



Queensland

# State Penalties Enforcement Amendment Regulation (No. 1) 2005

## Subordinate Legislation 2005 No. 49

made under the

*State Penalties Enforcement Act 1999*

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**1 Short title**

This regulation may be cited as the *State Penalties Enforcement Amendment Regulation (No. 1) 2005*.

**2 Commencement**

This regulation commences on 1 April 2005.

**3 Regulation amended**

This regulation amends the *State Penalties Enforcement Regulation 2000*.

**4 Insertion of new ss 32 and 33**

After section 31—

*insert—*

**‘32 Entry in sch 5 for repealed provisions of Land Act 1994**

‘(1) This section applies to each of the entries in schedule 5 for the provisions of the *Land Act 1994* that were repealed by the *Vegetation Management and Other Legislation Amendment Act 2004*, section 39<sup>1</sup> (the *repealed provisions*).

‘(2) It is declared that the entries for the repealed provisions remain prescribed in schedule 5 only for the purposes of an offence against a repealed provision committed before 21 May 2004.

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1 The *Vegetation Management and Other Legislation Amendment Act 2004*, section 39 (Omission of ch 5, pt 6 (Tree management)) repealed provisions of the *Land Act 1994*. The *Land Act 1994*, section 255 (Tree clearing permit needed) was one of the sections that was repealed and is included in schedule 5. See also the *Vegetation Management Act 1999*, section 79(2) (When the Land Act 1994 continues to apply) and *Acts Interpretation Act 1954*, section 14H (References taken to be included in reference to law).

**‘33 Entry in sch 5 for *Integrated Planning Act 1997* before 1 April 2005**

- ‘(1) It is declared that the entries in schedule 5, part 1 for the provisions of the *Integrated Planning Act 1997* remain prescribed in schedule 5, part 1 only for the purposes of an offence against the provisions committed before 1 April 2005.
- ‘(2) The entries in schedule 5, part 2 for the provisions of the *Integrated Planning Act 1997* are prescribed in the schedule for the purposes of an offence against the provisions committed on or after 1 April 2005.’.

**5 Amendment of sch 5 (Other legislation)**

- (1) Schedule 5, after the heading for the entry for the *Integrated Planning Act 1997*—

*insert—*

**‘Part 1 Offences committed before 1 April 2005**

section 33(1)’.

- (2) Schedule 5, before the heading for the entry for the *Integrated Planning Regulation 1998*—

*insert—*

**‘Part 2 Offences committed on or after 1 April 2005**

section 33(2)

**Column 1**  
**Infringement notice offence**

**Column 2**  
**Infringement notice fine (penalty units)**

s 4.3.1(1) 1 If—

- (a) the assessable development started is assessable development on land under schedule 8, part 1, table 4, items 1A to 1G of the Act; and
- (b) the land is in an area of high nature conservation value; and
- (c) the area of native vegetation on the land that is cleared is—
  - less than 1/8 hectare . . . . . 5
  - at least 1/8 hectare but less than 1/2 hectare . . . . . 10
  - at least 1/2 hectare but less than 2 hectares . . . . . 20

2 If—

- (a) the assessable development started is assessable development on land under schedule 8, part 1, table 4, items 1A to 1G of the Act; and
- (b) the land is in an area vulnerable to land degradation; and
- (c) the area of native vegetation on the land that is cleared is—
  - less than 1/8 hectare . . . . . 5
  - at least 1/8 hectare but less than 1/2 hectare . . . . . 10
  - at least 1/2 hectare but less than 2 hectares . . . . . 20

3 If—

- (a) the assessable development started is assessable development on land under schedule 8, part 1, table 4, items 1A to 1G of the Act; and

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- (b) the land is in a remnant endangered regional ecosystem shown on a regional ecosystem map; and
- (c) the area of native vegetation on the land that is cleared is—
  - less than 1/8 hectare . . . . . 5
  - at least 1/8 hectare but less than 1/2 hectare . . . . . 10
  - at least 1/2 hectare but less than 2 hectares . . . . . 20

4 If—

- (a) the assessable development started is assessable development on land under schedule 8, part 1, table 4, items 1A to 1G of the Act; and
- (b) the land is in a remnant of concern regional ecosystem shown on a regional ecosystem map; and
- (c) the area of native vegetation on the land that is cleared is—
  - less than 1/8 hectare . . . . . 5
  - at least 1/8 hectare but less than 1/2 hectare . . . . . 9
  - at least 1/2 hectare but less than 2 hectares . . . . . 16
  - at least 2 hectares but less than 5 hectares . . . . . 20

