

Queensland



**ENVIRONMENTAL
LEGISLATION AMENDMENT
ACT 2003**

Act No. 96 of 2003

Queensland



ENVIRONMENTAL LEGISLATION AMENDMENT ACT 2003

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Queensland



**Environmental Legislation Amendment
Act 2003**

Act No. 96 of 2003

An Act to amend particular environmental legislation

[Assented to 3 December 2003]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Environmental Legislation Amendment Act 2003*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

PART 2—AMENDMENT OF NATIONAL ENVIRONMENT PROTECTION COUNCIL (QUEENSLAND) ACT 1994

3 Act amended in pt 2

This part amends the *National Environment Protection Council (Queensland) Act 1994*.

4 Amendment of s 6 (Interpretation)

Section 6(1)—

insert—

‘**“Ministerial Council”** means a council, comprising 1 or more Ministers of the Commonwealth and Ministers of 1 or more States or Territories, that includes environmental protection in its functions.

“minor variation”, for a national environment measure, means a decision made under section 22A(1) to vary a national environment protection measure.’.

5 Amendment of s 13 (Powers of the Council)

Section 13—

insert—

‘(h) direct the Service Corporation to provide assistance and support to other Ministerial Councils.’.

6 Amendment of s 20 (Variation or revocation of measures)

Section 20—

insert—

‘(5) Subsections (2) to (4) do not apply to a minor variation of a national environment protection measure under division 2A.’.

7 Insertion of new pt 3, div 2A

After section 22—

insert—

‘Division 2A—Minor variation of national environment protection measures

‘22A Minor variation of measures

‘(1) The Council may vary a national environment protection measure if—

- (a) the variation is supported by a unanimous resolution of all the members; and
- (b) the resolution states that the variation does not involve a significant change in the effect of the national environment protection measure.

‘(2) A variation under this section is a minor variation.

‘(3) If the Council decides that a variation does not involve a significant change in the effect of the national environment protection measure, the Council must prepare—

- (a) a draft of the proposed variation; and

- (b) a statement about the variation explaining each of the following—
- (i) the reasons for the proposed variation;
 - (ii) the nature and effect of the proposed variation;
 - (iii) the reasons why the Council is satisfied the proposed variation is a minor variation.

‘22B Public consultation for minor variation

‘(1) Before making a minor variation to a national environment protection measure, the Council must publish a notice—

- (a) stating how the draft of the proposed variation and the explanatory statement may be obtained; and
- (b) inviting submissions to the Council on the proposed variation, or on the explanatory statement, within a stated period.

‘(2) The notice must—

- (a) be published in the Commonwealth of Australia Gazette; and
- (b) in each participating State or Territory concerned—also be published, on at least 1 day during the month when the gazette notice is published, in a newspaper circulating in the State or Territory.

‘(3) The period stated in the notice must end at least 1 month after the day on which subsection (2)(b) has been fully complied with in all participating jurisdictions.

‘22C Council to have regard to submissions etc.

‘In making a minor variation to a national environment protection measure, the Council must have regard to each of the following—

- (a) all submissions it receives that relate to the proposed variation or the explanatory statement;
- (b) whether the measure is consistent with section 3 of the Agreement;
- (c) relevant international agreements to which Australia is a party;
- (d) any regional environmental differences in Australia.’

8 Amendment of s 36 (Functions of the Service Corporation)

(1) Section 36—

insert—

‘(aa) to provide assistance and support to other Ministerial Councils as directed by the Council; and’.

(2) Section 36(b), after ‘(a)’—

insert—

‘or (b)’.

(3) Section 36(aa) and (b)—

renumber as section 36(b) and (c).

9 Amendment of s 43 (Leave of absence)

Section 43(1), from ‘Subject’ to ‘87E, the’—

omit, insert—

‘The’.

10 Amendment of s 49 (Public Service staff of Service Corporation)

(1) Section 49(1), from ‘appointed’ to ‘(Cwlth)’—

omit, insert—

‘engaged under the *Public Service Act 1999* (Cwlth)’.

