - (ii) apply to amend another authority by removing a fishery symbol;
 - (iii) amend the authority in some other way that is not beneficial to the authority holder.

‘(3) An application for the waiver of a prescribed fee or a requirement—

- (a) must be made jointly by each holder of the authority and any proposed transferee; and
- (b) must be made to the chief executive in the approved form; and
- (c) must be accompanied by—
 - (i) the application for transfer or amendment; and
 - (ii) sufficient documentary evidence to support the application for waiver.

Examples of documentary evidence—

insurance report, will, death certificate, court order

‘(4) If asked by the chief executive, the applicant must give the further relevant information or evidence the chief executive reasonably requires to decide the application.

‘(5) In this section—

“holder”, of an authority of a type prescribed under section 70C, includes the personal representative of a deceased holder.’.

27 Replacement of s 67 (Suspension or cancellation of authorities by chief executive)

Section 67—

omit, insert—

‘67 Suspension or cancellation of authority by chief executive

‘(1) The chief executive may suspend or cancel an authority if the chief executive is satisfied the suspension or cancellation is necessary or desirable for the best management, use, development or protection of fisheries resources or fish habitats.

Example—

The examples mentioned in section 59(1)³ are examples of the bases on which the chief executive may be satisfied.

‘(2) In acting under subsection (1), the chief executive may disregard any third party interests in the authority.

‘(3) This section does not affect the suspension or cancellation of an authority under a regulation or management plan.’.

28 Amendment of s 68 (Procedure for cancellation or suspension by chief executive)

(1) Section 68(6)—

omit.

(2) Section 68(8), ‘subsection (7)’—

omit, insert—

‘subsection (6)’.

3 Section 59 (Refusal to issue or renew)

(3) Section 68(7) to (9)—
renumber as section 68(6) to (8).

29 Insertion of new ss 68A and 68B

After section 68—

insert—

‘68A Suspension or cancellation of authority for dishonoured payment

‘(1) If a person’s cheque for payment of the prescribed fee relating to an authority is dishonoured—

- (a) if the fee is for an application for the authority—the authority is void from the day it was issued; or
- (b) if the fee is for an application to renew the authority—the authority is suspended from the renewal date until a valid payment is made; or
- (c) if the fee is for an application to transfer or amend the authority—the transfer or amendment does not take effect until a valid payment is made; or
- (d) if the fee is an annual fee—the authority is suspended from the day the fee was due until a valid payment is made; or
- (e) if the fee is any other prescribed fee—the authority is suspended from the day the fee was due until a valid payment is made.

‘(2) If the State incurs expense because a person’s cheque is dishonoured—

- (a) the person must reimburse the State for the expense incurred; and
- (b) the amount of the expense may be recovered as a debt payable by the person to the State.

‘(3) In this section—

“**cheque**” includes a method of payment other than by cash.

“**dishonoured**” includes not honoured on presentation.

‘68B Suspension or cancellation of authority by court

‘(1) This section applies if a court convicts the holder of an authority of a serious fisheries offence, whether or not a conviction is recorded.

‘(2) The court may, in addition to, or instead of, imposing the fine prescribed under this Act for the offence, suspend or cancel the authority and any quota relating to the authority.

‘(3) If an authority is suspended under subsection (2) for a period of time, any quota relating to the authority is suspended for the same period of time.

‘(4) In acting under subsection (2), the court—

(a) may disregard any third party interests in the authority; and

(b) must have regard to—

(i) the criteria prescribed under a regulation or a management plan for suspension or cancellation of an authority; and

(ii) the fine the court imposes for the offence.

‘(5) The court may, if considered appropriate in the circumstances, have regard to any previous conviction of the authority holder under this Act.

‘(6) The court may impose a cumulative or concurrent suspension period, as the court considers appropriate, if—

(a) the court convicts the holder of more than 1 serious fisheries offence; or

(b) during the suspension period, the holder is again convicted of a serious fisheries offence.

‘(7) This section does not affect the suspension or cancellation of an authority under a regulation or management plan.’.

30 Insertion of new s 69A

After section 69—

insert—

‘69A Effect of suspension on issue or transfer of another authority

‘If an authority (the “**suspended authority**”) has been suspended, the chief executive may not accept an application—

- (a) to issue or transfer to the holder of the suspended authority, another authority that would allow the holder to carry out the activities otherwise allowed under the suspended authority, during the period the suspended authority is suspended; or
- (b) to transfer the suspended authority, or any quota relating to the suspended authority, to another person during the period the suspended authority is suspended.’

31 Amendment of s 73 (Registers of authorities)

(1) Section 73, heading, after ‘authorities’—

insert—

‘and fisheries development approvals’.

(2) Section 73(1), from ‘of authorities’—

omit, insert—

‘of—

- (a) authorities issued by the chief executive; and
- (b) fisheries development approvals.’

32 Insertion of new pt 5, div 3A

Part 5—

insert—

‘Division 3A—Fisheries development approvals

‘Subdivision 1—Particular fisheries development also requires a resource allocation authority

‘76A Application of sdiv 1

‘This subdivision applies to the following development—

- (a) development mentioned in the Planning Act, schedule 8, part 1, table 1, item 2 or schedule 8, part 1, table 4, item 7, to the extent the development is carried out in Queensland waters or on land

other than freehold land (“**prescribed declared fish habitat area development**”);

- (b) development mentioned in the Planning Act, schedule 8, part 1, table 2, item 5, if it is carried out completely in Queensland waters or on unallocated tidal land (“**prescribed aquaculture development**”).

‘76B Requirement for resource allocation authority

‘A development application for a fisheries development approval must be supported by evidence that 1 of the following is in existence for the development—

- (a) for prescribed declared fish habitat area development—a resource allocation authority for interfering with a declared fish habitat area;
- (b) for prescribed aquaculture development—a resource allocation authority for interfering with fish habitat in Queensland waters or on unallocated tidal land.

‘76C Nature of fisheries development approval for which resource allocation authority required

‘(1) This section applies to a fisheries development approval for which a resource allocation authority is required under section 76B.

‘(2) The approval only authorises a person to carry out development under the approval if the person also holds a resource allocation authority for the development.⁴

‘(3) Also, despite the section 3.5.28⁵ of the Planning Act, the approval attaches to the area mentioned in the resource allocation authority for the development.

4 See also section 88B (Carrying out particular development without resource allocation authority).

5 Section 3.5.28 (Approval attaches to land) of the Planning Act

‘Subdivision 2—Assessment of development applications for fisheries development approval generally

‘76D Matters chief executive must consider for Planning Act

‘(1) In assessing a development application for a fisheries development approval the chief executive must consider the potential impact the development would have on—

- (a) the management, use, development and protection of fisheries resources and fish habitats; and
- (b) the management of aquaculture activities.

‘(2) Also, in assessing a development application for a fisheries development approval for the construction or raising of a waterway barrier works, the chief executive must have regard to the *Water Act 2000*.

‘(3) Subsections (1) and (2) do not limit the matters that the chief executive may consider in assessing the application.⁶

‘Subdivision 3—Assessment of development applications for construction or raising of waterway barrier works

‘76E Application for fish movement exemption notice

‘(1) A person intending to make a development application for the construction or raising of a waterway barrier works in an area may apply to the chief executive for a fish movement exemption notice for the area.

‘(2) The application must be—

- (a) made in the approved form; and
- (b) accompanied by the prescribed fee; and
- (c) made before the person makes the development application.

⁶ See section 3.3.15 (Referral agency assesses application) and chapter 3 (Integrated Development Assessment System (IDAS)), part 5 (Decision stage), division 2 (Assessment process) of the Planning Act.

‘(3) If asked by the chief executive, the applicant must give, within the period stated by the chief executive, the further relevant information or evidence the chief executive requires to decide the application.

‘(4) The stated period must be at least 28 days after the further information is requested.

‘(5) If the applicant does not give the chief executive the further information within the stated period, the chief executive may decide the application without the further information.

‘76F Deciding application for fish movement exemption notice

‘(1) The chief executive must consider the application for a fish movement exemption notice for an area and give or refuse to give the notice.

‘(2) In considering the application, the chief executive must have regard to—

- (a) if the application relates to tidal waters—the *Coastal Protection and Management Act 1995*; or
- (b) if the application relates to non-tidal waters—the *Water Act 2000*.

‘(3) The chief executive may give the notice only if the chief executive is reasonably satisfied it is not necessary or desirable, for the best management, use, development or protection of fisheries resources or fish habitats, for a proposed construction or raising of a waterway barrier works in the area to provide for the movement of fish across the barrier works.

Examples, for subsection (3), of the bases on which the chief executive may be satisfied—

1. Allowing for fish movement in the area is not necessary because—
 - (a) there are no fish located in the area; or
 - (b) it is not necessary for the fish located in the area to access the fish habitat upstream of the area.
2. There are other barriers in the area which prevent the movement of fish located in the area.

‘(4) The notice must state the period, not longer than 4 years, for which the exemption notice applies.

‘(5) If the chief executive refuses to give the notice, the chief executive must give the applicant a written notice informing the applicant—

- (a) of the refusal and the reasons for the refusal; and

- (b) that the applicant may appeal against the decision to the tribunal within 28 days.

‘76G When chief executive may approve applications relating to waterway barrier works

‘(1) This section applies to a development application for the construction or raising of a waterway barrier works.

‘(2) When giving a concurrence agency response to the assessment manager for the application, the chief executive must tell the assessment manager to refuse the application unless—

- (a) the chief executive is reasonably satisfied—
- (i) the waterway barrier works includes, or will include, a fish way that adequately provides for the movement of fish across the barrier works; or
 - (ii) the movement of fish across the waterway barrier works is, or will be, adequately provided for in another way; or

Example of basis on which the chief executive may be satisfied for subparagraph (ii)—

The height of the waterway barrier works allows, or will allow, enough water to flow across the barrier works to adequately provide for the movement of fish across the barrier works.