5 If—

- (a) the assessable development started is assessable development on land under schedule 8, part 1, table 4, items 1A to 1G of the Act; and

- (b) the land is in a remnant not of concern regional ecosystem shown on a regional ecosystem map; and
- (c) the area of native vegetation on the land that is cleared is—
  - less than 1/8 hectare . . . . . 5
  - at least 1/8 hectare but less than 1/2 hectare . . . . . 8
  - at least 1/2 hectare but less than 2 hectares . . . . . 12
  - at least 2 hectares but less than 5 hectares . . . . . 15
  - at least 5 hectares but less than 10 hectares . . . . . 20

6 If—

- (a) the assessable development started is assessable development on land under schedule 8, part 1, table 4, items 1A to 1G of the Act; and
- (b) the land is in an area—
  - (i) for which there is no regional ecosystem map; and
  - (ii) of remnant vegetation shown on a remnant map; and
- (c) the area of native vegetation on the land that is cleared is—
  - less than 1/8 hectare . . . . . 5
  - at least 1/8 hectare but less than 1/2 hectare . . . . . 8
  - at least 1/2 hectare but less than 2 hectares . . . . . 12
  - at least 2 hectares but less than 5 hectares . . . . . 15

- at least 5 hectares but less than 10 hectares . . . . . 20

7 If—

- (a) the assessable development started is assessable development on land under schedule 8, part 1, table 4, items 1B to 1G of the Act; and
- (b) the land is in an area of vegetation that is not remnant vegetation shown on a regional ecosystem map or a remnant map; and
- (c) the area of native vegetation on the land that is cleared is—
  - less than 2 hectares . . . . . 5
  - at least 2 hectares but less than 10 hectares . . . . . 13
  - at least 10 hectares but less than 20 hectares . . . . . 20

8 If the assessable development started—

- (a) is assessable development, for a planning scheme area, that is not assessable development under schedule 8, part 1, table 4, items 1A to 1G of the Act; and
- (b) is the clearing of vegetation . . . . . 5

s 4.3.2(1) 9 If the self-assessable development carried out—

- (a) is self-assessable development for a planning scheme area; and
- (b) is the clearing of vegetation . . . . . 5

s 4.3.3(1) 10 For a contravention of a condition—

- (a) in a development approval for development that is assessable development under schedule 8, part 1, table 4, items 1A to 1G of the Act; and
- (b) that relates to the clearing of native vegetation; and
- (c) that does not relate to the actual clearing of native vegetation. . . . . 2

11 For a contravention of a condition—

- (a) in a development approval for development that is assessable development under schedule 8, part 1, table 4, items 1A to 1G of the Act; and
- (b) that relates to the actual clearing of native vegetation in an area of high nature conservation value—
  - if the area cleared is less than 1/8 hectare. . . . . 5
  - if the area cleared is at least 1/8 hectare but less than 1/2 hectare. . . . . 10
  - if the area cleared is at least 1/2 hectare but less than 2 hectares. . . . . 20

12 For a contravention of a condition—

- (a) in a development approval for development that is assessable development under schedule 8, part 1, table 4, items 1A to 1G of the Act; and
- (b) that relates to the actual clearing of native vegetation in an area vulnerable to land degradation—



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- if the area cleared is less than 1/8 hectare..... 5
- if the area cleared is at least 1/8 hectare but less than 1/2 hectare..... 10
- if the area cleared is at least 1/2 hectare but less than 2 hectares..... 20

13 For a contravention of a condition—

(a) in a development approval for development that is assessable development under schedule 8, part 1, table 4, items 1A to 1G of the Act; and

(b) that relates to the actual clearing of native vegetation in a remnant endangered regional ecosystem shown on a regional ecosystem map—

- if the area cleared is less than 1/8 hectare..... 5
- if the area cleared is at least 1/8 hectare but less than 1/2 hectare..... 10
- if the area cleared is at least 1/2 hectare but less than 2 hectares..... 20

14 For a contravention of a condition—

(a) in a development approval for development that is assessable development under schedule 8, part 1, table 4, items 1A to 1G of the Act; and