(2) Section 49(2)—

omit, insert—

‘(2) For the *Public Service Act 1999* (Cwlth)—

- (a) the NEPC Executive Officer and the APS employees assisting the NEPC Executive Officer together constitute a Statutory Agency; and
- (b) the NEPC Executive Officer is the Head of the Statutory Agency.’.

11 Amendment of s 51 (Staff seconded to Service Corporation)

Section 51(1), from ‘officers’ to ‘Service,’—

omit, insert—

‘persons engaged under the *Public Service Act 1999* (Cwlth),’.

12 Amendment of s 56 (Application of money of Service Corporation)

Section 56—

insert—

‘(2) Subsection (1) does not prevent investment of surplus money of the Service Corporation under the *Commonwealth Authorities and Companies Act 1997* (Cwlth), section 18, as it applies to the Service Corporation under section 59 of the Commonwealth Act.’.

13 Amendment of s 59 (Special provisions relating to reports etc. prepared under the *Audit Act 1901* (Cwlth))

(1) Section 59, heading, ‘*Audit Act 1901* (Cwlth)’—

omit, insert—

‘*Commonwealth Authorities and Companies Act 1997* (Cwlth)’.

(2) Section 59(1), ‘*Audit Act 1901* (Cwlth), section 63M,’—

omit, insert—

‘*Commonwealth Authorities and Companies Act 1997* (Cwlth), section 9,’.

(3) Section 59(2), from ‘Commonwealth’ to ‘63M,’—

omit, insert—

‘responsible Minister under the *Commonwealth Authorities and Companies Act 1997* (Cwlth), section 9,’.

14 Amendment of s 64 (Review of operation of Act)

Section 64, heading—

omit, insert—

‘64 Initial review after fifth anniversary of commencement of Act’.**15 Insertion of new s 65**

After section 64—

insert—

‘65 Subsequent 5 yearly reviews

‘(1) As soon as possible after the end of every 5 year period following the review under section 64, the Council must cause a further review of the matters mentioned in section 64(1) to be undertaken.

‘(2) The Minister must table a report of each further review in the Legislative Assembly within 1 year after the end of the period to which it relates.’.

**PART 3—AMENDMENT OF NATURE CONSERVATION
ACT 1992****16 Act amended in pt 3**

This part amends the *Nature Conservation Act 1992*.

17 Insertion of new s 3A

Part 1—

insert—

‘3A Territorial application of Act

‘(1) This Act applies both within and outside Queensland.

‘(2) This Act applies outside Queensland to the full extent of the extraterritorial legislative power of the Parliament.’.

**18 Amendment of s 35 (Chief executive’s powers about permitted
uses in national parks or national parks (recovery))**

(1) Section 35(1)(a)—

omit, insert—

‘(a) the use under the authority is only for a service facility; and’.

(2) Section 35(1)—

insert—

‘(c) the use under the authority is prescribed under a regulation made for this section to be a permitted use for the area.’.

19 Amendment of s 36 (Authorities for new national park or national park (recovery))

Section 36(6), definition “service facility”—

omit.

20 Amendment of s 70 (Unlawful use of certain words)

(1) Section 70(1)—

insert—

‘Maximum penalty—50 penalty units.’.

(2) Section 70—

insert—

‘**(3)** However, subsections (1) and (2) do not stop a person using the words ‘national park’ or ‘conservation park’ in referring to the name of—

- (a) a zone of a marine park set apart and declared under the *Marine Parks Act 1982*; or
- (b) an area declared to be part of the Great Barrier Reef Marine Park under the *Great Barrier Reef Marine Park Act 1975 (Cwlth)*.’.

21 Insertion of new pt 10, div 1 hdg

Part 10, before section 160—

insert—

‘Division 1—Proceedings and offences generally’.

22 Amendment of s 164 (Indictable and summary offences)

Section 164(1), after ‘indictable offence’—

insert—

‘, and is a misdemeanour’.

23 Insertion of new pt 10, divs 2 and 3

Part 10, after section 173—

insert—

‘Division 2—Proceedings for declarations and enforcement orders

‘Subdivision 1—Preliminary

‘173A Definitions for div 2

‘In this division—

“**court**” means the Planning and Environment Court.

