



Queensland

Nature Conservation (Protected Plants) and Other Legislation Amendment Act 2013

Act No. 50 of 2013



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Nature Conservation (Protected Plants) and Other Legislation Amendment Act 2013

Act No. 50 of 2013

**An Act to amend the Nature Conservation Act 1992, the Sustainable
Planning Act 2009 and the Vegetation Management Act 1999 for particular
purposes**

[Assented to 29 October 2013]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Nature Conservation (Protected Plants) and Other Legislation Amendment Act 2013*.

2 Commencement

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

Part 2 Amendment of Nature Conservation Act 1992

3 Act amended

This part amends the *Nature Conservation Act 1992*.

4 Amendment of s 67 (Compensation when protected area declared)

(1) Section 67(8)(b)(i), before ‘conservation plan’—
insert—

regulation or

(2) Section 67(8)(b)(iii), from ‘plan’ to ‘after’—
omit, insert—

regulation or conservation plan identifying the area as, or including, a critical habitat or area of major interest continues to apply to the area after the

- (3) Section 67(8)(b)(iv), from ‘section 126’ to ‘plan’—
omit, insert—

section 137A in relation to the land because of the making of the regulation or approval of the conservation plan identifying the area as, or including, a critical habitat or area of major interest

- (4) Section 67(9), definition *existing use*, ‘commencement of the declaration or regulation that restricts or prohibits the use.’—
omit, insert—

restriction or prohibition imposed under the declaration or regulation mentioned in subsection (1) started applying to the land.

5 **Amendment of s 84 (Property in protected plants)**

Section 84(2)(b), before ‘conservation plan’—
insert—

regulation or

6 **Insertion of new pt 5, div 4, sdiv 1 hdg**

Part 5, division 4, before section 88—
insert—

Subdivision 1 Particular restrictions relating to protected animals

7 **Relocation and renumbering of s 88B (Offence to keep or use native wildlife reasonably suspected to have been unlawfully taken)**

Section 88B—

relocate to after section 90 and *renumber* as section 90A.

[s 8]

8 Insertion of new pt 5, div 4, sdiv 2 hdg and s 88D

Part 5, division 4, before section 89—

insert—

**Subdivision 2 Particular restrictions
relating to protected plants**

**88D Regulation may prescribe special least
concern plants**

- (1) A regulation may prescribe a least concern plant to be a special least concern plant for this subdivision.
- (2) A least concern plant may be prescribed under subsection (1) if the taking or use of the plant is at risk of not being ecologically sustainable, including, for example, because of—
 - (a) high commercial demand for the plant or a part of the plant; or
 - (b) the biological traits of the plant.

9 Amendment of s 89 (Restriction on taking etc. particular protected plants)

- (1) Section 89(1), ‘unless—’—

omit, insert—

unless the plant is taken under—

- (2) Section 89(1)(a) to (h)—

omit, insert—

- (a) a conservation plan applicable to the plant; or
- (b) a licence, permit or other authority issued or given under a regulation; or
- (c) an exemption under a regulation.

-
- (3) Section 89(5), definitions *assessable development, building, concurrence agency policy, development approval, regional vegetation management code* and *relevant development activity*—
omit.
- (4) Section 89(5), definition *class 1 offence*, paragraph (c), ‘rare’—
omit, insert—
special least concern
- (5) Section 89(5), definition *class 2 offence*, paragraph (b), ‘rare’—
omit, insert—
special least concern
- (6) Section 89(5), definition *class 3 offence*, paragraph (b), ‘rare’—
omit, insert—
special least concern

10 Amendment of s 90 (Restriction on using particular protected plants)

- (1) Section 90(1)(a), after ‘issued’—
insert—
or given
- (2) Section 90(2), definition *class 1 offence*, ‘rare or near threatened’—
omit, insert—
near threatened or special least concern

11 Insertion of new pt 5, div 4, sdiv 3 hdg

Part 5, division 4, after section 90—

[s 12]

insert—

Subdivision 3 Other restrictions

12 Amendment of s 95 (Payment of conservation value)

(1) Section 95(1), ‘subsection (8)’—

omit, insert—

subsections (8) and (9)

(2) Section 95—

insert—

(9) Also, the conservation value of a protected plant is not payable by a person if the person takes a protected plant under an authority and pays, within 30 days after the plant is taken, the amount, if any, that the authority states must be paid for the taking of the plant.

(10) For subsection (9), the amount stated on the authority must not be more than the conservation value for the protected plant.

(11) In this section—

authority means a licence, permit or other authority issued or given under a regulation or conservation plan.

