

Queensland



**FISHERIES AMENDMENT
BILL 2001**

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FISHERIES AMENDMENT BILL 2001

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2001

A BILL

FOR

An Act to amend the Fisheries Act 1994

The Parliament of Queensland enacts—	1
Clause 1 Short title	2
This Act may be cited as the <i>Fisheries Amendment Act 2001</i> .	3
Clause 2 Act amended	4
This Act amends the <i>Fisheries Act 1994</i> .	5
Clause 3 Insertion of new pt 1, div 3, sdiv 1, hdg	6
Part 1, division 3—	7
<i>insert—</i>	8
‘ <i>Subdivision 1—Dictionary</i> ’.	9
Clause 4 Amendment of s 4 (Definitions)	10
(1) Section 4, ‘In this Act—’—	11
<i>omit, insert—</i>	12
‘The dictionary in the schedule defines particular words used in this Act.’.	13
(2) Section 4, definitions—	15
<i>relocate</i> to the schedule as inserted by this Act.	16
Clause 5 Insertion of new pt 1, div 3, sdiv 2, hdg	17
After section 4—	18
<i>insert—</i>	19
‘ <i>Subdivision 2—Key definitions</i> ’.	20
Clause 6 Amendment of s 32 (Making management plans)	21
Section 32(1), ‘a fishery’—	22

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<i>omit, insert—</i>	1
‘the following—	2
(a) a fishery;	3
(b) a fish habitat or declared fish habitat area;	4
(c) a fish way;	5
(d) fisheries resources;	6
(e) aquaculture.’.	7
Clause 7 Amendment of s 33 (Procedure to make management plan)	8
Section 33(1), ‘for a fishery’—	9
<i>omit.</i>	10
Clause 8 Replacement of s 35 (What management plan must deal with)	11
Section 35—	12
<i>omit, insert—</i>	13
‘35 What management plan must deal with	14
‘A management plan must state its objectives and how they are to be achieved.’ ¹ .	15
	16
Clause 9 Amendment of s 36 (What management plan may deal with)	17
(1) Section 36, ‘for the fishery’—	18
<i>omit, insert—</i>	19
‘for this section’.	20
(2) Section 36, examples 1, 2, 6 and 7, ‘the fishery’—	21
<i>omit, insert—</i>	22
‘a fishery’.	23
(3) Section 36, example 3—	24
<i>omit, insert—</i>	25

¹ See also section 39(3) (Amendment of management plan).

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‘3. Management of a fishery by a system of authorities and for any of the following in relation to the authorities—	1 2
(a) their issue;	3
(b) their conditions;	4
(c) whether they can or can not be amended, renewed or transferred;	5
(d) if they can be amended, renewed or transferred—conditions for the amendment, renewal or transfer;	6 7
(e) for their cancellation or suspension or for how the chief executive may cancel or suspend them.’.	8 9
(4) Section 36, examples—	10
<i>insert—</i>	11
‘12. Boundaries of, and buffer zones for, a fish habitat or declared fish habitat area.	12
13. Regulation of development in a fish habitat or declared fish habitat area.	13
14. How a fish way must be operated.	14
15. How a fish habitat, declared fish habitat area or fisheries resources are to be managed or restored.	15 16
16. Fish migration.’.	17
Clause 10 Replacement of ss 38 and 39	18
Sections 38 and 39—	19
<i>omit, insert—</i>	20
‘38 Management plan may provide for quota	21
‘A management plan may prescribe, or authorise the issue of, a quota.	22
‘39 Amendment of management plan	23
‘(1) The chief executive may amend a management plan only if the chief executive has—	24 25
(a) prepared a draft amending management plan and taken reasonable steps to engage in consultation about the draft; or	26 27
(b) conducted a review of the plan, or part of the plan to which the amendment relates, the result of which included a proposal to make the amendment.	28 29 30

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‘(2) However, subsection (1) does not apply if, under the <i>Statutory Instruments Act 1992</i> , section 46, ² a regulatory impact statement is not required to be prepared for the amending management plan.	1 2 3
‘(3) The management plan may provide for how the consultation or review must be conducted.	4 5
‘(4) In this section— “ amend ” includes repeal.	6 7
‘39A Effect of repeal of management plan on authorities	8
‘If a management plan is repealed, authorities issued by the chief executive in relation to the plan end, unless the plan otherwise provides.’.	9 10
Clause 11 Insertion of new pt 5, div 3, sdiv 5A	11
Part 5, division 3—	12
<i>insert—</i>	13
‘Subdivision 5A—Leases	14
‘66A Lease of authority (other than permit)	15
‘(1) A regulation or management plan may provide for the following for an authority, other than a permit—	16 17
(a) the lease of the authority by its holder;	18
(b) the transfer of a lease of the authority.	19
‘(2) If a lease or transfer of a lease is permitted under a regulation or management plan, section 65(2) to (7) applies to an application for the lease or lease transfer—	20 21 22
(a) as if a reference in the section to a transfer were a reference to the lease or lease transfer; and	23 24
(b) with other necessary changes.	25
‘(3) However, despite section 65(2)(c), an application for a lease transfer must be accompanied by the holder’s written approval.	26 27

² *Statutory Instruments Act 1992*, section 46 (When is preparation of a regulatory impact statement unnecessary?)