“**nominated offence**” means an offence against section 62, 88, 89, 90, 91, 92, 94, 97 or 109.¹

“**person**” includes a body of persons, whether incorporated or unincorporated.

1 Section 62 (Restriction on taking etc. of cultural and natural resources of protected areas), 88 (Restriction on taking etc. protected animals), 89 (Restriction on taking etc. protected plants), 90 (Restriction on using threatened or rare plants), 91 (Prohibition on release etc. of international and prohibited wildlife), 92 (Prohibition on breeding etc. hybrids of protected animals), 94 (Conservation officers prohibited in dealing with protected wildlife), 97 (Restriction on taking etc. of native wildlife in areas of major interest and critical habitats) or 109 (Compliance with order)

‘Subdivision 2—Declarations**‘173B Court may make declarations**

‘(1) A person may bring a proceeding in the court for a declaration about a following matter, other than an excluded matter—

- (a) a matter that has been, is to be or should have been done for this Act;
- (b) the construction of—
 - (i) this Act, including, for example, a conservation plan or a management plan; or
 - (ii) an authority granted, made, issued or given under the Act over, or in relation to, land in a protected area; or
 - (iii) a licence, permit or other authority issued or given under a regulation;
- (c) the lawfulness under this Act of an activity.

‘(2) The court has jurisdiction to hear and decide a proceeding for a declaration under this section.

‘(3) A person who starts a proceeding under this section must, within 7 days after the person starts the proceeding, give the chief executive written notice of the proceeding.

Maximum penalty—20 penalty units.

‘(4) The Minister or the chief executive may choose to be a party to the proceeding by filing in the court a notice of election in the form approved by the chief executive.

‘(5) In this section—

“excluded matter” means a matter relating to—

- (a) a licence, permit or other authority issued or given under a regulation authorising—
 - (i) the recreational keeping of wildlife; or
 - (ii) the care and rehabilitation of sick, injured or orphaned protected animals or animals whose habitats have been destroyed by human activity or natural disaster; or
- (b) camping in protected areas.

‘173C Court may make orders about declarations

‘The court may also make an order about a declaration made under section 173B.

‘Subdivision 3—Enforcement orders**‘173D Proceeding for enforcement orders**

‘(1) A person may bring a proceeding in the court—

- (a) for an order to remedy or restrain the commission of a nominated offence (an “**enforcement order**”); or
- (b) if the person has brought a proceeding under this section for an enforcement order and the court has not decided the proceeding—for an order under section 173E (an “**interim enforcement order**”); or
- (c) for an order to cancel or change an enforcement order or interim enforcement order.

‘(2) The person may bring a proceeding for an enforcement order whether or not any right of the person has been, or may be, infringed by, or because of, the commission of the offence.

‘(3) If the chief executive is not a party to a proceeding for an enforcement order, the person must, within 7 days after the person starts the proceeding, give the chief executive written notice of the proceeding.

Maximum penalty—20 penalty units.

‘(4) The Minister or the chief executive may choose to be a party to the proceeding by filing in the court a notice of election in the form approved by the chief executive.

‘173E Making interim enforcement order

‘(1) The court may make an order pending a decision of a proceeding for an enforcement order if the court is satisfied it would be appropriate to make the order.

‘(2) The court may make the order subject to conditions.

‘(3) However, the court may not require as a condition of the order that the applicant for the order give an undertaking about damages.

‘173F Making enforcement order

‘(1) The court may make an enforcement order if the court is satisfied the nominated offence—

- (a) is being or has been committed; or
- (b) will be committed unless the enforcement order is made.

‘(2) If the court is satisfied the offence is being or has been committed, the court may make an enforcement order whether or not there has been a prosecution for the offence under this Act.

‘173G Effect of orders

‘(1) An enforcement order or an interim enforcement order may direct a party to the proceeding for the order—

- (a) to stop an activity that constitutes, or will constitute, a nominated offence; or
- (b) not to start an activity that will constitute a nominated offence; or
- (c) to do anything required to stop committing a nominated offence; or
- (d) to return anything to a condition as close as practicable to the condition it was in immediately before a nominated offence was committed; or
- (e) to do anything to comply with this Act.