- (iii) the waterway barrier works is intended to exist only for a temporary period and the disruption, during the period, to fish movement in the area in which the barrier works is, or is to be, located is acceptable, having regard to the objectives of this Act; or
- (iv) it is not necessary or desirable, for the best management, use, development or protection of fisheries resources or fish habitats, for the waterway barrier works to provide for the movement of fish across the barrier works; or

Examples of the bases on which the chief executive may be satisfied for subparagraph (iv)—

1. Allowing for fish movement in the area where the waterway barrier works is, or is to be, located is not necessary because—
 - (a) there are no fish located in the area; or

- (b) it is not necessary for the fish located in the area to access the fish habitat upstream of the area.
- 2. There are other barriers in the area where the waterway barrier works is, or is to be, located which prevent the movement of fish located in the area.
- (b) the chief executive has given a fish movement exemption notice for the area where the waterway barrier works is, or is to be, located and the notice still applies.⁷

‘Subdivision 4—Conditions on fisheries development approvals generally

‘76H Relationship between sdiv 4 and Planning Act

‘This subdivision applies subject to chapter 3, part 5, division 6⁸ of the Planning Act.

‘76I Conditions on fisheries development approvals generally

‘(1) The chief executive may impose on a fisheries development approval the conditions the chief executive considers appropriate for advancing the objects of this Act.⁹

‘(2) Also, the chief executive may impose on the approval a condition requiring the payment of security in the form and for the reasonable amount decided by the chief executive.

‘76J Conditions on fisheries development approvals relating to aquaculture

‘(1) This section applies to a fisheries development approval for a material change of use of premises for aquaculture (the “**development**”).

7 See sections 3.3.18 (Concurrence agency’s response powers) and 3.5.12 (Decision if concurrence agency requires refusal) of the Planning Act.

8 Chapter 3 (Integrated Development Assessment System (IDAS)), part 5 (Decision stage), division 6 (Conditions) of the Planning Act

9 See, however, sections 3.5.30 (Conditions must be relevant or reasonable) and 3.5.32 (Conditions that can not be imposed) of the Planning Act.

‘(2) Without limiting section 76I, the chief executive may impose on the approval conditions about 1 or more of the following—

- (a) the fisheries resources for which the aquaculture may be carried out;
- (b) disturbance to—
 - (i) fisheries resources or a fish habitat; or
 - (ii) commercial, recreational or indigenous fishing;
- (c) minimising or preventing the risk of escape or accidental release of fisheries resources;
- (d) minimising or preventing the entry, through the movement of food, water, equipment or other supplies for the development, of fisheries resources into the development area;
- (e) labelling or marking of products or materials used for the development;
- (f) rehabilitation of the development area if the development is abandoned or ends;
- (g) construction and operation of the aquaculture furniture used in the aquaculture;
- (h) the location of ponds, including, for example, prohibiting location of ponds below the highest astronomical tide or in a watercourse;
- (i) monitoring the impact of the development on fisheries resources or fish habitat within and adjacent to the development area.

‘(3) In this section—

“**development area**”, in relation to development, means the area mentioned in the development approval or resource allocation authority relating to the development.

“**highest astronomical tide**” means the highest level of the tides that can be predicted to occur under average meteorological conditions and under any combination of astronomical conditions.

‘76K Conditions on fisheries development approvals for constructing or raising waterway barrier works

‘(1) This section applies to a fisheries development approval for constructing or raising a waterway barrier works.

‘(2) Without limiting section 76I, the chief executive may impose on the approval conditions about either or both of the following—

- (a) the design or construction of a fish way for the waterway barrier works;
- (b) monitoring or operation of a fish way.

‘(3) However, if the chief executive has given, under section 76F, a fish movement exemption notice in relation to the construction or raising, the chief executive must not impose a condition mentioned in subsection (2) unless—

- (a) the notice no longer applies; or
- (b) either—
 - (i) the information used by the chief executive in deciding to give the notice has changed or was incorrect; or
 - (ii) circumstances relating to fisheries resources or fish habitat, in the area for which the construction or raising is proposed, have changed since the notice was given.

‘76L Conditions on fisheries development approvals for works in a declared fish habitat area or removal etc. of marine plants

‘(1) This section applies to a fisheries development approval for 1 or more of the following—

- (a) building work in a declared fish habitat area;
- (b) carrying out operational work completely or partly within a declared fish habitat area;
- (c) carrying out operational work that is the removal, destruction or damage of marine plants.

‘(2) Without limiting section 76I, the chief executive may impose on the approval conditions about 1 or more of the following—

- (a) disturbance to—

- (i) fisheries resources or a fish habitat; or
- (ii) commercial, recreational and indigenous fishing;
- (b) the type of works that may be undertaken within or adjacent to a declared fish habitat area;
- (c) buffer zones between the development and fisheries resources, a fish habitat, or a declared fish habitat area;
- (d) the timing of the development, having regard to fish migration, fish spawning and the flowering and fruiting of marine plants;
- (e) mitigation measures for any loss of fish habitat;
- (f) the management of the impact of acid sulphate soil on fisheries resources or a fish habitat;
- (g) monitoring the impact of the development on fisheries resources or fish habitat within or adjacent to the development area.

‘(3) In this section—

“**development area**”, in relation to development, means the area mentioned in the development approval or the resource allocation authority relating to the development.

‘Subdivision 5—Amending conditions on fisheries development approvals

‘76M Definition for sdiv 5

‘In this subdivision—

“**amend**”, in relation to the conditions of a fisheries development approval, includes the following—

- (a) to change or cancel an existing condition of the approval;
- (b) to add a new condition on the approval.

‘76N When chief executive may amend conditions of fisheries development approval

‘(1) The chief executive may amend the conditions of a fisheries development approval if the chief executive considers the amendment is

necessary or desirable for the best management, use, development or protection of fisheries resources or fish habitats.

‘(2) However, the chief executive may amend a condition of an approval for the construction or raising of a waterway barrier works only if the amendment—

- (a) will provide for, or improve, the movement of fish across the barrier works; and
- (b) is only an amendment of a condition about the design of a fish way for the waterway barrier works.

‘(3) The amendment may be made without the consent of the owner of the area to which the approval attaches and any occupier of the area.

‘760 Procedure for amendment

‘(1) Before making the amendment, the chief executive must give written notice to the owner of the area to which the approval attaches and any occupier of the area.

‘(2) The notice must state—

- (a) the proposed amendment and the reasons for the amendment; and
- (b) that each person to whom the notice is given may make a written submission to the chief executive about the proposed amendment; and
- (c) the time, at least 15 business days after the notice is given to the person, within which the submission may be made.

‘(3) After considering any submissions, the chief executive must give to each person to whom the notice was given—

- (a) if the chief executive is not satisfied the amendment is necessary or desirable—written notice stating the chief executive has decided not to amend the conditions; or
- (b) if the chief executive is satisfied the amendment is necessary or desirable—written notice stating the chief executive has decided to amend the conditions.

‘(4) If the chief executive was a concurrence agency for the approval, the chief executive must also give the entity that was the assessment manager for the approval written notice of the amendment.

‘(5) The amendment takes effect from the day the notice is given to the owner and any occupier of the area to which the approval attaches.

‘76P No compensation for amendment

‘(1) Compensation is not payable for an amendment made under this subdivision.

‘(2) However, subsection (1) does not prevent a regulation or management plan providing for payment of compensation.

‘76Q Appeal to Planning and Environment Court about amendment

‘(1) A person to whom a notice is given under section 76O(3) may appeal to the Planning and Environment Court against the decision stated in the notice.

‘(2) The appeal must be started—

- (a) within 20 business days after the day person is given the notice; and
- (b) in the way stated in the Planning Act, section 4.1.39.¹⁰

‘(3) The chief executive is the respondent for the appeal.

‘(4) The person must, within 10 business days after the day the appeal is started give written notice of the appeal to the chief executive and, if another person was given a notice under section 76O(3), the other person.

‘(5) The Planning Act, chapter 4, part 1, division 11 applies to the appeal as if the appeal were a proceeding started under the Planning Act, chapter 4, part 1.¹¹

¹⁰ Planning Act, section 4.1.39 (How appeals to the court are started)

¹¹ Planning Act, chapter 4, (Appeals, offences and enforcement), part 1 (Planning and Environment Court), division 11 (Alternative dispute resolution)

‘76R Court process for appeals

‘(1) The Planning Act, chapter 4, part 1, divisions 12 and 13, other than sections 4.1.50 and 4.1.52(2) and (3),¹² apply to an appeal mentioned in section 76Q.

(2) In the appeal, it is for the person who appealed against the decision to establish that the appeal should be upheld.

‘Subdivision 6—Provisions about development offences

‘76S Purpose of sdiv 6

‘This subdivision states—

- (a) the penalties that are to apply to particular offences under the Planning Act; and
- (b) an additional requirement for persons carrying out, under the Planning Act, development in an emergency.¹³

‘76T Penalties for carrying out assessable development without permit

‘(1) This section applies to fisheries development if it is assessable development.

(2) For the Planning Act, section 4.3.1(1),¹⁴ the maximum penalty for starting the development without a development permit is—

- (a) for development mentioned in the Planning Act, schedule 8, part 1, table 1, item 2 or schedule 8, part 1, table 4, item 7 or 8—3 000 penalty units; or

12 Planning Act, chapter 4, (Appeals, offences and enforcement), part 1 (Planning and Environment Court), divisions 12 (Court process for appeals) and 13 (Appeals to Court of Appeal), sections 4.1.50 (Who must prove case) and 4.1.52 (Appeal by way of hearing anew)

13 Section 4.3.29(1)(a) and (c) of the Planning Act provides that provisions, of an Act, about the monetary penalties for offences about development or about carrying out development in an emergency will prevail over the provisions in chapter 4 (Appeals, offences and enforcement), part 3 (Development offences, notices and orders) of the Planning Act to the extent of any inconsistency.

14 Planning Act, section 4.3.1 (Carrying out assessable development without permit)

- (b) for development mentioned in the Planning Act, schedule 8, part 1, table 2, item 5—1 665 penalty units; or
- (c) for development mentioned in the Planning Act, schedule 8, part 1, table 4, item 6—2 000 penalty units.

