

Queensland



**NATURE CONSERVATION
AND OTHER LEGISLATION
AMENDMENT BILL 2000**

Queensland



**NATURE CONSERVATION AND OTHER
LEGISLATION AMENDMENT BILL 2000**

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2000

A BILL

FOR

An Act to amend the *Nature Conservation Act 1992*, and for other purposes

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The Parliament of Queensland enacts—

1

PART 1—PRELIMINARY

2

Short title

3

Clause **1.** This Act may be cited as the *Nature Conservation and Other Legislation Amendment Act 2000*.

4

5

Commencement

6

Clause **2.** Section 24, to the extent it inserts the *Nature Conservation Act 1992*, part 4A, division 6, commences on a day to be fixed by proclamation.¹

7

8

**PART 2—AMENDMENT OF NATURE
CONSERVATION ACT 1992**

9

10

Act amended in pt 2 and schedule

11

Clause **3.(1)** This part amends the *Nature Conservation Act 1992*.

12

(2) The schedule also includes amendments of the *Nature Conservation Act 1992*.

13

14

Insertion of new pt 3, div 1 hdg

15

Clause **4.** Part 3—

16

insert—

17

‘Division 1—Dictionary’.

18

¹ Section 24 (Insertion of new pt 4A)
Part 4A, division 6 (Expiry of pt 4A)

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Amendment*

	Amendment of s 7 (Definitions)	1
Clause	5.(1) Section 7, ‘In this Act—’—	2
	<i>omit, insert—</i>	3
	‘The dictionary in the schedule defines particular words used in this Act.’.	4
		5
	(2) Section 7—	6
	<i>insert—</i>	7
	‘ “EIS” means an environmental impact statement.	8
	“regeneration plan” means a regeneration plan made under part 4, division 3A.’.	9
		10
	(3) Section 7, definitions, as amended—	11
	<i>relocate</i> to the schedule as inserted by this Act.	12
	Insertion of new pt 3, div 2 hdg	13
Clause	6. After section 7—	14
	<i>insert—</i>	15
	<i>‘Division 2—Key definitions’.</i>	16
	Amendment of s 14 (Classes of protected areas to which Act applies)	17
Clause	7.(1) Section 14—	18
	<i>insert—</i>	19
	‘(da)national parks (recovery); and’.	20
	(2) Section 14(da) to (k)—	21
	<i>renumber</i> as section 14(e) to (l).	22
	Insertion of new s 19A	23
Clause	8. After section 19—	24
	<i>insert—</i>	25

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	‘Management principles of national parks (recovery)	1
	‘19A. A national park (recovery) is to be managed to do the following—	2
	(a) protect or restore, to the greatest possible extent, the park’s natural condition and protect its cultural resources and values so that it can be dedicated as a national park;	3 4 5
	(b) provide for the manipulation of the park’s natural resources to restore its conservation values;	6 7
	(c) ensure any commercial or other use of the park’s natural resources to restore its conservation values is consistent with an approved regeneration plan for the park;	8 9 10
	(d) ensure any other use of the park is nature-based.’.	11
	 Amendment of s 27 (Prohibition on mining)	 12
Clause	9. Section 27(1)(e)—	13
	<i>omit, insert—</i>	14
	‘(e) a national park (recovery); or	15
	(f) a conservation park.’.	16
	 Insertion of new pt 4, div 2, sdiv 1 hdg	 17
Clause	10. Part 4, division 2—	18
	<i>insert—</i>	19
	‘ <i>Subdivision 1—Preliminary</i> ’.	20
	 Amendment of s 28 (Meaning of “protected area” in division)	 21
Clause	11.(1) Section 28, definition “protected area”—	22
	<i>insert—</i>	23
	‘(ba)a national park (recovery); or’.	24
	(2) Section 28, definition “protected area”, paragraphs (ba) to (d)—	25
	<i>renumber</i> as paragraphs (c) to (e).	26