‘(2) Without limiting the court’s powers, an enforcement order or an interim enforcement order may require—

- (a) the repair, demolition or removal of a building; or
- (b) for a relevant nominated offence—
 - (i) the rehabilitation or restoration of a protected area, the habitat of protected wildlife, a critical habitat or an area of major interest (an “**affected area**”); or
 - (ii) if an affected area is not capable of being rehabilitated or restored—the planting and nurturing of cultural or natural resources, wildlife or the habitat of protected wildlife in a stated area of equivalent size to the affected area.

‘(3) An enforcement order or an interim enforcement order—

- (a) may be in terms the court considers appropriate to secure compliance with this Act; and
- (b) must state the time by which the order is to be complied with.

‘(4) A person must not contravene an enforcement order or an interim enforcement order.

Maximum penalty—3 000 penalty units or 2 years imprisonment.

‘(5) In this section—

“**relevant nominated offence**” means a nominated offence relating to any of the following—

- (a) taking or interfering with natural or cultural resources of a protected area;²
- (b) taking protected wildlife, other than in a protected area;³
- (c) taking or interfering with native wildlife, other than protected wildlife, in a critical habitat or area of major interest.⁴

‘173H Court’s powers about orders

‘(1) The court’s power to make an enforcement order or interim enforcement order to stop, or not to start, an activity may be exercised—

- (a) whether or not it appears to the court that the person against whom the order is made intends to engage, or to continue to engage, in the activity; and
- (b) whether or not the person against whom the order is made has previously engaged in an activity of the kind; and
- (c) whether or not there is danger of substantial damage to nature or injury to another person if the person against whom the order is made engages, or continues to engage, in the activity.

‘(2) The court’s power to make an enforcement order or interim enforcement order to do anything may be exercised—

2 See section 62 (Restriction on taking etc. of cultural and natural resources of protected areas).

3 See sections 88 (Restriction on taking etc. protected animals) and 89 (Restriction on taking etc. protected plants).

4 See section 97 (Restriction on taking etc. of native wildlife in areas of major interest and critical habitats).

- (a) whether or not it appears to the court that the person against whom the order is made intends to fail, or to continue to fail, to do the thing; and
- (b) whether or not the person against whom the order is made has previously failed to do a thing of the kind; and
- (c) whether or not there is danger of substantial damage to nature or injury to another person if the person against whom the order is made fails, or continues to fail, to do the thing.

‘(3) The court may make an order to cancel or change an enforcement order or interim enforcement order.

‘(4) The court’s power under this section is in addition to its other powers.

‘173I Effect of enforcement order requiring restoration or rehabilitation of land

‘(1) This section applies if—

- (a) the court makes an enforcement order directing a person (the “**declared person**”) to restore or rehabilitate land; and
- (b) the declared person has an interest in the land; and
- (c) the order states that this section applies to the land.

‘(2) The person who started the proceeding for the enforcement order must, as soon as practicable after the enforcement order is made, give the chief executive—

- (a) written notice stating that the order has been made; and
- (b) a copy of the order.

Maximum penalty—20 penalty units.

‘(3) Subsection (4) applies if the declared person transfers to another person (the “**transferee**”), in any way, all or part of the declared person’s interest in the land.

‘(4) To the extent the land is the subject of the enforcement order, on the transfer—

- (a) a reference in the enforcement order to the declared person is taken to be a reference to the transferee; and

- (b) the enforcement order is taken to have been made against the transferee on the transfer of the interest; and
- (c) any outstanding liability, other than criminal liability, of the declared person becomes a liability of the transferee.

‘(5) If it is not reasonably practical for the transferee to comply with the enforcement order within the time stated in the order, the transferee may apply to the court, under section 173D(1)(c), for an order to change the enforcement order by extending the time for compliance with the enforcement order.

‘(6) To remove any doubt, it is declared that on the transfer of the interest, the declared person is not criminally liable for any contravention of the enforcement order that happens on or after the transfer of the interest.

‘(7) Subsections (4) to (6) have effect in relation to each successor in title to the transferee’s interest in the same way the subsections had effect in relation to the transferee.