‘76U Penalties for non-compliance with particular development approvals

‘(1) This section applies to a fisheries development approval for the construction or raising of a waterway barrier works if conditions about either or both of the following are imposed on the approval—

- (a) the design or construction of a fish way for the waterway barrier works;
- (b) monitoring or operation of a fish way.

‘(2) For the Planning Act, section 4.3.3(1),¹⁵ the maximum penalty for not complying with the condition is 2000 penalty units.

‘76V Additional requirement for development carried out in emergency

‘(1) This section applies to a person who starts fisheries development under the Planning Act, section 4.3.6.¹⁶

‘(2) For the Planning Act, section 4.3.6(1)(b), the person must give the notice to the chief executive and, if the development is assessable development for which the chief executive is not the assessment manager, the assessment manager.’.

33 Insertion of new s 88B

Part 5, division 4—

insert—

15 Planning Act, section 4.3.3 (Compliance with development approval)

16 Planning Act, section 4.3.6 (Development or use carried out in emergency)

‘88B Carrying out particular development without resource allocation authority

‘(1) This section applies to development mentioned in the following provisions of the Planning Act—

- (a) schedule 8, part 1, table 1, item 2;
- (b) schedule 8, part 1, table 2, item 5;
- (c) schedule 8, part 1, table 4, item 7;
- (d) schedule 8, part 2, table 4, item 4(a).

‘(2) A person must not carry out the development unless the person also holds a resource allocation authority for the development.

Maximum penalty—

- (a) for development mentioned in paragraph (a), (c) or (d)—3 000 penalty units; or
- (b) for development mentioned in paragraph (b)—1 665 penalty units.

‘(3) Subsection (2) does not apply to a person if—

- (a) the person starts development because of an emergency endangering—
 - (i) the life or health of a person; or
 - (ii) the structural safety of a building; and
- (b) the person gives, as soon as practicable after starting the development, written notice of the development to the relevant person for the development; and
- (c) the person is not required to stop carrying out the development by an enforcement notice or order under the Planning Act.

‘(4) In this section—

“relevant person”, for development, means the chief executive and, if the development is assessable development for which the chief executive is not the assessment manager, the assessment manager.’.

34 Omission of pt 5, div 8 (Fish ways)

Part 5, division 8—

omit.

35 Amendment of s 118 (Statistical returns to be kept)

(1) Section 118(1), after ‘plan,’—

insert—

‘a condition of an authority,’.

(2) Section 118(1)(b), ‘in a stated way’—

omit, insert—

‘in writing or in another stated way’.

36 Amendment of s 119 (Codes of practice)

Section 119(3), ‘a code of practice’—

omit, insert—

‘the code’.

37 Amendment of s 124 (Chief executive may rehabilitate or restore land etc.)

(1) Section 124(1)(b)(i)—

omit, insert—

‘(i) this Act or the Planning Act, so far as it relates to fisheries development;’.

(2) Section 124(1)(b)(iv), after ‘authority’—

insert—

‘or a fisheries development approval’.

38 Insertion of new s 140A

After section 140—

insert—

‘140A Functions of inspectors

‘An inspector has the function of conducting investigations and inspections to monitor and enforce compliance with—

- (a) this Act; and
- (b) the Planning Act, so far as it relates to fisheries development.’.

39 Amendment of s 145 (Entry to places)

(1) Section 145(1)(c), after ‘an authority’—

insert—

‘, a fisheries development approval, or a self-assessable development code,’.

(2) Section 145(1)(c)(ii), after ‘the authority’—

insert—

‘, approval or code,’.

(3) Section 145—

insert—

‘(4) In this section—

“**self-assessable development code**” means a code applying to self-assessable development.’.

40 Amendment of s 184 (Evidentiary provisions)

(1) Section 184(5)—

omit, insert—

‘(5) A certificate signed by a person mentioned in subsection (3) stating that the person used equipment prescribed under a regulation to retrieve data, sent from the VMS equipment for a stated boat, that recorded the VMS equipment’s position to be at a stated place at a stated time on a stated day is evidence that the boat was at the place at the time on the day.

‘(5A) A single certificate may be issued for data sent at more than 1 time on a day or on more than 1 day.

Example for subsections (5) and (6)—

An inspector signs a certificate stating that, on 21 January 2004, the inspector, using ABC equipment, being equipment prescribed under a regulation, retrieved data sent from the VMS equipment for XYZ boat that recorded the VMS equipment's position to be—

- (a) at latitude 24°33'07" south and longitude 152°57'25" east at 9.30 a.m. on 1 January 2002; and
- (b) at latitude 24°28'00" south and longitude 152°55'32" east at 12.45 p.m. on 5 January 2002.

The inspector's certificate is evidence the XYZ boat was at the places stated in paragraphs (a) and (b) at the times and on the days stated.

‘**(5B)** If it is relevant to establish a person took fish, evidence that the person possessed the fish at any time is evidence that the person took the fish.’.

(2) Section 184(5A) to (6)—

renumber as section 184(6) to (8).

41 Amendment of s 196 (Appeals to tribunal)

Section 196(2)—

insert—

‘(aa) a decision of the chief executive under the Planning Act;’.

42 Insertion of new s 219A

After section 219—

insert—

‘219A Executive officers must ensure corporation complies with Act

‘**(1)** The executive officers of a corporation must ensure the corporation complies with this Act.

‘**(2)** If a corporation commits an offence against a provision of this Act, each of the corporation's executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.

Maximum penalty—the penalty for the commission of the offence by an individual.

‘(3) Evidence that the corporation has been convicted of an offence against a provision of this Act is evidence that each of the executive officers committed the offence of failing to ensure the corporation complies with the provision.

‘(4) However, it is a defence for an executive officer to prove—

- (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence, the officer exercised reasonable diligence to ensure the corporation complied with the provision; or
- (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.’.

43 Amendment of s 223 (Regulation making power)

(1) Section 223, heading, ‘Regulation making’—

omit, insert—

‘Regulation-making’.

(2) Section 223(2)(a)—

omit, insert—

‘(a) prescribe the fees that are payable—

- (i) under this Act; or
- (ii) to the chief executive in relation to the chief executive’s functions, under the Planning Act, as assessment manager or a concurrence agency; or’.

44 Insertion of new pt 12, div 4

Part 12—

insert—

‘Division 4—Transitional provisions for Primary Industries and Other Legislation Amendment Act 2003

‘Subdivision 1—Definitions

‘240 Definitions for div 4

‘In this division—

“amending Act” means the *Primary Industries and Other Legislation Amendment Act 2003*.

“unamended Act” means this Act as in force before the commencement of section 241.

“relevant authority” means any of the following—

- (a) an aquaculture licence;
- (b) an approval, under section 114 of the unamended Act, to build a waterway barrier works;
- (c) a permit to perform works or related activity in a declared fish habitat area;
- (d) a permit to remove, destroy or damage marine plants.

‘Subdivision 2—Continuing effect of particular authorities or approvals

‘241 Continuing effect of existing licences or permits

‘(1) This section applies to the following authorities in force immediately before the commencement of this section or issued under section 252—

- (a) an aquaculture licence other than an aquaculture licence for harvesting wild oysters from foreshores;
- (b) a permit for the performance of works in a declared fish habitat area;
- (c) a permit for the removal, destruction or damage of marine plants.

‘(2) From the commencement, the authority has effect as if—

- (a) the authority were a development permit, for which the chief executive was the assessment manager, for—
 - (i) if the authority is an aquaculture licence—a material change of use of premises; or
 - (ii) if the authority is a permit for the performance of works in a declared fish habitat area or for the removal, destruction or damage of marine plants—operational works; and
- (b) the conditions of the authority, to the extent they relate to development, were conditions of the development permit; and
- (c) the term of the authority were the currency period of the development permit; and
- (d) if the development under a development permit would, if the development permit was applied for after the commencement, require a resource allocation authority for Queensland waters, unallocated tidal land or declared fish habitat area—
 - (i) the relevant resource allocation authority for the development had been issued; and
 - (ii) the conditions of the authority, to the extent they relate to the use of a declared fish habitat area, Queensland waters or unallocated tidal land, were conditions of the resource allocation authority; and
 - (iii) the term of the authority were the term of the resource allocation authority.¹⁷

‘(3) However, subsection (2) applies only to authorise the holder of the authority to carry out activities for which an authority mentioned in subsection (1) could have been granted under the unamended Act.

‘(4) If the currency period does not end within 6 months after the commencement, the chief executive must, as soon as practicable, issue the holder of the authority—

- (a) a development permit; and
- (b) if the development under a development permit would, if the development permit was applied for after the commencement, require a resource allocation authority for Queensland waters,

¹⁷ See section 76B for developments that require a resource allocation authority.

unallocated tidal land or declared fish habitat area—a relevant resource allocation authority for the development.

‘(5) A development permit or resource allocation authority issued under subsection (4) must state—

- (a) for the permit—the currency period for, and conditions of, the permit; or
- (b) for the authority—the term and conditions of the authority.

‘242 Continuing effect of existing approvals for waterway barrier works

‘(1) This section applies to an approval to build or raise a waterway barrier works—

- (a) given under the unamended Act before the commencement of this section; and
- (b) in force immediately before the commencement.

‘(2) From the commencement, the approval has effect as if—

- (a) the approval were a development permit for operational works, for which the chief executive was the assessment manager; and
- (b) any direction given, under section 116 of the unamended Act, in relation to the approval were a condition of the development permit; and
- (c) the currency period for the development permit started on the day the approval was given and ends on the day 2 years after the approval was given.¹⁸

‘243 Continuing effect of existing aquaculture licences for wild oyster harvesting

‘(1) This section applies to an aquaculture licence for harvesting wild oysters from foreshores, in force immediately before the commencement of this section or issued under section 252.

¹⁸ Note, a person may, under the Planning Act, section 3.5.22, ask the assessment manager (the chief executive) to extend the currency period for a development approval.

‘(2) From the commencement, the licence, and any conditions of the licence, have effect as if the licence were an authority to take fish for trade or commerce in a commercial fishery.

‘(3) Subsection (2) has effect only for the term of the licence.