- (b) that relates to the actual clearing of native vegetation in a remnant of concern regional ecosystem shown on a regional ecosystem map—
  - if the area cleared is less than  $\frac{1}{8}$  hectare..... 5
  - if the area cleared is at least  $\frac{1}{8}$  hectare but less than  $\frac{1}{2}$  hectare..... 9
  - if the area cleared is at least  $\frac{1}{2}$  hectare but less than 2 hectares..... 16
  - if the area cleared is at least 2 hectares but less than 5 hectares..... 20

15 For a contravention of a condition—

- (a) in a development approval for development that is assessable development under schedule 8, part 1, table 4, items 1A to 1G of the Act; and
- (b) that relates to the actual clearing of native vegetation in a remnant not of concern regional ecosystem shown on a regional ecosystem map—
  - if the area cleared is less than  $\frac{1}{8}$  hectare..... 5
  - if the area cleared is at least  $\frac{1}{8}$  hectare but less than  $\frac{1}{2}$  hectare..... 8
  - if the area cleared is at least  $\frac{1}{2}$  hectare but less than 2 hectares..... 12

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- if the area cleared is at least 2 hectares but less than 5 hectares . . . . . 15
  - if the area cleared is at least 5 hectares but less than 10 hectares . . . . . 20
- 16 For a contravention of a condition—
- (a) in a development approval for development that is assessable development under schedule 8, part 1, table 4, items 1A to 1G of the Act; and
  - (b) that relates to the actual clearing of native vegetation in an area for which there is no regional ecosystem map; and
  - (c) the area is in an area of remnant vegetation shown on a remnant map—
    - if the area cleared is less than  $\frac{1}{8}$  hectare . . . . . 5
    - if the area cleared is at least  $\frac{1}{8}$  hectare but less than  $\frac{1}{2}$  hectare . . . . . 8
    - if the area cleared is at least  $\frac{1}{2}$  hectare but less than 2 hectares . . . . . 12
    - if the area cleared is at least 2 hectares but less than 5 hectares . . . . . 15
    - if the area cleared is at least 5 hectares but less than 10 hectares . . . . . 20
- 17 For a contravention of a condition—

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- (a) in a development approval for development that is assessable development under schedule 8, part 1, table 4, items 1B to 1G of the Act; and
- (b) that relates to the actual clearing of native vegetation on land in an area of vegetation that is not remnant vegetation shown on a regional ecosystem map or a remnant map—
  - if the area cleared is less than 2 hectares . . . . . 5
  - if the area cleared is at least 2 hectares but less than 10 hectares . . . . . 13
  - if the area cleared is at least 10 hectares but less than 20 hectares . . . . . 20

18 For a contravention of a condition—

- (a) in a development approval for assessable development, under a planning scheme, that is not assessable development under schedule 8, part 1, table 4, items 1A to 1G of the Act; and
- (b) that relates to the clearing of vegetation . . . . . 5

s 4.3.15 19 If the enforcement notice relates to the clearing of native vegetation on land under schedule 8, part 1, table 4, items 1A to 1G of the Act . . . . . 10

s 5.3.4(1) . . . . . 8

s 5.3.4(2) . . . . . 8

s 5.3.5(4) . . . . . 8

s 5.3.5(6) . . . . . 4

s 5.3.5(6B)	.....	4
s 5.3.5(7)	.....	4
s 5.3.9(2)	.....	4

**Authorised person for service of infringement notices—**

- (a) an authorised officer appointed under the *Vegetation Management Act 1999*, section 24,<sup>2</sup> for an offence against—
  - (i) section 4.3.1(1) as limited by the descriptions relating to that section in column 1, paragraphs 1 to 7; or
  - (ii) section 4.3.3(1) as limited by the descriptions relating to that section in column 1, paragraphs 10 to 17; or
  - (iii) section 4.3.15; or
- (b) an authorised person appointed under the *Local Government Act 1993*, section 1084,<sup>3</sup> for an offence against—
  - (i) section 4.3.1(1) as limited by the description relating to that section in column 1, paragraph 8; or
  - (ii) section 4.3.2; or
  - (iii) section 4.3.3(1) as limited by the description relating to that section in column 1, paragraph 18; or
- (c) the general manager under the *Queensland Building Services Authority Act 1991*, for an offence against—
  - (i) section 5.3.4(1) or (2); or
  - (ii) section 5.3.5(4), (6), (6B) or (7); or
  - (iii) section 5.3.9(2).<sup>7</sup>