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	Insertion of new pt 4, div 2, sdiv 2 hdg	1
Clause	12. After section 28—	2
	<i>insert—</i>	3
	‘ <i>Subdivision 2—Dedication, revocation and amalgamation</i> ’.	4
	Amendment of s 29 (Dedication of protected areas)	5
Clause	13.(1) Section 29(1)—	6
	<i>insert—</i>	7
	‘(ba)a national park (recovery); or’.	8
	(2) Section 29(1)(ba) to (d)—	9
	<i>renumber</i> as section 28(c) to (e).	10
	Amendment of s 32 (Revocation of protected areas)	11
Clause	14. Section 32(3)—	12
	<i>omit.</i>	13
	Amendment of s 33 (Amalgamation etc. of protected areas)	14
Clause	15. Section 33(3)—	15
	<i>omit.</i>	16
	Insertion of new pt 4, div 2, sdiv 3 hdg	17
Clause	16. After section 33—	18
	<i>insert—</i>	19
	‘ <i>Subdivision 3—Interests in protected areas</i> ’.	20
	Amendment of s 34 (Leases etc. over protected areas)	21
Clause	17.(1) Section 34(1)(a)(i), ‘or national park’—	22

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<i>omit, insert—</i>	1
‘, national park or national park (recovery)’.	2
(2) Section 34(2)(b)—	3
<i>omit, insert—</i>	4
(b) if a management plan has been approved for the area, the management plan.’.	5
	6

Amendment of s 35 (Chief executive’s powers about permitted uses in national parks)	7
	8

Clause	18.(1) Section 35, heading, after ‘ national parks ’—	9
	<i>insert—</i>	10
	‘ or national parks (recovery) ’.	11
	(2) Section 35(1), after ‘national park’—	12
	<i>insert—</i>	13
	‘or national park (recovery)’.	14
	(3) Section 35(1)(b)(i), before ‘the cardinal principle’—	15
	<i>insert—</i>	16
	‘if the land is in a national park,’.	17
	(4) Section 35(1)(b)—	18
	<i>insert—</i>	19
	(ia) if the land is in a national park (recovery), the management principle under section 19A(a) will be observed to the greatest possible extent; and’.	20
		21
		22
	(5) Section 35(1)(b)(ia) to (iv)—	23
	<i>renumber</i> as section 35(1)(b)(ii) to (v).	24

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	Replacement of s 36 (Chief executive’s powers to grant authorities for new national parks)	1
		2
Clause	19. Section 36—	3
	<i>omit, insert—</i>	4
	‘Authorities for new national park or national park (recovery)	5
	‘36.(1) This section applies if—	6
	(a) land is dedicated as a national park or national park (recovery);	7
	and	8
	(b) immediately before the dedication, the land was being used (the	9
	“previous use”) in a way that is inconsistent with the	10
	management principles of the park.	11
	‘(2) The chief executive may grant an authority (a “previous use authority”) over, or in relation to, the land to allow the previous use to continue for no more than the allowable term after the dedication.	12
		13
		14
	‘(3) However, a previous use authority must not be granted for a national park if the previous use was under a sales permit under the <i>Forestry Act 1959</i> , section 46.	15
		16
		17
	‘(4) A previous use authority must not be renewed.	18
	‘(5) This section—	19
	(a) applies despite sections 15 and 34(2); but	20
	(b) does not limit section 35. ²	21
	‘(6) In this section—	22
	“allowable term” , for a previous use of a national park or national park (recovery), means a term no longer than—	23
		24
	(a) if the previous use was under a permit or lease as follows, the term that is the unexpired term of the permit or lease—	25
		26
	(i) an occupation permit under the <i>Forestry Act 1959</i> ,	27

² Sections 15 (Management of protected areas), 34 (Leases etc. over protected areas) and 35 (Chief executive’s powers about permitted uses in national parks or national parks (recovery))

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section 35(1)(a) under which the right of occupation is only
for a service facility; 1
2

(ii) a stock grazing permit under the *Forestry Act 1959*,
section 35(1)(c); 3
4

(iii) an apiary permit under the *Forestry Act 1959*,
section 35(1)(d); 5
6

(iv) a sales permit under the *Forestry Act 1959*, section 46, for
the taking of plant parts if it does not authorise cutting or
pruning of plants so severely that the plant is likely to die;³ 7
8
9

(v) a lease under the *Land Act 1994*; or 10

(b) otherwise—3 years after the dedication. 11

“authority” means an agreement or a lease, licence, permit or other
authority. 12
13

“plant parts” means the flowers, foliage, seeds or stems of the plant. 14

“service facility” includes the following— 15

(a) a communications facility, including, for example, a
communications tower; 16
17

(b) a device designed to be used for navigation or the guidance of
aircraft or vessels; 18
19

(c) a transmission grid under the *Electricity Act 1994*; 20

(d) a public water supply facility, including, for example, a public
pipeline or pumping station.’. 21
22

Insertion of new pt 4, div 2, sdiv 4 23

Clause **20.** Part 4, division 2, after section 39— 24

insert— 25

³ *Forestry Act 1959*, sections 35 (Power of the corporation to grant permits with respect to land within State forests) and 46 (Corporation may sell forest products or quarry material the property of the Crown)

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‘Subdivision 4—Environmental impact statements

‘Application of sdiv 4

‘**39A.(1)** This subdivision applies if a person seeks, under section 34, 35, or 38, an interest in land in a protected area.