‘Subdivision 3—Effect of commencement on particular applications in progress

‘244 Applications in progress for particular relevant authorities

‘(1) This section applies to an application for a relevant authority, other than an aquaculture licence for harvesting wild oysters from foreshores, if the application is not finally decided before the commencement of this section.

‘(2) From the commencement, the application is taken to be a development application for which the chief executive is the assessment manager.

‘(3) Also—

- (a) for an application for development that must be supported by evidence of the existence of a resource allocation authority for the development—the following applies—
 - (i) the application is taken to also be an application for the relevant resource allocation authority for the development;
 - (ii) the part of the application for the resource allocation authority must be decided first;
 - (iii) if the part of the application for the resource allocation authority is refused—the whole application is taken to have been withdrawn;
 - (iv) if the part of the application for the resource allocation is granted—the day the part of the application is granted is taken to be—

- (A) if the chief executive has received, for the application, further relevant information under section 54(2)—the day the decision stage for the development application starts;¹⁹ or
 - (B) otherwise—the day the information and referral stage of the development application starts;²⁰ or
- (b) for another application—the day this section commences is taken to be—
- (i) if the chief executive has received, for the application, further relevant information under section 54(2)—the day the decision stage for the development application starts; or
 - (ii) otherwise—the day the information and referral stage of the development application starts.

‘245 Applications in progress for aquaculture licences for wild oyster harvesting

‘(1) This section applies to an application for an aquaculture licence for harvesting wild oysters from foreshores if the application is not finally decided before the commencement of this section.

‘(2) From the commencement, the application is taken to be an application for an authority to take fish for trade or commerce in the commercial fishery.

‘Subdivision 4—Effect of commencement on particular appeals

‘246 Definitions for sdiv 4

‘In this subdivision—

“continuing appeal” see section 247.

19 See chapter 3 (Integrated Development Assessment System (IDAS)), part 5 (Decision stage) of the Planning Act.

20 See chapter 3 (Integrated Development Assessment System (IDAS)), part 3 (Information and referral stage) of the Planning Act.

“development authority” means a relevant authority for which the chief executive would be the assessment manager or concurrence agency if an application for a development permit for the development to which the authority relates had been made after the commencement of section 247.

‘247 Application of sdiv 4

‘This subdivision applies to an appeal (a **“continuing appeal”**) to the tribunal if—

- (a) the decision being appealed against in the appeal is the refusal to issue a relevant authority; and
- (b) the appeal was started but not decided before the commencement of this section.

‘248 Appeal to be decided under provisions before commencement

‘The tribunal must decide the continuing appeal under the unamended Act.

‘249 Effect of tribunal decision to issue relevant authority

‘If the tribunal decides that the relevant authority must be issued, the chief executive must issue—

- (a) for an application for an aquaculture licence for harvesting wild oysters from foreshores—an authority to take fish for trade or commerce; or
- (b) for an application for another relevant authority—
 - (i) a development permit for the development to which the authority relates; and
 - (ii) if the development under a development permit would, if the development permit was applied for after the commencement of this section, require a resource allocation authority for Queensland waters, unallocated tidal land or

declared fish habitat area—a relevant resource allocation authority for the development.²¹

‘250 Effect of tribunal decision to refer matter back to chief executive—development authority

‘(1) This section applies only to an application for a development authority.

‘(2) If the tribunal refers the matter to the chief executive with directions, to the extent the application relates to fisheries development—

- (a) the application is taken to be—
 - (i) a development application lodged on the day the tribunal made its decision; and
 - (ii) if the development under a development application would, if the development application were made after the commencement, require a resource allocation authority for Queensland waters, unallocated tidal land or declared fish habitat area—an application for the relevant resource allocation authority for the development;²² and
- (b) the chief executive is taken to be the assessment manager for the development application; and
- (c) the chief executive must, when acting as assessment manager for the development application, follow the tribunal’s directions to the extent possible.

‘251 Effect of tribunal decision to refer matter back to chief executive—particular aquaculture licences

‘(1) This section applies only to an application for an aquaculture licence for harvesting oysters from foreshores.

‘(2) If the tribunal refers the matter to the chief executive with directions—

21 See section 76B for developments that require a resource allocation authority.

22 See section 76B for developments that require a resource allocation authority.

- (a) the application is taken to be an application for an authority to take fish for trade or commerce; and
- (b) the chief executive must follow the tribunal's directions to the extent possible.

'252 Effect of tribunal decision to not issue relevant authority

'If the tribunal confirms the decision being appealed against, despite the commencement of the amending Act—

- (a) the application continues to be an application for the relevant authority; and
- (b) any further decision about the application must be made under the unamended Act.

'Subdivision 5—Effect of commencement on prescribed criteria

'253 Continuing effect of criteria prescribed for s 67

'Criteria prescribed for section 67(2)(b)(i) and in force immediately before the commencement of this section are, after the commencement, subject to any amendment or repeal, taken to be criteria prescribed for section 68B(4)(b)(i).'

45 Amendment of schedule (Dictionary)

(1) Schedule, definitions "authority", "fisheries offence", "nonindigenous fisheries resources" and "serious fisheries offence"—

omit.

(2) Schedule—

insert—

' **"amend"**, for part 5, division 3A, subdivision 5, see section 76M.

"amending Act", for part 12, division 4, see section 240.

"assessable development" see the Planning Act, schedule 10.

“assessment manager” see the Planning Act, section 3.1.7.²³

“authority” means—

- (a) a licence, permit, resource allocation authority or other authority issued, and in force, under this Act; or
- (b) a quota in force under this Act.

“concurrence agency”, for a development application, see the Planning Act, schedule 10.²⁴

“continuing appeal”, for part 12, division 4, subdivision 4, see section 246.

“currency period”, for a development approval, see the Planning Act, schedule 10.

“development application” see the Planning Act, schedule 10.

“development approval” see the Planning Act, schedule 10.²⁵

“development authority”, for part 12, division 4, subdivision 4, see section 246.

“development permit” see Planning Act, section 3.1.5(3).

“executive officer”, for a corporation, means a person who is concerned with, or takes part in, its management, whether or not the person is a director or the person’s position is given the name of executive officer.

“fisheries development” means assessable or self-assessable development relating to aquaculture, fisheries resources, fish habitat or waterway barrier works.

“fisheries development approval” means a development approval for which the chief executive is assessment manager or a concurrence agency.

23 Generally, under the Planning Act, the **“assessment manager”**, for an application for a development approval is the entity stated in schedule 8A of that Act for the application.

24 Under the Planning Act, the concurrence agency for a development application is the entity prescribed under a regulation under that Act as a concurrence agency for the application or, if the functions of the entity in relation to the application have been devolved or delegated to another entity, the other entity.

25 Under the Planning Act, a development approval is required for certain development. A development approval may be in the form of a preliminary approval, a development permit or a combination of both of them.

“fisheries offence” means an offence against—

- (a) fisheries legislation; or
- (b) the Planning Act, if the offence relates to fisheries development.

“fish movement exemption notice”, in relation to a development application for the construction or raising of a waterway barrier works, means a written notice stating the applicant is not required to ensure the waterway barrier works adequately provides for the movement of fish across the barrier.

“indigenous fisheries resources” means fisheries resources—

- (a) in relation to a particular area—
 - (i) spawned, born or grown, other than by aquaculture, in the area; and
 - (ii) belonging to a species of fisheries resources native to the area; or
- (b) without reference to a particular area—
 - (i) spawned, born or grown, other than by aquaculture, in Queensland; and
 - (ii) belonging to a species of fisheries resources native to Queensland.

“nonindigenous fisheries resources” means fisheries resources that—

- (a) in relation to a particular area—do not fall in the category mentioned in this schedule, definition “indigenous fisheries resources”, paragraph (a); or
- (b) without reference to a particular area—do not fall in the category mentioned in this schedule, definition “indigenous fisheries resources”, paragraph (b).

“offence against this Act”, other than for section 220,²⁶ includes an offence against the Planning Act so far as it relates to fisheries development.

“Planning Act” means the *Integrated Planning Act 1997*.

“prescribed aquaculture development” see section 76A(b).

26 Section 220 (Start of offence proceedings)

“prescribed declared fish habitat area development” see section 76A(a).

“relevant authority”, for part 12, division 4, see section 240.

“resource allocation authority” means a resource allocation authority issued, and in force, under part 5, division 3, subdivision 2A.

“self-assessable development” see the Planning Act, schedule 10.

“serious fisheries offence” means a fisheries offence prescribed under a regulation or management plan to be a serious fisheries offence.

“transfer”, of an authority, includes—

- (a) transfer by a joint holder of the authority, of all or part of the holder’s interest in the authority, to the other joint holders of the authority; and
- (b) if the authority is a quota relating to another authority—transfer by the holder of the quota, from the authority to which it relates, to another authority held by the same holder.

“unallocated tidal land” means tidal land that is unallocated State land under the *Land Act 1994*, schedule 6.

“unamended Act”, for part 12, division 4, see section 240.’.

PART 6—AMENDMENT OF FOOD PRODUCTION (SAFETY) ACT 2000

46 Act amended in pt 6

This part amends the *Food Production (Safety) Act 2000*.

47 Amendment of s 6 (Exemption from application of Act)

(1) Section 6(2)—

omit, insert—

‘(2) Also, this Act does not apply to—

- (a) primary produce possessed by an individual for the individual's own use, unless the produce is moved from the place at which it was produced; or
- (b) the production of primary produce carried out by an individual, unless the produce is—
 - (i) supplied, or intended for supply; or
 - (ii) used, or intended for use, as food for paying guests; or
 - (iii) moved from the place at which it was produced.

‘(2A) Despite subsection (2), this Act does not apply to primary produce moved from the place at which it was produced if—

- (a) the primary produce is harvested in the wild; or
- (b) the following apply—
 - (i) Safe Food has advised the Minister that it is satisfied the primary produce is unlikely to expose members of the public to a food safety hazard;
 - (ii) the primary produce is prescribed under a regulation for this subsection.’.

(2) Section 6(2A) and (3)—
renumber as section 6(3) and (4).

48 Amendment of s 7 (Definitions)

Section 7, ‘the schedule’—

omit, insert—

‘schedule 2’.