‘173J Record in land registry of enforcement order requiring restoration or rehabilitation of land

‘(1) As soon as practicable after receiving a notice under section 173I(2) that the enforcement order has been made, the chief executive must give the registrar written notice of the making of the order.

‘(2) The registrar must keep records showing the enforcement order has been made.

‘(3) The registrar must keep the records in a way that a search of the register kept by the registrar under any Act relating to title to the land the subject of the enforcement order will show the enforcement order has been made.

‘173K Application for removal of particulars of enforcement order from registrar’s records

‘(1) This section applies to a person who—

- (a) has an interest in land that is the subject of an enforcement order to which section 173I applies; and
- (b) wishes to have the particulars of the enforcement order removed from the registrar’s records because—

- (i) the enforcement order has been cancelled by the court; or
- (ii) the enforcement order has been substantially complied with;
or
- (iii) the person proposes alternative measures for ensuring the land is restored or rehabilitated.

Example of alternative measures—

a covenant registered under the *Land Title Act 1994*

‘(2) The person may apply to the chief executive for the particulars of the enforcement order to be removed from the registrar’s records.

‘(3) The application must be—

- (a) in writing; and
- (b) accompanied by, according to the circumstances—
 - (i) a copy of the order made by the court cancelling the enforcement order; or
 - (ii) the information or documents the person relies on to establish the enforcement order has been substantially complied with; or
 - (iii) details of the alternative measures proposed by the person to ensure the land will be restored or rehabilitated.

‘173L How chief executive must deal with application

‘(1) If the chief executive receives an application under section 173K, the chief executive must, within 6 weeks after receiving the application—

- (a) decide whether the chief executive is reasonably satisfied, according to the circumstances—
 - (i) the enforcement order has been cancelled by the court; or
 - (ii) the enforcement order has been substantially complied with;
or
 - (iii) the alternative measures proposed by the applicant will ensure the land will be restored or rehabilitated; and
- (b) either—

- (i) approve the application, with or without conditions to be complied with before particulars of the enforcement order may be removed from the registrar's records; or
- (ii) refuse to approve the application.

‘(2) As soon as practicable after acting under subsection (1), the chief executive must—

- (a) give the applicant written notice stating—
 - (i) the decision and the reasons for it; and
 - (ii) if the chief executive refuses to approve the application or approves the application with conditions—
 - (A) that the applicant may appeal against the decision to the court within 28 days after the person receives the notice; and
 - (B) how to appeal; and
- (b) if the chief executive approves the application without conditions—give written notice of the fact to the registrar.

‘(3) If the chief executive approves the application with conditions and the chief executive is reasonably satisfied the conditions have been complied with, the chief executive must, as soon as practicable, give written notice of the fact to the registrar.

‘(4) As soon as practicable after receiving a notice under subsection (2)(b) or (3), the registrar must remove the particulars of the enforcement order from the registrar's records.

‘(5) As soon as the particulars of the enforcement order have been removed from the registrar's records, the enforcement order is taken to have been complied with.

‘173M Appeal against refusal to approve application or approval of application with conditions

‘(1) This section applies if—

- (a) a person who has an interest in land that is the subject of an enforcement order applies, as required under section 173K, for the enforcement order to be removed from the registrar's records; and

- (b) the chief executive refuses to approve the application or approves the application with conditions.

‘(2) The applicant may appeal against the chief executive’s decision to the court within 28 days after the applicant receives notice of the decision under section 173L.

‘(3) If the applicant appeals against the decision, the court may make any order it considers appropriate, including, for example, an order directing the registrar to remove the particulars of the enforcement order from the registrar’s records.

‘Subdivision 4—General procedural provision

‘173N Proceeding brought in representative capacity

‘(1) A proceeding under this division may be brought by a person on behalf of an entity with the entity’s consent.

‘(2) The person who brings the proceeding is a party to the proceeding, despite the proceeding being brought on behalf of another entity.

‘(3) The entity on whose behalf the proceeding is brought is not a party to the proceeding.