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<sup>2</sup> *Vegetation Management Act 1999*, section 24 (Appointment and qualifications of authorised officers)

<sup>3</sup> *Local Government Act 1993*, section 1084 (Appointment)

## **Schedule            Minor amendments**

section 3

**1        Schedule 1, entry for the *Invasion of Privacy Act 1971*—**  
*omit.*

**2        Schedule 1, entry for the *Motor Vehicles Securities Act***  
***1986, heading—***  
*omit, insert—*

**‘Motor Vehicles and Boats Securities Act 1986’.**

**3        Schedule 1, entry for the *Property Agents and Motor***  
***Dealers Act 2000, column 1, ‘s 136(2)’—***  
*omit, insert—*  
*‘s 136(3)’.*

**4        Schedule 1, entry for the *Property Agents and Motor***  
***Dealers Act 2000, column 1, ‘s 213(2)’—***  
*omit, insert—*  
*‘s 213(3)’.*

**5        Schedule 1, entry for the *Property Agents and Motor***  
***Dealers Act 2000, entry for section 239(2)—***  
*omit.*

**6        Schedule 1, entry for the *Retirement Villages Act 1999,***  
***entry for section 46(2)—***  
*omit.*

Schedule (continued)

- 7**     **Schedule 2, entry for the *Environmental Protection (Waste Management) Regulation 2000*, column 1, ‘s 51(1)’—**  
           *omit, insert—*  
           ‘s 51’.
- 8**     **Schedule 2, entry for the *Nature Conservation Regulation 1994*, second entry for section 45(1)—**  
           *omit.*
- 9**     **Schedule 3, entry for the *Tow Truck Regulation 1999*, entry for section 39(3)—**  
           *omit.*
- 10**    **Schedule 3, entry for the *Transport Infrastructure Act 1994*, entries for sections 73G(3),73H(4) and 73I(3)—**  
           *omit, insert—*
- |                |                                  |
|----------------|----------------------------------|
| ‘s 99(3).....  | 1 <sup>2</sup> / <sub>5</sub>    |
| s 100(4) ..... | 1 <sup>2</sup> / <sub>5</sub>    |
| s 101(3) ..... | 1 <sup>2</sup> / <sub>5</sub> ’. |
- 11**    **Schedule 3, entry for the *Transport Infrastructure (Rail) Regulation 1996*, column 1, ‘12(3A)’—**  
           *omit, insert—*  
           ‘s 12(3A)’.
- 12**    **Schedule 3, entry for the *Transport Operations (Passenger Transport) Regulation 1994*, column 1, ‘s 26(1)’—**  
           *omit, insert—*  
           ‘s 26’.

Schedule (continued)

- 13 **Schedule 3, entry for the *Transport Operations (Passenger Transport) Regulation 1994*, entry for section 41A(2)—**  
*omit.*
- 14 **Schedule 3, entry for the *Transport Operations (Road Use Management) Regulation 1995*, entry for section 24(5)—**  
*omit.*
- 15 **Schedule 3, entry for the *Transport Operations (Road Use Management—Fatigue Management) Regulation 1998*, column 1, ‘s 48(1)’—**  
*omit, insert—*  
‘s 48’.
- 16 **Schedule 5, entry for the *Electrical Safety Regulation 2002*, column 2, heading, ‘offence’—**  
*omit, insert—*  
‘fine (penalty units)’.
- 17 **Schedule 5, entry for the *Electricity Regulation 1994*, column 2, heading, ‘offence’—**  
*omit, insert—*  
‘fine (penalty units)’.
- 18 **Schedule 5, entry for the *Gaming Machine Act 1991*, entries for sections 206(4) and 219(21)—**  
*omit.*
- 19 **Schedule 5, entry for the *Gaming Machine Regulation 1991*—**  
*omit.*



Schedule (continued)

- 20**    **Schedule 5, entry for the *Wine Industry Act 1994*, column 1, ‘s 36(1)’—**  
*omit, insert—*  
‘s 36’.
- 21**    **Schedule 6, definition *relevant nuisance complaint*, after ‘see’—**  
*insert—*  
‘the’.
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ENDNOTES

- 1    Made by the Governor in Council on 31 March 2005.
- 2    Notified in the gazette on 1 April 2005.
- 3    Laid before the Legislative Assembly on . . .
- 4    The administering agency is the Department of Justice and Attorney-General.