49 Amendment of s 10 (Meaning of “primary produce”)

Section 10(1)—

insert—

- ‘(d) a substance, other than food—
 - (i) that is labelled as not intended for consumption by humans or animals; and

- (ii) that the Minister is satisfied—
 - (A) is likely to be consumed by humans or animals; and
 - (B) if consumed by humans or animals—poses a food safety hazard to the humans or animals; and
- (iii) that is prescribed under a regulation to be primary produce.’.

50 Replacement of pt 2, div 1, hdg

Part 2, division 1, heading—

omit, insert—

‘Division 1—Establishment, functions and powers of Safe Food’.

51 Omission of pt 2, div 2 hdg

Part 2, division 2, heading—

omit.

52 Insertion of new pt 2, div 2

After section 16—

insert—

‘Division 2—Board of directors

‘16A The board

‘There is a board of directors of Safe Food (the “**board**”).

‘16B Role of board

‘(1) The board is responsible for the way in which Safe Food performs its functions and exercises its powers.

‘(2) Without limiting subsection (1), it is the board’s role—

- (a) to decide the strategies and the operational, administrative and financial policies to be followed by Safe Food; and

- (b) to receive advice or recommendations from the advisory committee, and make recommendations to the Minister, about the level and structure of fees proposed to be included in a food safety scheme; and
- (c) to ensure Safe Food performs its functions in a proper, effective and efficient way; and
- (d) to review annually the performance of its chief executive officer.

‘16C Composition of board

‘(1) The board consists of the following persons (“**directors**”)—

- (a) the chief executive;
- (b) the health chief executive;
- (c) not more than 3 persons, appointed by the Governor in Council, who have qualifications or experience in at least 1 of the following areas—
 - (i) finance or financial administration;
 - (ii) food safety;
 - (iii) law;
 - (iv) public administration;
 - (v) representing the interests of consumers.

‘(2) The Governor in Council must appoint 1 of the directors appointed under subsection (1)(c) as the chairperson.

‘16D Chairperson to report to Minister

‘(1) The chairperson must report to the Minister on the performance of Safe Food’s functions or the exercise of its powers.

‘(2) A report must be given—

- (a) within 1 month after the end of each quarter; and
- (b) at any other time at the Minister’s request.

‘(3) Also, the chairperson must, immediately after becoming aware of a matter the chairperson is satisfied may adversely affect Safe Food’s ability to perform its functions, report the matter to the Minister.

‘(4) In subsection (2)—

“quarter” means the 3 month period ending on 31 March, 30 June, 30 September or 31 December.

‘16E Chairperson to give business plan to Minister

‘(1) The chairperson must give the Minister a copy of each business plan, prepared by the chief executive officer, by 30 April in the year for which the plan is prepared.

‘(2) The chairperson must not give a copy of a business plan to the Minister unless the board has approved the business plan.

‘16F Additional provisions about board

‘Additional provisions about the board are in schedule 1.’.

53 Replacement of pt 2, div 3, hdg

Part 2, division 3, heading—

omit, insert—

‘Division 3—Chief executive officer of Safe Food’.

54 Amendment of s 17 (Appointment of chief executive officer)

Section 17(1)—

omit, insert—

‘(1) Safe Food’s chief executive officer is to be appointed by the Governor in Council on the recommendation of Safe Food’s board.’.

55 Amendment of s 18 (Conditions of appointment)

Section 18, ‘Minister’—

omit, insert—

‘board’.

56 Amendment of s 19 (Qualifications for appointment)

(1) Section 19(1)—

omit, insert—

‘(1) The board may, under section 17, recommend a person to be appointed as chief executive officer of Safe Food only if the board is satisfied the person has the necessary experience or expertise to be the chief executive officer.’

(2) Section 19(2)(b)—

omit, insert—

‘(b) is, or has been, convicted of an indictable offence; or’.

57 Amendment of s 21 (Chief executive officer to manage Safe Food’s affairs and prepare business plans)

(1) Section 21, heading—

omit, insert—

‘21 Responsibilities of chief executive officer’.

(2) Section 21(2) and (3)—

renumber as section 21(3) and (4).

(3) Section 21(1)—

omit, insert—

‘(1) The chief executive officer must—

- (a) manage the affairs of Safe Food in accordance with the strategies and operational, administrative and financial policies decided by the board; and
- (b) report to the board about the implementation of the strategies and policies; and
- (c) advise the board about the activities of the advisory committee and its subcommittees; and
- (d) advise the board about progress in the development of food safety schemes and related food safety policies.

‘(2) Without limiting subsection (1), the chief executive officer must—

- (a) prepare a business plan for each year; and
- (b) give the plan to the board by 31 March in the year for which the plan is prepared.’.

58 Omission of s 22 (Chief executive officer to give business plans to Minister)

Section 22—

omit.

59 Insertion of new ss 23A–23C

After section 23—

insert—

‘23A Safe Food’s seal

‘(1) Safe Food’s seal must be kept in the custody of the chief executive officer or as directed by the board and may be used only as authorised by the board.

‘(2) Judicial notice must be taken of the imprint of Safe Food’s seal appearing on a document and the document must be presumed to have been properly sealed until the contrary is proved.

‘23B Judicial notice of certain signatures

‘Judicial notice must be taken of—

- (a) the official signature of a person who is or has been the chairperson; and
- (b) the fact that the person holds or has held the office concerned.

‘23C Authentication of documents

‘(1) A document made by Safe Food, other than a document that is required to be sealed, is sufficiently made if it is signed by—

- (a) the chairperson; or
- (b) the chief executive officer; or

(c) another person authorised by Safe Food.

‘(2) A document made by Safe Food under seal is sufficiently made under seal if it is sealed in the way authorised under section 23A(1) and signed by a person mentioned in subsection (1).’

60 Amendment of s 24 (Delegation)

Section 24(2), from ‘if satisfied’—

omit, insert—

‘if—

- (a) the chief executive officer is satisfied the committee members are, or employee is, appropriately qualified; and
- (b) the board approves the delegation.’

61 Omission of s 31 (Time and place of first meeting)

Section 31—

omit.

62 Amendment of s 67 (Suspension or cancellation—grounds)

Section 67(b)(ii), ‘, whether on indictment or summarily’—

omit.

63 Insertion of new pt 11, div 4

Part 11, after division 3—

insert—

***‘Division 4—Transitional provision for Primary Industries and Other
Legislation Amendment Act 2003***

‘140U References in existing documents

‘In a document in existence, for the purposes of part 2, division 3, immediately before the commencement of this section, a reference to the

Minister may, if the context permits, be taken to be a reference to the board.’.

64 Amendment of schedule (Dictionary)

(1) Schedule—

insert—

‘ **“appointed director”** see schedule 1, section 1.

“board” see section 16A.

“chairperson”, other than for section 27(2), means the chairperson of the board.

“directors” see section 16C.

“food safety hazard”, for primary produce, means a thing or a situation that has the potential to cause the produce not to comply with—

- (a) if a compulsory standard applies under a regulation for a requirement under the regulation—the compulsory standard for the requirement; or
- (b) if an advisory standard applies under a regulation for a requirement under the regulation—
 - (i) the advisory standard for the requirement; or
 - (ii) if a program is following another way that gives the same or better level of risk for the requirement—the way stated in the program.

Example—

A food safety hazard exists if—

- (a) milk supplied to an accreditation holder who processes dairy produce has a residue level greater than the MRLs stated in the compulsory standard for a requirement; but
- (b) the milk is not unacceptable.

“food standards code” means the Australia New Zealand Food Standards Code as defined under the *Australia New Zealand Food Authority Act 1991* (Cwlth).

“health chief executive” means the chief executive of the department responsible for the administration of the *Health Act 1937*.

“**indictable offence**” includes an indictable offence dealt with summarily, whether or not the Criminal Code, section 659,²⁷ applies to the indictable offence.

“**MRLs**” means maximum residue limits within the meaning of the food standards code, Part 1.4 ‘Contaminants and residues’, Standard 1.4.2 ‘Maximum residue limits (Australia only)’.’.

(2) Schedule, as amended—

renumber as schedule 2.

65 Insertion of new sch 1

Before schedule 2, as renumbered—

insert—

²⁷ Criminal Code, section 659 (Effect of summary conviction for indictable offences)

‘SCHEDULE 1

‘ADDITIONAL PROVISIONS ABOUT BOARD OF SAFE FOOD

section 16F

‘PART 1—DIRECTORS

‘1 Qualifications for appointment

‘(1) A person is not qualified to be, or to continue as, a director if the person—

- (a) is an insolvent under administration within the meaning of the Corporations Act, section 9; or
- (b) is, or has been, convicted of an indictable offence.

‘(2) A person is not qualified to be, or to continue as, a director appointed under section 16C(1)(c) (an **“appointed director”**) if the person is—

- (a) the holder of an accreditation; or
- (b) a member or employee of an organisation the functions of which include representing accreditation holders.

‘2 Duration of appointment

‘The appointment of an appointed director is for the term, not longer than 3 years, stated in the director’s instrument of appointment.

‘3 Terms of appointment

‘(1) An appointed director is appointed on a part-time basis.

‘(2) Appointed directors are entitled to be paid the remuneration and allowances decided by the Governor in Council.

‘(3) In relation to matters not provided under this Act, an appointed director holds office on the terms decided by the Governor in Council.

‘4 Termination of appointment

‘The Governor in Council may, at any time, terminate the appointment of all appointed directors, or an appointed director, for any reason or none.

‘PART 2—BUSINESS AND MEETINGS OF BOARD

‘5 Conduct of business

‘Subject to this part, the board may conduct its business, including its meetings, in the way it considers appropriate.

‘6 Committees

‘The board may, from time to time, establish a committee to advise on matters referred to the committee by the board.

Examples—

a risk management committee or an audit committee

‘7 Times and places of meetings

‘(1) Board meetings are to be held at the times and places the chairperson decides.

‘(2) However, the chairperson must call a meeting if asked, in writing, to do so by at least the number of directors forming a quorum for the board.