13 Amendment of s 97 (Restriction on taking etc. of native wildlife in areas of major interest and critical habitats)

Section 97(1) and (2), ‘conservation plan’—

omit, insert—

regulation or conservation plan

**14 Amendment, relocation and renumbering of s 126
(Compensation)**

- (1) Section 126, heading, after ‘Compensation’—
insert—
if landholder’s interest in land injuriously affected
- (2) Section 126(1)(a)—
omit, insert—
(a) a regulation is made, or a conservation plan is approved, for an area identified under the regulation or plan as, or including, a critical habitat or an area of major interest; and
- (3) Section 126(1)(b), before ‘plan’—
insert—
regulation or
- (4) Section 126(3), from ‘conservation’ to ‘the plan.’—
omit, insert—
regulation or conservation plan is the same, or to the same effect, as a provision of another law applying to the land immediately before the restriction or prohibition started applying to the land.
- (5) Section 126(5)(b), ‘approval of the conservation plan’—
omit, insert—
making of the regulation or approval of the conservation plan,
- (6) Section 126(6)(b) and (c), before ‘approval’—
insert—
making of the regulation or
- (7) Section 126(8), definition *existing use*, ‘commencement of the conservation plan that restricts or prohibits the use.’—
omit, insert—

[s 15]

restriction or prohibition imposed under the regulation or conservation plan mentioned in subsection (1) started applying to the land.

(8) Section 126—

relocate to part 8 and *renumber* as section 137A.

15 Insertion of new pt 7A

After part 7—

insert—

Part 7A Regulations identifying critical habitats or areas of major interest

126A Local governments' decisions to be consistent with regulations

- (1) This section applies to land in an area identified under a regulation as, or including, a critical habitat or an area of major interest.
- (2) A local government must not issue or give any approval, consent, permit or other authority for a use of, or a development on, the land that is inconsistent with the regulation.

16 Amendment of s 134 (Records to be maintained by registrar)

(1) Section 134(1)(d), before 'conservation plan'—

insert—

regulation or

(2) Section 134(1), 'or the plan approved,'—

omit, insert—

, or the regulation made or plan approved,

(3) Section 134(2)(a)(iv)—

omit, insert—

- (iv) the subject of a regulation or conservation plan identifying the land as, or being part of, an area that is or includes a critical habitat or area of major interest; and

(4) Section 134(2)(b)(iv)—

omit, insert—

- (iv) the regulation or conservation plan identifying the land as, or being part of, an area that is or includes a critical habitat or area of major interest;

(5) Section 134(3)(d)—

omit, insert—

- (d) the regulation or conservation plan identifying the land as, or being part of, an area that is or includes a critical habitat or area of major interest.

(6) Section 134(4), from paragraph (d)—

omit, insert—

- (d) a regulation or conservation plan identifying an area as, or including, a critical habitat or area of major interest is—

- (i) repealed; or
- (ii) amended to remove the whole or part of the area from the operation of the regulation or conservation plan;

give written notice to the registrar of the termination, repeal or amendment.

[s 17]

17 Amendment of s 138 (Compensation not payable)

Section 138, heading—

omit, insert—

138 Compensation not payable if authority not renewed etc.

18 Amendment of s 173G (Effect of orders)

Section 173G(2)(b)—

insert—

- (iii) the planting and nurturing of, or the restoration and rehabilitation of, a protected plant or population of protected plants.

19 Insertion of new s 174B

After section 174A—

insert—

174B Chief executive may make assessment guidelines

- (1) The chief executive may, by gazette notice, approve or make guidelines (the ***assessment guidelines***) about considering an application under this Act.
- (2) The chief executive must publish the assessment guidelines, and any instrument amending or repealing the assessment guidelines, in the gazette.
- (3) The chief executive must publish a copy of the assessment guidelines as in force from time to time on the department's website.

Editor's note—

At the commencement of this section, the department's website was at <www.ehp.qld.gov.au>.

(4) In considering an application for an authority, the chief executive must have regard to the assessment guidelines.

(5) In this section—

authority means a licence, permit or other authority for protected wildlife issued or given under a regulation or conservation plan.

20 Amendment of s 175 (Regulation-making power)

(1) Section 175(2)—

insert—

(ia) the use or development of land, and activities, in an area identified under the regulation as, or including, a critical habitat or an area of major interest;

(2) Sections 175(2)(ia) to (s)—

renumber as section 175(2)(j) to (t).

21 Amendment of schedule (Dictionary)

(1) Schedule—

insert—

special least concern plant means a least concern plant prescribed under section 88D.

(2) Schedule, definition *natural resources*, paragraph (b), before 'conservation plan'—

insert—

regulation or

[s 22]

- (3) Schedule, definition *protected plant*, ‘rare,’—
omit.

Part 3 **Amendment of Sustainable Planning Act 2009**

22 Act amended

This part amends the *Sustainable Planning Act 2009*.

23 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definition *native forest practice*—
omit.
- (2) Schedule 3—
insert—

native forest practice means a forest practice other than—

- (a) a forest practice in a plantation; or
- (b) the harvesting, on freehold land, of sandalwood.

sandalwood means a plant of the species *Santalum lanceolatum*.

Part 4 Amendment of Vegetation Management Act 1999

24 Act amended

This part amends the *Vegetation Management Act 1999*.

25 Amendment of sch (Dictionary)

(1) Schedule, definition *native forest practice*—

omit.

(2) Schedule—

insert—

native forest practice means a forest practice other than—

- (a) a forest practice in a plantation; or
- (b) the harvesting, on freehold land, of sandalwood.

sandalwood means a plant of the species *Santalum lanceolatum*.