‘(2) This subdivision applies despite any other Act under which the interest is to be created.

‘Chief executive may require EIS

‘**39B.(1)** The chief executive may, before the interest is created, require the person to give the chief executive an EIS for the use, or a stated use, of the land under the interest.

‘(2) The EIS must be prepared in the way prescribed under a regulation.

‘(3) The person must pay the costs of preparing the EIS.

‘EIS must be considered

‘**39C.(1)** If an EIS has been required, the interest must not be created before the EIS has been given to the chief executive.

‘(2) If an EIS has been given, the chief executive or other person who may create the interest must take the EIS into account before deciding whether or not to create the interest.’.

Insertion of new pt 4, div 3A

Clause **21.** After part 4, division 3—
insert—

‘Division 3A—Regeneration plans for national parks (recovery)

‘Obligation to prepare regeneration plan

‘**42A.(1)** The chief executive must, as soon as practicable after the dedication of a national park (recovery), make a regeneration plan for the

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park.

‘(2) However, subsection (1) applies only if the chief executive considers a regeneration plan is necessary for the manipulation of the park’s natural resources to restore its conservation values.

‘(3) A regeneration plan must be made under this division.

‘Purpose of regeneration plan

‘42B.(1) The purpose of a regeneration plan for a national park (recovery) is to describe how it is proposed to manage the manipulation of the park’s natural resources to restore its conservation values.

‘(2) If a management plan has been approved for the park, the management procedures under the regeneration plan must be consistent with the management plan.

‘Publication of draft regeneration plan

‘42C.(1) The chief executive must publish a notice of the preparation of a draft regeneration plan for a national park (recovery) in a newspaper likely to be read by people particularly affected by the draft plan.

‘(2) The notice must state the following—

- (a) the location and area of the park;
- (b) where copies of the draft plan may be obtained or inspected;
- (c) that any entity may comment about the draft plan to the chief executive;
- (d) the period during which comments may be made.

‘(3) The stated period must be at least 35 days after the publication of the notice.

‘(4) A copy of the draft plan must be available free, or on payment of a reasonable price, at the place, or each of the places, stated in the notice.

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‘Comments to be considered before final plan made	1
‘42D. The chief executive must, before making a final regeneration plan, consider all comments received by the chief executive within the period under section 42C(2)(d) for making comments about the draft regeneration plan.	2 3 4 5
‘Final regeneration plan	6
‘42E.(1) The chief executive must make a final regeneration plan by gazette notice.	7 8
‘(2) The chief executive must keep copies of the plan open for public inspection during office hours on business days at—	9 10
(a) the department’s head office; and	11
(b) each regional office and district office of the department in whose area the national park (recovery) to which the plan relates is situated; and	12 13 14
(c) other places the chief executive considers appropriate.	15
‘Implementation of final regeneration plan	16
‘42F. The chief executive must give effect to a final regeneration plan.’.	17
Amendment of s 61 (Property in cultural and natural resources)	18
Clause 22.(1) Section 61, ‘national park, conservation park’—	19
<i>omit, insert—</i>	20
‘national park, national park (recovery), conservation park’.	21
(2) Section 61—	22
<i>insert—</i>	23
‘(2) However, if land in a protected area mentioned in subsection (1) was included in a forest reserve immediately before the dedication of the protected area, subsection (1) does not extinguish or affect native title or native title rights and interests in relation to the land.’.	24 25 26 27

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Amendment of s 62 (Restriction on taking etc. of cultural and natural resources of protected areas)