‘8 Quorum

‘A quorum for the board is the number equal to one-half of the number of directors or, if one-half is not a whole number, the next highest whole number.

‘9 Presiding at meetings

‘(1) The chairperson must preside at all meetings of the board at which the chairperson is present.

‘(2) If the chairperson is absent from a board meeting the director chosen by the members present must preside.

‘10 Departmental officer may attend board meetings

‘(1) A director mentioned in section 16C(1)(a) or (b) may nominate a senior officer of the director’s department to attend board meetings instead of the director if the director is unable to attend.

‘(2) The board must give the officer notice of each board meeting—

- (a) for an ordinary meeting—5 business days before the meeting; or
- (b) for another meeting—a reasonable time before the meeting.

‘(3) The officer may take part in board meetings and may exercise the vote of the director.

‘(4) For sections 11 and 13 of this schedule, an officer who attends a board meeting instead of a director mentioned in section 16(1)(a) or (b) is taken to be a director.

‘(5) In this section—

“senior officer” means a senior executive appointed under the *Public Service Act 1996*, section 60.

‘11 Conduct of meetings

‘(1) A question at a board meeting is decided by a majority of the votes of the directors present.

‘(2) Each director present at the meeting has a vote on each question to be decided and, if the votes are equal, the director presiding also has a casting vote.

‘(3) A director present at the meeting who abstains from voting is taken to have voted for the negative.

‘(4) The board may hold meetings, or allow directors to take part in its meetings, by using any technology that reasonably allows directors to hear and take part in discussions as they happen.

Example of use of technology—

teleconferencing

‘(5) A director who takes part in a board meeting under subsection (4) is taken to be present at the meeting.

‘(6) A resolution is validly made by the board, even if it is not passed at a board meeting, if—

- (a) a majority of the directors gives written agreement to the resolution; and
- (b) notice of the resolution is given under procedures approved by the board.

‘12 Minutes

‘The board must keep—

- (a) minutes of its meetings; and
- (b) a record of any resolutions made under section 11(6).

‘13 Disclosure of interests by directors

‘(1) This section applies to a director if—

- (a) the director has a direct or indirect interest in an issue being considered, or about to be considered, by the board; and
- (b) the interest could conflict with the proper performance of the director’s duties about the consideration of the issue.

‘(2) As soon as practicable after the relevant facts come to the director’s knowledge, the director must disclose the nature of the interest to a board meeting.

‘(3) Unless the board otherwise directs, the director must not—

- (a) be present when the board considers the issue; or
- (b) take part in a decision of the board about the issue.

‘(4) The director must not be present when the board is considering whether to give a direction under subsection (3).

‘(5) If there is another director who must, under subsection (2), also disclose an interest in the issue, the other director must not—

- (a) be present when the board is considering whether to give a direction under subsection (3) about the director; or
- (b) take part in making the decision about giving the direction.

‘(6) If—

- (a) because of this section, a director is not present at a board meeting for considering or deciding an issue, or for considering or deciding whether to give a direction under subsection (3); and
- (b) there would be a quorum if the director were present;

the remaining directors present are a quorum of the board for considering or deciding the issue, or for considering or deciding whether to give the direction, at the meeting.

‘(7) A disclosure under subsection (2) must be recorded in the board’s minutes.’.

PART 7—AMENDMENT OF GRAIN INDUSTRY (RESTRUCTURING) ACT 1991

66 Act amended in pt 7

This part amends the *Grain Industry (Restructuring) Act 1991*.

67 Amendment of s 2 (Objects of this Act)

Section 2(e)—

omit.

68 Amendment of s 3 (Definitions)

Section 3, definitions “compulsory marketing scheme”, “crop lien”, “exempted grain”, “exemption”, “public notice”, “season”, “security” and “vested grain”—

omit.

69 Omission of pts 3 and 4

Parts 3 and 4—

omit.

70 Omission of s 56 (Returns)

Section 56—

omit.

**PART 8—AMENDMENT OF INTEGRATED PLANNING
ACT 1997****71 Act amended in pt 8**

This part amends the *Integrated Planning Act 1997*.

**72 Amendment of s 1.3.5 (Definitions for terms used in
“development”)**

(1) Section 1.3.5, definition “operational work”, item 1—

insert—

- ‘(i) constructing or raising waterway barrier works; or
- (j) performing work in a declared fish habitat area; or
- (k) removing, destroying or damaging a marine plant.’.

(2) Section 1.3.5, definition “operational work”, item 2(a), after ‘items (1)(a) to (f)’—

insert—

‘or (j)’.

73 Insertion of new s 3.2.2A

After section 3.2.2—

insert—

‘3.2.2A Approved operational works for marine plants required for certain developments

‘(1) This section applies if, at the time an application is made—

- (a) a material change of use of premises or reconfiguration of a lot, the subject of an application, may not be performed unless a development permit exists for operational work that is the removal, destruction or damage of a marine plant on or near the premises or lot; and
- (b) there is no development permit for the operational work; and
- (c) approval for the operational work has not been applied for in the application or a separate application.

‘(2) The application is taken also to be for the operational work.’.

74 Amendment of s 3.4.2 (When the notification stage applies)

Section 3.4.2—

insert—

‘(4) However, this part does not apply for an application to which chapter 5, part 8A applies.²⁸’.

75 Amendment of s 4.1.28 (Appeals by submitters)

Section 4.1.28, heading, after ‘submitters’—

insert—

‘—general’.

76 Insertion of new s 4.1.28A

After section 4.1.28—

insert—

28 See chapter 5 (Miscellaneous), part 8A (Notification stage for particular aquaculture development) for the notification stage that applies for development applications to which that part applies.

‘4.1.28A Additional and extended appeal rights for submitters for particular development applications

‘(1) This section applies to a development application to which chapter 5, part 8A²⁹ applies.

‘(2) A submitter of a properly made submission for the application may appeal to the court about a referral agency response made by a prescribed concurrence agency for the application.

‘(3) However, the submitter may only appeal against a referral agency response to the extent it relates to—

- (a) if the prescribed concurrence agency is the chief executive (environment)—development for an environmentally relevant activity mentioned in the *Environmental Protection Regulation 1998*, schedule 1, item 1;³⁰ or
- (b) if the prescribed concurrence agency is the chief executive (fisheries)—development that is—
 - (i) a material change of use of premises for aquaculture; or
 - (ii) operational work that is the removal, damage or destruction of a marine plant.

‘(4) Despite section 4.1.28(1), the submitter may appeal against the following matters for the application even if the matters relate to code assessment—

- (a) a decision about a matter mentioned in section 4.1.28(2) if it is a decision of the chief executive (fisheries);
- (b) a referral agency response mentioned in subsection (2).’

77 Amendment of s 4.3.7 (Giving a false or misleading notice)

Section 4.3.7(1), ‘or 3.4.7⁹⁵’—

29 Chapter 5 (Miscellaneous), part 8A (Notification stage for particular aquaculture development)

30 The *Environmental Protection Regulation 1998*, schedule 1, item 1 (aquaculture)

omit, insert—

‘, 3.4.7 or 5.8A.7³¹’.

78 Insertion of new s 5.7.7A

After section 5.7.7—

insert—

‘5.7.7A Documents particular entities required to keep available for inspection and purchase

‘(1) This section applies if an assessment manager or referral agency has imposed a condition on a development approval that requires a document (the “**assessable document**”) to be assessed for compliance with a condition.³²

‘(2) The assessment manager or referral agency must keep available for inspection and purchase the original or certified copy of each of the following—

- (a) the assessable document;
- (b) any document that includes—
 - (i) an assessment of the assessable document; or
 - (ii) a decision about the assessable document; or
 - (iii) a direction given in relation to the assessable document.’.

79 Insertion of new ch 5, pt 8A

Chapter 5—

insert—

31 Section 3.3.4 (Applicant advises assessment manager), 3.4.7 (Notice of compliance to be given to assessment manager) or 5.8A.7 (Notice of compliance to be given to assessment manager and concurrence agency)

32 See section 3.5.31A (Conditions requiring compliance).

‘PART 8A—NOTIFICATION STAGE FOR PARTICULAR AQUACULTURE DEVELOPMENT

‘Division 1—Preliminary

‘5.8A.1 Purpose of notification stage under this part

‘The notification stage under this part gives a person—

- (a) the opportunity to make submissions, including objections, that must be taken into account—
 - (i) by the assessment manager before deciding a development application for which this part applies; or
 - (ii) by a concurrence agency before giving a referral agency response, to the extent the response relates to development mentioned in section 5.8A.2(1); and
- (b) the opportunity to secure the right to appeal to the court about—
 - (i) the assessment manager’s decision; or
 - (ii) a referral agency response by the concurrence agency.³³

‘5.8A.2 When notification stage under this part applies

‘(1) This part applies for a development application—

- (a) for which—
 - (i) the chief executive (fisheries) is the assessment manager or a concurrence agency; and
 - (ii) the chief executive (environment) is a concurrence agency; and
- (b) for development that—
 - (i) is a material change of use of premises—
 - (A) for a hatchery for the production of larvae; or

³³ See, in particular, section 4.1.28A (Additional and extended appeal rights for submitters for particular development applications).

(B) for aquaculture carried out in ponds with a surface area of more than 5 hectares; and

(ii) is carried out completely or partly on land within the area with the following boundaries—

- the line every point of which is 5 km inland from the line of the highest astronomical tide;
- the parallel of latitude 24°30'00" south;
- the western boundary of the Great Barrier Reef Marine Park;
- the parallel of latitude 10°41'20" south; and

(iii) will cause the discharge of waste into waters.

‘(2) However, this part does not apply if—

- (a) part 8³⁴ applies to the development; or
- (b) there is a preliminary approval for the development and the preliminary approval was subject to this part.

‘(3) In this section—

“**Great Barrier Reef Marine Park**” means the Great Barrier Reef Marine Park established under the *Great Barrier Reef Marine Park Act 1975* (Cwlth).

“**highest astronomical tide**” means the highest level of the tides that can be predicted to occur under average meteorological conditions and under any combination of astronomical conditions.