‘(4) If the entity on whose behalf the proceeding is brought is an unincorporated body, the body’s committee or other controlling or governing body must give the consent.

‘(5) The entity on whose behalf the proceeding is brought may contribute to, or pay, the legal costs incurred by the person bringing the proceeding.

‘Division 3—Judicial review of administrative decisions

‘173O Extended standing for judicial review

‘(1) This section applies, for the *Judicial Review Act 1991*, to any of the following—

- (a) a decision made under this Act;
- (b) a failure to make a decision under this Act;

(c) conduct engaged in for the purpose of making a decision under this Act.

‘(2) An individual is taken to be a person aggrieved by a decision, failure or conduct mentioned in subsection (1) if—

(a) the individual is—

(i) an Australian citizen; or

(ii) ordinarily resident in Australia; and

(b) at any time in the 2 years immediately before the decision, failure or conduct, the individual engaged in a series of activities in Australia for the protection or conservation of, or research into, the environment.

‘(3) A corporation or association, whether or not incorporated, and a person acting for an unincorporated association, is taken to be a person aggrieved by a decision, failure or conduct mentioned in subsection (1) if—

(a) the corporation or association is incorporated, or was otherwise established, in Australia; and

(b) at any time in the 2 years immediately before the decision, failure or conduct, the corporation or association engaged in a series of activities in Australia for the protection or conservation of, or research into, the environment; and

(c) at the time of the decision, failure or conduct, the objects or purposes of the corporation or association include protection or conservation of, or research into, the environment.

‘(4) A term used in this section that is defined in the *Judicial Review Act 1991*⁵ has the meaning given to it by that Act.’.

24 Amendment of s 175 (Regulation-making power)

(1) Section 175(2)(c) to (p)—

renumber as section 175(2)(d) to (q).

(2) Section 175(2)—

insert—

5 See, for example, the *Judicial Review Act 1991*, sections 5 (Meaning of “making of a decision” and “failure to make a decision”) and 8 (Conduct engaged in for making decision—preparatory acts).

- (c) providing for the safety of persons in protected areas, including the regulation of access to, and activities in, protected areas by persons or classes of persons;

Example for paragraph (c)—

A regulation might regulate camping in a protected area by children, or adults accompanying children, to protect children from injury by animals.’.

25 Amendment of schedule (Dictionary)

(1) Schedule, definition “registrar”—

omit.

(2) Schedule—

insert—

‘ “**court**”, for part 10, division 2, see section 173A.

“**enforcement order**” see section 173D(1)(a).

“**interim enforcement order**” see section 173D(1)(b).

“**nominated offence**”, for part 10, division 2, see section 173A.

“**person**”, for part 10, division 2, see section 173A.

“**registrar**” means the registrar of titles under the *Land Title Act 1994*.

“**service facility**” means any of the following—

- (a) a communications facility, including for example, a communications tower or cable;
- (b) a device designed to be used for navigation or the guidance of aircraft or vessels;
- (c) a transmission grid or supply network under the *Electricity Act 1994*;
- (d) a pipeline for oil or gas;
- (e) a water supply or sewerage facility, including, for example, a pipeline or pumping station.’.

(3) Schedule, definition “CITES”, from ‘1973,’—
omit, insert—
‘1973.⁶’.

PART 4—AMENDMENT OF RECREATION AREAS MANAGEMENT ACT 1988

26 Act amended in pt 4

This part amends the *Recreation Areas Management Act 1988*.

27 Amendment of sch 3 (Subject matters for by-laws)

(1) Schedule 3, item 27—
renumber as schedule 3, item 28.

(2) Schedule 3—
insert—

‘27. Without limiting any other item of this schedule, providing for the safety of persons in recreation areas, including the regulation of access to, and activities in, recreation areas by persons or classes of persons.

Example—

A by-law might regulate camping in a recreation area by children, or adults accompanying children, to protect children from injury by animals.’.

6 The English text of the convention is set out in Australian Treaty Series 1976 No. 29.

PART 5—MINOR AND CONSEQUENTIAL AMENDMENTS

28 Minor and consequential amendments of Acts

The schedule amends the Acts it mentions.