		1
		2
Clause	23.(1) Section 62(1), after ‘person’—	3
	<i>insert—</i>	4
	‘, other than an authorised person,’.	5
	(2) Section 62(1)(c)(i), ‘section 34 (Leases etc. over protected areas)’—	6
	<i>omit, insert—</i>	7
	‘sections 34 to 38’.	8
	(3) Section 62(7)—	9
	<i>insert—</i>	10
	‘ “authorised person” means a person as follows performing functions under this Act in relation to the protected area—	11
	(a) the chief executive;	12
	(b) a conservation officer, public service officer or other employee of the department acting under the chief executive’s authority.’.	13
	(b) a conservation officer, public service officer or other employee of the department acting under the chief executive’s authority.’.	14
	the department acting under the chief executive’s authority.’.	15
	(4) Section 62(7), definition “national park” , ‘or national park (Torres Strait Islander land)’—	16
	<i>omit, insert—</i>	17
	‘, national park (Torres Strait Islander land) or national park (recovery)’.	18
	‘, national park (Torres Strait Islander land) or national park (recovery)’.	19

Insertion of new pt 4A

		20
Clause	24. After part 4—	21
	<i>insert—</i>	22

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PART 4A—FOREST RESERVES

Division 1—Preliminary

Purpose of pt 4A and its achievement

70A.(1) The purpose of this part is to assist the dedication of areas within State forests, timber reserves or Land Act reserves as protected areas.

(2) The purpose is achieved primarily by providing for forest reserve dedications as an interim measure to assist the dedication of the areas as protected areas.

(3) It is Parliament's intention that, subject to any revocation under this part, each area of land dedicated as a forest reserve will become a protected area as soon as practicable after its dedication.

Definitions for pt 4A

70B. In this part—

“authority” means an agreement or a lease, licence, permit or other authority.

“forest reserve” means an area dedicated as a forest reserve under section 70C, the dedication for which has not been revoked under section 70E.

“Land Act reserve” means a reserve under the *Land Act 1994*.

“proposed protected area” means an area designated as a proposed protected area under section 70K(1), the designation for which has not ended under section 70M.

“proposed protected area register” means the register that the chief executive keeps under section 70N.

“protected area” means any of the following—

(a) a national park (scientific);

(b) a national park;

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- (c) a national park (recovery); 1
- (d) a conservation park; 2
- (e) a resources reserve. 3

“State forest” means a State forest under the *Forestry Act 1959*. 4

“timber reserve” means a timber reserve under the *Forestry Act 1959*. 5

Division 2—Dedication and revocation 6

‘Dedication of forest reserves 7

‘70C. The Governor in Council may, under a regulation, dedicate a stated area of land as a forest reserve if the area is, or is part of, a State forest, timber reserve or Land Act reserve. 8
9
10

‘Naming of forest reserves 11

‘70D. A regulation may give a name to, or change the name of, a forest reserve. 12
13

‘Revocation of forest reserves 14

‘70E.(1) The Governor in Council, may under a regulation, revoke the dedication of a forest reserve or a part of a forest reserve. 15
16

‘(2) The regulation may be made only if the Legislative Assembly has, on a motion of which at least 14 sitting days notice has been given, passed a resolution requesting the Governor in Council to make the revocation. 17
18
19

‘(3) However, subsection (2) does not apply if the regulation states the purpose of the revocation is to allow the forest reserve to become a protected area. 20
21
22

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‘Division 3—Management of forest reserves

1

‘Subdivision 1—Management principles of forest reserves

2

‘Management principles

3

‘70F.(1) A forest reserve is to be managed to do the following—

4

(a) protect the biological diversity, cultural resources and values and conservation values of land included in the reserve, having regard to the purpose of this part;

5

6

7

(b) provide for the continuation of any lawful existing use of the land;

8

Examples of existing uses that may be lawful existing uses—

9

1. Apiculture, foliage harvesting, recreation and salvage timber harvesting under the *Forestry Act 1959*.

10

11

2. Grazing under the *Forestry Act 1959* or the *Land Act 1994*.

12

3. Maintenance and use of existing roads used for timber extraction and other forest management activities under the *Forestry Act 1959*.

13

14

15

4. Mining under the *Mineral Resources Act 1989*.

16

(c) ensure all uses of the land under an authority in relation to the forest reserve made after its dedication are ecologically sustainable;

17

18

19

(d) ensure all uses of the land under an authority made after any designation of land in the forest reserve as a proposed protected area are consistent with the management principles for the class of protected area that the land is proposed to become.

20

21

22

23

‘(2) However, subsection (1)(b) only applies to the use of the land for commercial logging if the purpose of the logging is to remove plantation trees to restore the land’s conservation values.

24

25

26

‘(3) To remove any doubt, it is declared that the dedication of the land as a forest reserve or any designation of land in the forest reserve as a proposed protected area does not extinguish or affect native title or native title rights and interests in relation to the land.