5.8A.3 When can notification stage start

‘(1) If no information requests have been made during the last information request period, the applicant may start the notification period as soon as the last information request period ends.

‘(2) If an information request has been made during the information request period, the applicant may start the notification period as soon as the applicant gives—

- (a) all information request responses to all information requests made; and
- (b) copies of the responses to the assessment manager and each prescribed concurrence agency for the application.

‘Division 2—Public notification

‘5.8A.4 Public notice of proposed development

‘(1) The applicant or, if the applicant has agreed in writing, the assessment manager for the development application must—

- (a) publish a notice at least once in a newspaper circulating generally in the locality of the land; and
- (b) place a notice on the land in the way prescribed under a regulation; and
- (c) give a notice to the owners of all land adjoining the land.

‘(2) The notices must be in the approved form.

‘(3) If the assessment manager carried out notification on behalf of the applicant, the assessment manager may require the applicant to pay a fee of not more than the assessment manager’s reasonable costs for carrying out the notification.

‘(4) For subsection (1)(c), roads, land below high-water mark and the beds and banks of rivers are to be taken not to be adjoining land.

‘(5) In this section—

“**owner**”, for land adjoining the land, see section 3.4.4(5).

‘5.8A.5 Notification period for development applications

‘The “**notification period**” for the application must—

- (a) be no less than 30 business days starting on the day after the last action under section 5.8A.4 is carried out; and
- (b) not include any business days between 20 December and 5 January (in the following year).

‘5.8A.6 Requirements for certain notices

‘(1) The notice placed on the land must remain on the land for all of the notification period.

‘(2) Each notice given to the owner of adjoining land must be given at about the same time as the notice is published in the newspaper and placed on the land.

‘(3) All actions mentioned in subsection (2) must be completed within 5 business days after the first of the actions is carried out.

‘(4) A regulation may prescribe different notification requirements for an application for development on land located—

- (a) outside any local government area; or
- (b) within a local government area but in a location where compliance with section 5.8A.4(1) would be unduly onerous or would not give effective public notice.

‘5.8A.7 Notice of compliance to be given to assessment manager and concurrence agency

‘(1) If the applicant carries out notification, the applicant must, after the notification period has ended—

- (a) give the assessment manager and each prescribed concurrence agency for the application, written notice that the applicant has complied with the requirements of this division; and
- (b) give the assessment manager written notice that the applicant has given the prescribed concurrence agency the notice mentioned in paragraph (a).³⁵

‘(2) If the assessment manager carries out notification, the assessment manager, must, after the notification period has ended, give each prescribed concurrence agency for the application, written notice that the assessment manager has complied with the requirements of this division.

35 It is an offence to give the assessment manager a notice under this section that is false or misleading (see section 4.3.7).

‘5.8A.8 Circumstances when applications may be assessed and decided without certain requirements

‘Despite section 5.8A.7, the assessment manager may assess and decide the application even if some of the requirements of this division have not been complied with, if—

- (a) the assessment manager is satisfied that any noncompliance has not—
 - (i) adversely affected the awareness of the public of the existence and nature of the application; or
 - (ii) restricted the opportunity of the public to make properly made submissions; and
- (b) each prescribed concurrence agency for the application has given written consent to the assessment and decision being made in this way.

‘5.8A.9 Making submissions

‘(1) During the notification period, any person other than a concurrence agency may make a submission to the assessment manager about the application.

‘(2) The assessment manager must accept a submission if the submission is a properly made submission.

‘(3) A person who has made a properly made submission may, by written notice—

- (a) during the notification period, amend the submission; or
- (b) at any time before a decision about the application is made, withdraw the submission.

‘(4) The assessment manager must within 5 business days after the end of the notification period—

- (a) give a copy of any properly made submission to each prescribed concurrence agency; and
- (b) if the person who made the submission amends or withdraws the submission under subsection (3)—notify the prescribed concurrence agency that the submission has been amended or withdrawn.

‘5.8A.10 Submissions made during notification period effective for later notification period

‘(1) This section applies if—

- (a) a person makes a properly made submission under section 5.8A.9(1); and
- (b) the notification stage for the application is repeated for any reason.

‘(2) The submission is taken to be a properly made submission for the later notification period and the submitter may, by written notice—

- (a) during the later notification period, amend the submission; or
- (b) at any time before a decision about the application is made, withdraw the submission.

‘Division 3—End of notification stage

‘5.8A.11 When does notification stage end

‘The notification stage ends—

- (a) if notification is carried out by the applicant—when the assessment manager receives written notice under section 5.8A.7(1); or
- (b) if notification is carried out by the assessment manager on behalf of the applicant—when each prescribed concurrence agency receives written notice under section 5.8A.7(2).

‘Division 4—Changed referral agency provisions for applications to which this part applies

‘5.8A.12 Referral agency must not respond before notification stage ends

‘(1) This section applies if the chief executive (environment) or chief executive (fisheries) is the concurrence agency for the development application.

‘(2) Despite section 3.3.2,³⁶ the concurrence agency must not give a referral agency response for a matter relating to the development to which the application relates before the notification stage for the application ends.

‘5.8A.13 Adjusted referral agency assessment period

‘(1) This section applies if the chief executive (environment) or chief executive (fisheries) is the concurrence agency for the development application.

‘(2) Despite section 3.3.14(1),³⁷ the referral agency’s assessment period for the concurrence agency is a period of 30 days starting on the day after the concurrence agency has received both of the following—

- (a) a notice of compliance under section 5.8A.7;
- (b) a copy of all the properly made submissions.’.

80 Amendment of sch 8

(1) Schedule 8, part 1, table 1—

insert—

‘For declared fish habitat area	
2	For assessing building work against the <i>Fisheries Act 1994</i> , building work in a declared fish habitat area if it is not self-assessable development.’.

(2) Schedule 8, part 1, table 2—

insert—

‘For aquaculture	
5	For assessing a material change of use against the <i>Fisheries Act 1994</i> , making a material change of use of premises for aquaculture if it is not self-assessable development.’.

(3) Schedule 8, part 1, table 4—

36 Section 3.3.2 (Referral agency responses before application is made)

37 Section 3.3.14 (Referral agency assessment period)

insert—

‘For constructing or raising waterway barrier works	
6	For assessing operational work against the <i>Fisheries Act 1994</i> , operational work that is the constructing or raising of a waterway barrier works if it is not self-assessable development.
For works in a declared fish habitat area	
7	For assessing operational work against the <i>Fisheries Act 1994</i> , operational work completely or partly within a declared fish habitat area if it is not self-assessable development.
For removal, destruction or damage of marine plants	
8	For assessing operational work against the <i>Fisheries Act 1994</i> , operational work that is the removal, destruction or damage of a marine plant if it is not self-assessable development.’.

(4) Schedule 8, part 2, table 1—

insert—

‘For declared fish habitat area	
3	<p>For assessing building work against the <i>Fisheries Act 1994</i>, building work in a declared fish habitat area if the work is reasonably necessary for—</p> <ul style="list-style-type: none"> (a) the maintenance of existing structures, including, for example, the following structures, if the structures were constructed in compliance with all the requirements, under any Act, relating to a structure of that type— <ul style="list-style-type: none"> (i) boat ramps, boardwalks, drains, fences, jetties, roads, safety signs, swimming enclosures and weirs; (ii) existing powerlines or associated powerline infrastructure; or (b) educational or research purposes relating to the fish habitat area; or (c) monitoring the impact of development on the declared fish habitat area.’.

(5) Schedule 8, part 2, table 2, item 1—

omit, insert—

‘For aquaculture	
1	<p>For assessing a material change of use against the <i>Fisheries Act 1994</i>, making a material change of use of premises for aquaculture if the change of use of premises does not cause the discharge of waste into Queensland waters and the aquaculture—</p> <ul style="list-style-type: none"> (a) is of indigenous freshwater fish and is carried out in ponds, or using above-ground tanks, that— <ul style="list-style-type: none"> (i) have a total water surface area of no more than 5 ha; and (ii) are in an area prescribed under the <i>Fisheries Act 1994</i> as an area from which the fish may be taken; or (b) is of indigenous freshwater fish for aquarium display or human consumption only, or nonindigenous freshwater fish for aquarium display only, and is carried out using only above-ground tanks that— <ul style="list-style-type: none"> (i) have a floor area, excluding water storage area, of no more than 50 m²; and (ii) are part of a facility with a roof impervious to rain water; or (c) is of indigenous marine fish for aquarium display only and is carried out using only above-ground tanks that have a total floor area, excluding water storage areas, of no more than 50 m².

(6) Schedule 8, part 2, table 4—

insert—

‘For waterway barrier works	
2	<p>For assessing operational work against the <i>Fisheries Act 1994</i>, operational work for constructing or raising a waterway barrier works if—</p> <ul style="list-style-type: none"> (a) the waterway barrier works— <ul style="list-style-type: none"> (i) are intended to exist for no more than 28 days; and (ii) are built or raised in freshwater; and (iii) are no more than 20 m in length and no more than 3 m in height from the lowest point on the stream bed; or (b) the waterway barrier works are situated— <ul style="list-style-type: none"> (i) more than 100 km from the coastline; and (ii) in the smallest unbranched tributary of a catchment or a stream into which that tributary flows.

For works in a declared fish habitat area	
3	<p>For assessing operational work against the <i>Fisheries Act 1994</i>, operational work completely or partly within a declared fish habitat area if the works are reasonably necessary for—</p> <ul style="list-style-type: none"> (a) the maintenance of existing structures, including, for example, the following structures, if the structures were constructed in compliance with all the requirements, under any Act, relating to a structure of that type— <ul style="list-style-type: none"> (i) boat ramps, boardwalks, drains, fences, jetties, roads, safety signs, swimming enclosures and weirs; (ii) existing powerlines or associated powerline infrastructure; or (b) educational or research purposes relating to the fish habitat area; or (c) monitoring the impact of development on the declared fish habitat area.
For the removal, destruction or damage of marine plants	
4	<p>For assessing operational work against the <i>Fisheries Act 1994</i>, operational work that is the removal, destruction or damage of marine plants if the removal, destruction or damage—</p> <ul style="list-style-type: none"> (a) is of dead marine wood on unallocated State land, for trade or commerce; or (b) is reasonably necessary for the maintenance of existing structures, including, for example, the following structures, if the structures were constructed in compliance with all the requirements, under any Act, relating to a structure of that type— <ul style="list-style-type: none"> (i) boat ramps, boardwalks, drains, fences, jetties, roads, safety signs, swimming enclosures and weirs; (ii) existing drainage structures; (iii) existing powerlines or associated powerline infrastructure; or (c) is reasonably necessary for educational or research purposes or for monitoring the impact of development on marine plants.’.