SCHEDULE

MINOR AND CONSEQUENTIAL AMENDMENTS

section 28

COASTAL PROTECTION AND MANAGEMENT ACT 1995

1 Section 144(1), after ‘indictable offence’—

insert—

‘, and is a misdemeanour’.

2 After section 176—

insert—

**‘176A References to certification and notification under the repealed
Canals Act, s 8(1)**

‘(1) Subsection (2) applies if certification or notification under the repealed Canals Act, section 8(1), in relation to a contract for the sale of land to which an approval mentioned in section 176(1) relates, has not taken place before 20 October 2003.

‘(2) Any reference in the contract to the certification or notification is, on and from 20 October 2003, taken to be a reference to the relevant local government’s certification under section 119(2) on a plan of subdivision relating to the land.’.

3 Section 181(1), ‘This section applies’—

omit, insert—

‘Subsections (2) and (3) apply’.

SCHEDULE (continued)

4 Section 181—

insert—

‘(1A) Subsections (2) and (3) also apply if—

- (a) an application to reconfigure a lot in a coastal management district—
 - (i) was made to a local government under the *Integrated Planning Act 1997*; and
 - (ii) was not finally decided before 20 October 2003; and
- (b) the local government issues a development permit for the reconfiguration on or after 20 October 2003.’.

ENVIRONMENTAL PROTECTION ACT 1994**1 Section 23(2), ‘Fire and Rescue Authority Act 1990’—**

omit, insert—

‘*Fire and Rescue Service Act 1990*’.

2 Section 140(3), ‘90(1)’—

omit, insert—

‘90’.

3 Section 303(3), ‘on the later’—

omit, insert—

‘when the later’.

4 Section 303(3)(d)—

omit.

SCHEDULE (continued)

5 Section 494—*insert—***‘(1A) An indictable offence against this Act is—**

- (a) for an offence for which the maximum penalty of imprisonment is 5 or more years—a crime; or
- (b) otherwise—a misdemeanour.’.

6 Section 585(4), definition “planning document”, paragraph (b), ‘133(g)(i)’—*omit, insert—***‘133(1)(g)(i)’.****7 Section 585(4), definition “planning document”, paragraph (c), ‘183(m)’—***omit, insert—***‘183(1)(m)’.****8 Schedule 1, part 2, before division 1—***insert—****‘Division 1A—Decisions under chapter 1’.*****9 Schedule 1, part 2, division 1, entries for section 13(4)—***relocate* to division 1A, as inserted.**10 Schedule 1, part 2, division 1, ‘89H(3)(b)(i)’—***omit, insert—***‘89H(3)(b)’.**

SCHEDULE (continued)

- 11** Schedule 1, part 2, division 1, entry for section 101, ‘(with development approval)’—
omit.
- 12** Schedule 1, part 2, division 4, entry for section 341(1)—
omit.
- 13** Schedule 1, part 2, division 4, before entry for section 451(1)—
insert—
‘Division 4A—Decision under chapter 9’.
- 14** Schedule 3, definition “development condition”, ‘*State Development and Public Works Organisation Act 1971, section 29O(5)*’—
omit, insert—
‘State Development Act, section 39(1)’.
- 15** Schedule 3, definition “environmental protection order”, ‘467’—
omit, insert—
‘358’.

NATURE CONSERVATION ACT 1992

- 1** Section 89(1) and (4)—
insert—
‘Maximum penalty—3 000 penalty units or 2 years imprisonment.’.

SCHEDULE (continued)

2 Section 89, penalty at end of section—

omit.

3 Section 129(3), ‘in of’—

omit, insert—

‘in’.

4 Section 135(1)(a), ‘;’—

omit, insert—

‘; or’.

5 Section 175(2)(k), as renumbered by this Act—

omit, insert—

‘(k) the taking, keeping or use of wildlife, the moving of wildlife into, in and out of the State, the release of wildlife into the wild and other dealing with wildlife;’.

**WET TROPICS WORLD HERITAGE PROTECTION
AND MANAGEMENT ACT 1993****1 Section 82—**

insert—

‘**(1A)** An offence against section 56 is a misdemeanour.’.