27

28

29

30

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- ‘(4) In this section— 1
- “**commercial logging**” means taking timber for commercial gain, other 2
than— 3
- (a) to build, maintain or repair public infrastructure or utilities relating 4
to the forest reserve; or 5
 - (b) to enhance or protect a lawful use of the land, or to ensure the use 6
may be carried out safely; or 7
 - (c) to allow native vegetation on the land to be regenerated under a 8
written approval given by the chief executive; or 9
 - (d) for use as firewood; or 10
 - (e) incidentally to a lawful use of the land that does not involve taking 11
timber. 12
- Example for paragraph (e)—* 13
- If collecting seeds from trees on the land is lawful, collecting the 14
seeds may involve taking branches from trees that have the seeds on 15
them. 16
- “**ecologically sustainable**”, for use of the land, means use within the 17
capacity of the land to sustain natural processes while— 18
- (a) maintaining the life support systems of nature; and 19
 - (b) ensuring the benefit of the use to present generations does not 20
diminish the potential to meet the needs and aspirations of future 21
generations. 22
- “**make**”, for an authority, includes renew the authority. 23

‘Subdivision 2—Management 24

- ‘**State forest or timber reserve dedicated as a forest reserve** 25
- ‘70G.(1) This section applies if land in a State forest or timber reserve is 26
dedicated as a forest reserve. 27
- ‘(2) The land ceases to be land in a State forest or timber reserve. 28
- ‘(3) However— 29

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- (a) the *Forestry Act 1959* continues to apply, with necessary changes, in relation to the land and its management as if the land were, and had continued to be, a State forest or timber reserve; but 1
2
3
- (b) the *Forestry Act 1959*, section 33⁴ does not apply to the management of the land. 4
5
- ‘(4) This section applies despite the *Forestry Act 1959*. 6
- ‘Land Act reserve dedicated as a forest reserve 7**
- ‘70H.(1) This section applies if land in a Land Act reserve is dedicated as a forest reserve. 8
9
- ‘(2) The land ceases to be land in a Land Act reserve. 10
- ‘(3) However, the *Land Act 1994* continues to apply, with necessary changes, in relation to the land and its management as if the land were, and had continued to be, a Land Act reserve. 11
12
13
- ‘(4) Also, if a person was, immediately before the dedication, a trustee of the land under the *Land Act 1994*, the person continues to be a trustee of the land under that Act. 14
15
16
- ‘(5) This section applies despite the *Land Act 1994*. 17
- ‘Management principles prevail 18**
- ‘70L.(1) A forest reserve must be managed under the management principles under section 70F. 19
20
- ‘(2) If there is an inconsistency between the management principles and a provision of the *Forestry Act 1959* or the *Land Act 1994*, the management principles prevail to the extent of the inconsistency. 21
22
23
- ‘(3) Despite sections 70G and 70H, an action must not be done in relation to the management of a forest reserve if it is inconsistent with the management principles. 24
25
26
- ‘(4) In this section— 27

⁴ *Forestry Act 1959*, section 33 (Cardinal principle of management of State forests)

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“ action ” includes any of the following—	1
(a) making, amending or renewing an authority in relation to a forest reserve;	2 3
(b) converting an authority to another form of authority;	4
(c) changing the purpose of an authority;	5
(d) offering or agreeing to carry out an action under paragraphs (a) to (c).	6 7
<i>‘Division 4—Progression to protected area</i>	8
<i>‘Subdivision 1—Review of forest reserves</i>	9
‘Review	10
‘ 70J.(1) The chief executive must review each forest reserve to consider the most appropriate class of protected area for land in the reserve.	11 12
‘ (2) The review must start as soon as practicable after the dedication of the forest reserve.	13 14
<i>‘Subdivision 2—Proposed protected areas</i>	15
‘Designation	16
‘ 70K.(1) The chief executive may, by an entry in the proposed protected area register, designate the whole or part of a forest reserve as a proposed protected area if—	17 18 19
(a) under section 70J the chief executive has reviewed the reserve; and	20 21
(b) subsections (2) to (5) have been complied with.	22
‘ (2) The chief executive must publish a notice of a proposed designation in a newspaper likely to be read by people particularly affected by it.	23 24
‘ (3) The notice must state the following—	25