81 Amendment of sch 8A (Assessment manager for development applications)

(1) Schedule 8A, table 3—

*Primary Industries and Other Legislation Amendment No. 82, 2003
Act 2003*

insert—

‘Aquaculture		
8	<p>If table 1 or 2 does not apply and the application is for—</p> <ul style="list-style-type: none"> (a) material change of use for aquaculture under the <i>Fisheries Act 1994</i>; and (b) no other assessable development. 	<p>Chief executive administering the <i>Fisheries Act 1994</i></p>
Fisheries development other than aquaculture		
9	<p>If table 1 or 2 does not apply and the application is for—</p> <ul style="list-style-type: none"> (a) building work in a declared fish habitat area or operational work that is 1 or more of the following— <ul style="list-style-type: none"> (i) the constructing or raising a waterway barrier works; (ii) work carried out completely or partly within a declared fish habitat area; (iii) the removal, destruction or damage of a marine plant; and (b) no other assessable development. 	<p>Chief executive administering the <i>Fisheries Act 1994</i>’.</p>

(2) Schedule 8A, table 4—

insert—

‘4	<p>If table 1, 2 or 3 does not apply and the application is for—</p> <ul style="list-style-type: none"> (a) building work in a declared fish habitat area or operational work carried out completely or partly within a declared fish habitat area; and (b) operational work that is tidal work or work carried out completely or partly within a coastal management district; and (c) no other assessable development. 	<p>The chief executive administering the <i>Fisheries Act 1994</i></p>
----	--	--

*Primary Industries and Other Legislation Amendment No. 82, 2003
Act 2003*

5	<p>If table 1, 2 or 3 does not apply and the application is for—</p> <ul style="list-style-type: none"> (a) operational work that is the construction or raising of a waterway barrier works and any or none of the following— <ul style="list-style-type: none"> (i) building work in a declared fish habitat area; (ii) operational work carried out completely or partly within a declared fish habitat area; (iii) operational work that is the removal, destruction or damage of a marine plant; and (b) operational work— <ul style="list-style-type: none"> (i) for the taking or interfering with, water under the <i>Water Act 2000</i>; or (ii) that is the construction of a referable dam under the <i>Water Act 2000</i> or that will increase the storage capacity of a referable dam by more than 10%; and (c) no other assessable development. 	<p>The chief executive administering the <i>Water Act 2000</i></p>
---	--	--

*Primary Industries and Other Legislation Amendment No. 82, 2003
Act 2003*

6	<p>If table 1, 2 or 3 does not apply and the application is for—</p> <ul style="list-style-type: none"> (a) a material change of use for aquaculture; and (b) either of the following— <ul style="list-style-type: none"> (i) development for an environmentally relevant activity mentioned in the <i>Environmental Protection Regulation 1998</i>, schedule 1, item 1 (aquaculture); (ii) operational work that is tidal work or work carried out completely or partly within a coastal management district; and (b) no other assessable development. 	<p>The chief executive administering the <i>Fisheries Act 1994</i></p>
7	<p>If table 1, 2 or 3 does not apply and the application is for—</p> <ul style="list-style-type: none"> (a) operational work for 1 or more of the following— <ul style="list-style-type: none"> (i) constructing or raising a waterway barrier works; (ii) the removal, destruction or damage of a marine plant; and (b) operational work that is tidal work or work carried out completely or partly within a coastal management district; and (c) no other assessable development. 	<p>The chief executive administering the <i>Coastal Protection and Management Act 1995</i>’.</p>

82 Amendment of sch 9 (Development that is exempt from assessment against a planning scheme)

Schedule 9, table 4—

insert—

‘For the removal, destruction or damage of marine plants	
11	Operational work that is the removal, destruction or damage of marine plants.’.

83 Amendment of sch 10 (Dictionary)

Schedule 10—

insert—

‘**“aquaculture”** see the *Fisheries Act 1994*, schedule.

“associated powerline infrastructure”, in relation to powerlines, includes the following—

- (a) access tracks used to access maintenance works on the powerlines or for routine inspections;
- (b) electricity supply infrastructure, including, for example, power boxes, power posts and stays;
- (c) warning signs or limited sign viewing arcs relating to the powerlines.

“chief executive (environment)” means the chief executive of the department in which the *Environmental Protection Act 1994* is administered.

“chief executive (fisheries)” means the chief executive of the department in which the *Fisheries Act 1994* is administered.

“dead marine wood” means a branch or trunk that—

- (a) is a part of a dead marine plant; or
- (b) was a part of a marine plant.

“declared fish habitat area” see the *Fisheries Act 1994*, schedule.

“indigenous freshwater fish” means a fish that is—

- (a) a freshwater fish as defined in the *Fisheries (Freshwater) Management Plan 1999*, schedule 8, part 2; and
- (b) indigenous, within the meaning of the *Fisheries Act 1994*, schedule, definition “indigenous fisheries resources”, to—
 - (i) only Queensland freshwaters; or
 - (ii) both Queensland freshwaters and Queensland tidal waters.

“indigenous marine fish” means a fish that is indigenous, within the meaning of the *Fisheries Act 1994*, schedule, definition “indigenous fisheries resources”, to only Queensland tidal waters.

“marine plant” see the *Fisheries Act 1994*, section 8.

“nonindigenous freshwater fish” means a freshwater fish, as defined in the *Fisheries (Freshwater) Management Plan 1999*, schedule 8, part 2, that is not an indigenous freshwater fish.

“notification period”—

- (a) for a development application to which chapter 5, part 8A applies—see section 5.8A.5; or
- (b) for another development application—see section 3.4.5.

“prescribed concurrence agency”, in relation to a development application to which chapter 5, part 8A applies, means either or both of the following persons if the person is a concurrence agency for the application—

- (a) the chief executive (environment);
- (b) the chief executive (fisheries).

“waterway barrier works” see the *Fisheries Act 1994*, schedule.’.

PART 9—AMENDMENT OF PLANT PROTECTION ACT 1989

84 Act amended in pt 9

This part amends the *Plant Protection Act 1989*.

85 Replacement of pt 6 hdg

Part 6, heading—

omit, insert—

‘PART 6—PROVISIONS ABOUT ADMINISTRATIVE DECISIONS

‘Division 1—General provision

‘21LA Failure to decide particular decisions taken to be refusal

‘(1) This section applies to the following—

- (a) an application for accreditation made under section 21A;
- (b) an application, whether oral or written, to an inspector for an inspector’s certificate or approval.

‘(2) If the chief executive or inspector fails to decide the application within 28 days after the application is made, the failure is taken to be a decision by the chief executive or inspector to refuse the application at the end of the 28 days.

‘(3) However, the chief executive or inspector may extend the period within which the decision may be made by giving, within 28 days of the application, written notice to the applicant stating the following—

- (a) the chief executive or inspector has extended the period within which the decision may be made;
- (b) the extended period.

‘(4) The extended period must be no longer than—

- (a) 28 days after the notice is given; or
- (b) if the applicant agrees to a longer period—the agreed period.

‘(5) If the chief executive or inspector gives a notice under subsection (3) and fails to decide the application within the extended period stated in the notice, the failure is taken to be a decision by the chief executive or inspector to refuse the application at the end of the extended period.

‘Division 2—Reconsideration of decisions’.

86 Amendment of s 21M (Application for reconsideration of administrative decisions)

(1) Section 21M(1), from ‘making’ to ‘a decision’—

omit, insert—

‘making of a decision’.

(2) Section 21M(2)—

omit, insert—

‘(2) The application must—

(a) be made within 28 days after the relevant day; and

(b) be made in writing; and

(c) state the grounds on which the applicant seeks the reconsideration.’.

(3) Section 21M(4), from ‘making’ to ‘a decision’—

omit, insert—

‘making of a decision’.

(4) Section 21M

insert—

‘(5) In this section—

“relevant day” means—

(a) if the person is given notice of the decision—the day the person is given notice; or

(b) otherwise—the day that is the later of the following—

(i) 28 days after the application for the decision was made;

(ii) the end of any extended period under section 21LA(3) for deciding the application.’.

87 Insertion of new pt 6, div 3 hdg

After section 21N—

insert—

‘Division 3—Appeal to court’.

PART 10—MINOR AMENDMENTS

88 Acts amended in schedule

The schedule amends the Acts it mentions.

SCHEDULE

MINOR AMENDMENTS OF ACTS

section 88

CHICKEN MEAT INDUSTRY COMMITTEE ACT 1976

1 Section 26, heading—

omit, insert—

‘26 Regulation-making power’.

PLANT PROTECTION ACT 1989

1 Schedule, definition “crop plant district”, ‘of’—

omit.

POLICE POWERS AND RESPONSIBILITIES ACT 2000

1 Section 65B(4), ‘subsection (2)’—

omit, insert—

‘subsection (1)’.

SCHEDULE (continued)

STOCK ACT 1915

- 1 Section 4C, from ‘subsection (1)’ to ‘even’—**
omit, insert—
‘schedule 2,³⁸ even’.

- 2 Sections 22(5), 22B(5) and 22C(3), from ‘subject to’—**
omit, insert—
‘subject to sections 22F and 22G.³⁹’.

- 3 Section 48, heading—**
omit, insert—
‘48 Regulation-making power’.

- 4 Schedule 2, definition “inspector”, from ‘includes’—**
omit, insert—
‘includes the chief inspector.’.

© State of Queensland 2003

38 Schedule 2 (Dictionary)

39 Sections 22F (Waybill sometimes not required) and 22G (Multiple conveyances permitted under single waybill)