‘(4) An authority can not be leased, or a lease of an authority can not be transferred, other than under this section.	1 2
‘66B Effect of lease	3
‘(1) This section applies—	4
(a) if the holder of an authority leases it under section 66A; but	5
(b) only while the lease continues to be in force.	6
‘(2) The holder continues to be the holder of the authority.	7
‘(3) However, the things authorised by the authority—	8
(a) can not be done by the holder; but	9
(b) may be done by the lessee under the lease as if the lessee were the holder.	10 11
‘(4) A reference in the following to the holder of the authority is, if the context permits, taken to include the lessee—	12 13
(a) a provision of this Act, other than this section or section 4, 57, 65, 66A, 72 or 73(6);	14 15
(b) a regulation or management plan;	16
(c) the conditions of the authority.’.	17
Clause 12 Amendment of s 67 (Suspension or cancellation of authorities)	18
(1) Section 67, heading, after ‘ authorities ’—	19
<i>insert—</i>	20
‘ by chief executive ’.	21
(2) Section 67—	22
<i>insert—</i>	23
‘(6) This section does not affect the suspension or cancellation of an authority under a regulation or management plan.’.	24 25
Clause 13 Amendment of s 68 (Procedure for cancellation or suspension)	26
(1) Section 68, heading, after ‘ suspension ’—	27
<i>insert—</i>	28

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	‘by chief executive’.	1
	(2) Section 68(1), after ‘grounds exist’—	2
	<i>insert—</i>	3
	‘under section 67(1)’.	4
	(3) Section 68—	5
	<i>insert—</i>	6
	‘(9) This section does not affect the suspension or cancellation of an authority under a regulation or management plan.’.	7
		8
Clause 14	Amendment of s 73 (Registers of authorities)	9
	Section 73(6), after ‘an interest’—	10
	<i>insert—</i>	11
	‘other than a lease’.	12
Clause 15	Amendment of s 92 (Duty of person who takes or possesses noxious or nonindigenous fisheries resources)	13
	(1) Section 92(1), from ‘must—’ to ‘possessing the fisheries resources.’—	14
	<i>omit, insert—</i>	15
	‘must immediately—	16
	(a) if the fisheries resource is a fish—kill it; or	17
	(b) if the fisheries resource is a plant—destroy it.’.	18
	(2) Section 92(3)—	19
	<i>omit.</i>	20
		21
		22

Clause 16	Omission of s 121 (Management of declared fish habitat areas)	1
	Section 121—	2
	<i>omit.</i>	3
Clause 17	Amendment of s 124 (Chief executive may rehabilitate or restore land etc.)	4
	(1) Section 124(1), from ‘if a person—’—	6
	<i>omit, insert—</i>	7
	‘if—	8
	(a) the land, waters, marine plants or fish habitat area has been removed, destroyed or damaged; and	9 10
	(b) the chief executive reasonably believes the removal, destruction or damage was caused by an act or omission that constituted a failure to comply with any of the following—	11 12 13
	(i) this Act;	14
	(ii) a former Act;	15
	(iii) the repealed <i>Fisheries Act 1957</i> ;	16
	(iv) a condition of an authority.’.	17
	(2) Section 124(2), after ‘person’—	18
	<i>insert—</i>	19
	‘who caused the removal, destruction or damage’.	20
	(3) Section 124(3), ‘for the contravention’—	21
	<i>omit, insert—</i>	22
	‘against this Act constituted by the removal, destruction or damage’.	23
Clause 18	Amendment of s 199 (Powers of tribunal on appeal)	24
	Section 199(3), ‘, for the purposes of this Act,’—	25
	<i>omit, insert—</i>	26
	‘for this Act, other than this division,’.	27

Clause 19	Insertion of new s 223A	1
	Part 11, after section 223—	2
	<i>insert—</i>	3
	‘223A Provision for Fisheries (Spanner Crab) Management Plan 1999	4
	‘(1) The <i>Fisheries (Spanner Crab) Management Plan 1999</i> , section 94, ³	5
	is taken to have always applied to the eligible licences under the plan	6
	numbered QFV10865K and QFV11689K.	7
	‘(2) This section expires the day after it commences.’.	8
Clause 20	Insertion of schedule	9
	After section 238—	10
	<i>insert—</i>	11
	‘SCHEDULE	12
	‘DICTIONARY	13
	section 4’.	14
Clause 21	Amendment to omit headings following cross references	15
	(1) This section applies to a section containing a cross reference to a	16
	provision of the Act followed by the heading to the provision in round	17
	brackets.	18
	(2) The section is amended by omitting the brackets and the words in the	19
	brackets.	20

3 The *Fisheries (Spanner Crab) Management Plan 1999*, section 94 (Adjustment for transfers from 1990 to 21 January 1994)