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(a) the location and area of the proposed protected area;	1
(b) the class of protected area that the area is proposed to become;	2
(c) that any entity may comment about the proposal to the chief executive;	3 4
(d) the period during which comments may be made.	5
‘(4) The stated period must be at least 35 days after the publication of the notice.	6 7
‘(5) The chief executive must consider any comment about the proposal made during the period.	8 9
‘Effect of designation	10
‘70L.(1) Subject to the management principle under section 70F(1)(d), a proposed protected area designation acts as a proposal only and the area continues to be a forest reserve.	11 12 13
‘(2) A proposed protected area designation does not—	14
(a) make, or have the effect of making, the area a protected area or a protected area of the class it is proposed to become; or	15 16
(b) bind the Governor in Council to dedicate, or the chief executive to take action to dedicate, the area as a protected area or as a protected area of that class.	17 18 19
‘When designation ends	20
‘70M. The designation of an area as a proposed protected area ends if—	21
(a) the dedication of the area as a forest reserve is revoked; or	22
(b) the area is dedicated as a protected area.	23
‘Register of proposed protected areas	24
‘70N.(1) The chief executive must keep a register of proposed protected areas.	25 26
‘(2) The register must, for each proposed protected area, state—	27

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(a) its location and area; and	1
(b) the class of protected area that it is proposed to become; and	2
(c) any other information the chief executive considers desirable.	3
‘(3) The chief executive may keep the register in the way the chief executive considers appropriate, including, for example, in electronic form.	4 5
‘(4) The chief executive must keep the register open for inspection during office hours on business days at—	6 7
(a) the department’s head office; and	8
(b) each regional office of the department in whose area the proposed protected area is situated; and	9 10
(c) other places the chief executive considers appropriate.	11
‘Amendment of designation	12
‘700.(1) The chief executive may, by an entry in the proposed protected area register, amend the designation of an area as a proposed protected area if subsections (2) to (5) have been complied with.	13 14 15
‘(2) The chief executive must publish a notice of a proposed amendment in a newspaper likely to be read by people particularly affected by it.	16 17
‘(3) The notice must state the following—	18
(a) the location of the area;	19
(b) the proposed amendment;	20
(c) that any entity may comment about the proposal to the chief executive;	21 22
(d) the period during which comments may be made.	23
‘(4) The stated period must be at least 35 days after the publication of the notice.	24 25
‘(5) The chief executive must consider any comment about the proposal made during the period.	26 27

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Division 5—Miscellaneous provisions

‘References to State forest or timber reserve in other legislation

‘70P.(1) A reference in another Act or in subordinate legislation to a State forest or timber reserve is, if the context permits, taken to include a forest reserve.

‘(2) However, subsection (1) does not apply if—

- (a) the reference is in or under the *Forestry Act 1959*⁵ or
- (b) the reference is only to the setting apart and dedication of an area as a State forest or timber reserve.

‘References to Land Act reserves in other legislation

‘70Q.(1) A reference in this or another Act or in subordinate legislation to a Land Act reserve is, if the context permits, taken to include a forest reserve.

‘(2) However, subsection (1) does not apply if the reference is in or under the *Land Act 1994*.

Division 6—Expiry of pt 4A

‘Expiry

‘70R. This part expires 5 years after this division commences.’.

Amendment of s 88 (Restriction on taking etc. protected animals)

Clause **25.(1)** Section 88(1), after ‘person’—

insert—

‘, other than an authorised person,’.

⁵ For State forests or timber reserves, see section 70G(3) (State forest or timber reserve dedicated as a forest reserve).

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	(2) Section 88—	1
	<i>insert—</i>	2
	‘(5) In this section—	3
	“ authorised person ” means a person as follows performing functions under this Act in relation to the protected animal—	4 5
	(a) the chief executive;	6
	(b) a conservation officer, public service officer or other employee of the department acting under the chief executive’s authority.’.	7 8
	Amendment of s 89 (Restriction on taking etc. protected plants)	9
Clause	26.(1) Section 89(1), after ‘person’—	10
	<i>insert—</i>	11
	‘, other than an authorised person,’.	12
	(2) Section 89(5)—	13
	<i>insert—</i>	14
	‘ “ authorised person ” means a person as follows performing functions under this Act in relation to the protected plant—	15 16
	(a) the chief executive;	17
	(b) a conservation officer, public service officer or other employee of the department acting under the chief executive’s authority.’.	18 19
	Amendment of s 90 (Restriction on using threatened or rare plants)	20
Clause	27.(1) Section 90, after ‘person’—	21
	<i>insert—</i>	22
	‘, other than an authorised person,’.	23
	(2) Section 90—	24
	<i>insert—</i>	25
	‘(2) In this section—	26

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“authorised person” means a person as follows performing functions under this Act in relation to the threatened or rare protected plant—

(a) the chief executive;

(b) a conservation officer, public service officer or other employee of the department acting under the chief executive’s authority.’.

