

Queensland



NATURE CONSERVATION ACT 1992

**Reprinted as in force on 4 July 2000
(includes amendments up to Act No. 5 of 2000)**

Reprint No. 2D

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Information about this reprint

This Act is reprinted as at 4 July 2000. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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NATURE CONSERVATION ACT 1992

[as amended by all amendments that commenced on or before 4 July 2000]

An Act to provide for the conservation of nature

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Nature Conservation Act 1992*.

Crown bound

3.(1) This Act binds the Crown not only in right of Queensland but also, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

(2) Nothing in this Act renders the Crown in any of its capacities liable to be prosecuted for an offence.

PART 2—OBJECT OF ACT

Object of Act

4. The object of this Act is the conservation of nature.

How object is to be achieved

5. The conservation of nature is to be achieved by an integrated and comprehensive conservation strategy for the whole of Queensland that

involves, among other things, the following—

(a) Gathering of information and community education etc.

- gathering, researching, analysing, monitoring and disseminating information on nature;
- identifying critical habitats and areas of major interest;
- encouraging the conservation of nature by the education and cooperative involvement of the community, particularly landholders;

(b) Dedication and declaration of protected areas

- the dedication and declaration of areas representative of the biological diversity, natural features and wilderness of Queensland as protected areas;

(c) Management of protected areas

- the management of protected areas in accordance with—
 - (i) the management principles; and
 - (ii) the interim and declared management intent; and
 - (iii) the management plans;for the areas;

(d) Protection of native wildlife and its habitat

- the protection of the biological diversity of native wildlife and its habitat by—
 - (i) the dedication and declaration of protected areas; and
 - (ii) prescribing protected and prohibited wildlife; and
 - (iii) the management of wildlife in accordance with—
 - (A) the management principles; and
 - (B) the declared management intent; and
 - (C) any conservation plan;for the wildlife; and
 - (iv) entering into conservation agreements;

(e) Use of protected wildlife and areas to be ecologically sustainable

- providing for the ecologically sustainable use of protected wildlife and areas by the preparation and implementation of management and conservation plans consistent with the values and needs of the wildlife or areas concerned, particularly plans dealing with the management of—
 - (i) protected areas; and
 - (ii) the taking or use of wildlife; and
 - (iii) protected wildlife and its habitat; and
 - (iv) critical habitats and areas of major interest;

(f) Recognition of interest of Aborigines and Torres Strait Islanders in nature and their cooperative involvement in its conservation

- the recognition of the interest of Aborigines and Torres Strait Islanders in protected areas and native wildlife;
- the cooperative involvement of Aborigines and Torres Strait Islanders in the conservation of nature;

(g) Cooperative involvement of landholders

- the cooperative involvement of landholders in the conservation of nature.

Community participation in administration of Act

6. This Act is to be administered, as far as practicable, in consultation with, and having regard to the views and interests of, landholders and interested groups and persons, including Aborigines and Torres Strait Islanders.

PART 3—INTERPRETATION

Definitions

7. In this Act—

“**Aboriginal land**” has the meaning given by of the *Aboriginal Land Act 1991*, section 10.

“**animal**” means any member of the animal kingdom (other than human), (whether alive or dead), and includes—

- (a) any—
 - (i) amphibian; or
 - (ii) bird; or
 - (iii) coral; or
 - (iv) fish; or
 - (v) invertebrate; or
 - (vi) mammal; or
 - (vii) reptile; and
- (b) the whole or any part of—
 - (i) the progeny, larvae, pupae, eggs or genetic or reproductive material of an animal; and
 - (ii) the carcass or another part of an animal.

“**appliance**” means anything used or capable of being used for taking, or facilitating the taking of, wildlife or a cultural or natural resource, and includes—

- (a) a weapon within the meaning of the *Weapons Act 1990*; and
- (b) an explosive within the meaning of the *Explosives Act 1999*; and
- (c) a trap, snare, net or birdlime; and
- (d) a decoy; and
- (e) poison; and
- (f) a torch or other artificial light; and

(g) a shovel, hoe, pick, mattock, saw, axe, knife or other implement.