Amendment of s 91 (Prohibition on release etc. of international and prohibited wildlife)

Clause **28.(1)** Section 91, after ‘person’—

insert—

‘, other than an authorised person,’.

(2) Section 91—

insert—

‘**(2)** In this section—

“authorised person” means a person as follows performing functions under this Act in relation to the international or prohibited wildlife—

(a) the chief executive;

(b) a conservation officer, public service officer or other employee of the department acting under the chief executive’s authority.’.

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

Clause **29.(1)** Section 97(2), after ‘person’—

insert—

‘, other than an authorised person,’.

(2) Section 97—

insert—

‘**(5)** In this section—

“authorised person” means a person as follows performing functions

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- under this Act in relation to the native wildlife— 1
- (a) the chief executive; 2
- (b) a conservation officer, public service officer or other employee of 3
the department acting under the chief executive’s authority.’. 4

Amendment of s 99 (Offence to trespass—general) 5

- Clause **30.** Section 99— 6
- insert—* 7
- ‘(2) Subsection (1) does not apply to a conservation officer who— 8
- (a) has entered the land under part 9; and 9
- (b) exercises a power under the part.’. 10

Amendment of s 111 (Management plans) 11

- Clause **31.(1)** Section 111(1)(a)— 12
- insert—* 13
- ‘(ia)a national park (recovery); or’. 14
- (2) Section 111(1)(a)(ia) to (iv)— 15
- renumber* as section 111(1)(a)(iii) to (v). 16
- (3) Section 111(1)(b)(i), ‘conservation plan’— 17
- omit, insert—* 18
- ‘management plan’. 19

Amendment of s 133 (Chief executive to keep register) 20

- Clause **32.(1)** Section 133(1)— 21
- insert—* 22
- ‘(aa)leases granted under sections 34 to 37; and’. 23

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(2) Section 133(1)(aa) to (k)— 1
renumber as section 133(1)(b) to (l). 2

Amendment of s 174 (Application of Statutory Instruments Act) 3

Clause 33. Section 174(1)— 4
insert— 5

- section 33(2) 6
- section 70E(2).’ 7

Insertion of new s 174A 8

Clause 34. After section 174— 9
insert— 10

‘Chief executive may make codes of practice 11

‘174A.(1) The chief executive may, by gazette notice, approve or make 12
codes of practice for— 13

- (a) protected areas; or 14
- (b) forest reserves under part 4A; or 15
- (c) protected wildlife. 16

‘(2) The *Statutory Instruments Act 1992*, sections 49, 50 and 51⁶ apply to 17
a code of practice as if it were subordinate legislation. 18

‘(3) The chief executive must keep copies of each code of practice open 19
for public inspection during office hours on business days at— 20

- (a) the department’s head office; and 21
- (b) each regional office of the department; and 22
- (c) other places the chief executive considers appropriate.’ 23

⁶ *Statutory Instruments Act 1992*, sections 49 (Subordinate legislation must be tabled), 50 (Disallowance) and 51 (Limited saving of operation of subordinate legislation that ceases to have effect)

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	Amendment of s 175 (Regulations)	1
Clause	35.(1) Section 175, heading—	2
	<i>omit, insert—</i>	3
	‘Regulation-making power’.	4
	(2) Section 175(2)(i), after ‘conservation plans’—	5
	<i>insert—</i>	6
	‘or codes of practice approved or made under section 174A’.	7
	 Insertion of new s 183	 8
Clause	36. After section 182—	9
	<i>insert—</i>	10
	‘Authorities under former Act about national parks	11
	‘183.(1) An authority given or made under section 33 or 35 of the former Act and in force immediately before 19 December 1994 is taken to have continued in force until it expires, or is earlier terminated, under its terms. ⁷	12 13 14
	‘(2) The former Act, other than the power to extend or renew the authority, continues to apply to the authority as if this Act had not been enacted.	15 16 17
	‘(3) For applying subsections (1) and (2), the chief executive is taken to be the director of national parks and wildlife under the former Act.	18 19
	‘(4) A reference in the authority to the director is taken to be a reference to the chief executive.	20 21
	‘(5) In this section—	22
	“authority” means an agreement or a lease or permit or other authority.	23
	“former Act” means the repealed <i>National Parks and Wildlife Act 1975</i> .’.	24

⁷ Most of the provisions of this Act commenced on 19 December 1994. *National Parks and Wildlife Act 1975*, sections 33 (Power to grant special leases and permits) and 35 (Permits, etc.).

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	Insertion of schedule	1
Clause	37. After part 12—	2
	<i>insert—</i>	3
	‘SCHEDULE	4
	‘DICTIONARY	5
	section 7’.	6
	Amendment to omit headings following cross references	7
Clause	38.(1) This section applies to a section containing a cross reference to a provision of the Act followed by the heading to the provision in round brackets.	8 9 10
	(2) The section is amended by omitting the brackets and the words in the brackets.	11 12
	PART 3—AMENDMENT OF STATUTORY INSTRUMENTS ACT 1992	13 14
	Act amended in pt 3	15
Clause	39. This part amends the <i>Statutory Instruments Act 1992</i> .	16
	Amendment of sch 2A (Subordinate legislation to which part 7 does not apply)	17 18
Clause	40. Schedule 2A—	19
	<i>insert—</i>	20
	‘Nature Conservation (Protected Areas) Regulation 1994’.	21

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PART 4—MINOR AMENDMENTS OF ACTS

1

Acts amended in schedule

2

Clause **41.** The schedule amends the Acts it mentions.

3

SCHEDULE	1
MINOR AMENDMENTS	2
sections 3(2) and 41	3
FORESTRY ACT 1959	4
1. Section 5, definition “Crown land”, paragraph (d), after ‘protected area’—	5
<i>insert—</i>	6
<i>insert—</i>	7
‘, national park (recovery)’.	8
FOSSICKING ACT 1994	9
1. Section 3, definition “protected area”, paragraph (e)—	10
<i>omit, insert—</i>	11
‘(e) a national park (recovery); or	12
(f) a conservation park.’.	13
LAND ACT 1994	14
1. Section 253, definition “critical area”, paragraph (c)—	15
<i>insert—</i>	16
‘(ia) a forest reserve under the <i>Nature Conservation Act 1992</i> ; or’.	17

SCHEDULE (continued)

- | | |
|---|----|
| 2. Section 253, definition “critical area”, paragraph (c)(ia) and (ii)— | 1 |
| <i>renumber</i> as paragraph (c)(ii) and (iii). | 2 |
| 3. Section 269(a)(iii), ‘within the meaning given by’— | 3 |
| <i>omit, insert—</i> | 4 |
| ‘, or forest reserve, under’. | 5 |
| 4. Schedule 6, definition “national park” | 6 |
| <i>omit, insert—</i> | 7 |
| ‘ “national park” means any of the following under the <i>Nature Conservation Act 1992</i> — | 8 |
| (a) a national park (scientific); | 10 |
| (b) a national park; | 11 |
| (c) a national park (Aboriginal land); | 12 |
| (d) a national park (Torres Strait islander land); | 13 |
| (e) a national park (recovery).’. | 14 |

MINERAL RESOURCES ACT 1989 15

- | | |
|--|----|
| 1. Section 5, definition “protected area”, paragraph (e)— | 16 |
| <i>omit, insert—</i> | 17 |
| ‘(e) a national park (recovery); or | 18 |
| (f) a conservation park.’. | 19 |

SCHEDULE (continued)

NATURE CONSERVATION ACT 1992	1
1. Section 15(1)(b)(ii), after ‘for the area;’—	2
<i>insert—</i>	3
‘or’.	4
2. Section 30(1), after ‘an area that is’—	5
<i>insert—</i>	6
‘to be’.	7
3. Section 178—	8
<i>omit.</i>	9
4. Part 12, division 4, heading—	10
<i>omit.</i>	11
 RECREATION AREAS MANAGEMENT ACT 1988	 12
1. Section 5, definition “Crown land”, paragraph (da)(v)—	13
<i>omit, insert—</i>	14
‘(v) a national park (recovery); or	15
(vi) a conservation park; or’.	16

SCHEDULE (continued)

RURAL LANDS PROTECTION ACT 1985

1. Section 6, definition “protected area”, paragraph (e)—

omit, insert—

‘(e) a national park (recovery); or

(f) a conservation park.’.

VALUATION OF LAND ACT 1944

**1. Section 14(5)(a), ‘or the *National Parks and Wildlife Act 1975*,
section 33’—**

omit, insert—

‘, the *National Parks and Wildlife Act 1975*, section 33 or the *Nature
Conservation Act 1992*’.