“area of major interest” means an area that contains natural resources of significant nature conservation value.

“Australia” includes the external Territories.

“authorised purpose”, in relation to the use of protected wildlife, means a purpose that—

- (a) will provide some significant benefit to wildlife or humans, including, for example, the development of drugs for the treatment of disease; and
- (b) is authorised under a conservation plan for the wildlife.

“biological diversity” has the meaning given by section 10.

“boat” means a boat, ship or other vessel of any size or kind, and includes a hovercraft.

“buy” includes—

- (a) agree or offer to buy; and
- (b) receive or accept under an agreement; and
- (c) agree to receive or accept under an agreement; and
- (d) offer or attempt to receive or accept under an agreement; and
- (e) cause or permit to be received or accepted under an agreement; and
- (f) acquire by exchange; and
- (g) accept on hire or lease.

“carcass” of an animal includes—

- (a) its flesh, organs or body fluids; and
- (b) its feathers, hair, fur, skin, scales, shell or exoskeleton; and
- (c) its bones, horns, antlers, teeth or tusks.

“CITES” means the Convention on International Trade in Endangered Species of Wild Fauna and Flora done at Washington in the United States of America on 3 March 1973, a copy of which (apart from the Appendices to it) is set out in schedule 8 to the *Wildlife Protection*

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(Regulation of Exports and Imports) Act 1982 (Cwlth).

“common wildlife” means native wildlife that is prescribed under this Act as common wildlife.

“conservation” has the meaning given by section 9.

“conservation agreement” means a conservation agreement under section 45, and includes an agreement varying an earlier agreement.

“conservation covenant” means a covenant applying to the declaration of a Nature Refuge under section 49.

“conservation officer” means a conservation officer appointed under this Act.

“conservation park” means an area declared under this Act as a conservation park.

“conservation plan” means a conservation plan approved under part 7.

“conservation value” of protected wildlife means the conservation value prescribed under this Act in relation to the wildlife.

“conviction” includes a plea of guilty or a finding of guilt by a court even though a conviction is not recorded.

“coordinated conservation area” means an area declared under this Act as a coordinated conservation area.

“critical habitat” has the meaning given by section 13.

“cultural resources” of a protected area means places or objects that have anthropological, archaeological, historical, scientific, spiritual or sociological significance or value, including such significance or value under Aboriginal tradition or Island custom.

“ecologically sustainable use” has the meaning given by section 11.

“endangered wildlife” means native wildlife that is prescribed under this Act as endangered wildlife.

“executive officer” of a corporation means a person, by whatever name called and whether or not the person is a director of the corporation, who is concerned with, or takes part in, the management of the corporation.

“fee” includes tax.

“habitat” of wildlife includes an area that is not presently occupied by the wildlife.

“honorary protector” means an honorary protector appointed under this Act.

“hovercraft” means a vehicle designed to be supported on a cushion of air.

“in the wild”, in relation to wildlife, means in an independent state of natural liberty.

“indigenous to Australia”, in relation to wildlife, means—

- (a) wildlife that was not originally introduced to Australia by human intervention (other than wildlife introduced before the year 1600); or
- (b) a migratory animal that periodically or occasionally migrates to, or visits, Australia.

“indigenous to Queensland”, in relation to wildlife, means—

- (a) wildlife that was not originally introduced to Queensland by human intervention (other than wildlife introduced before the year 1600); or
- (b) a migratory animal that periodically or occasionally migrates to, or visits, Queensland;

but does not include wildlife that was introduced to another part of Australia by human intervention and subsequently spread naturally to Queensland.

“interest”, in relation to land, includes a mining interest.

“interfere with”, in relation to a cultural or natural resource, includes destroy, damage, mark, move and dig up.

“interim conservation order” means an order made under part 6.

“international agreement area” means an area declared under this or another Act as an international agreement area.

“international wildlife” means wildlife that is prescribed under this Act as international wildlife.

“keep”, in relation to a cultural or natural resource or wildlife, includes have in possession, or under control, in any place (whether for the use or

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benefit of the person in relation to whom the term is used or another person), even though another person has the actual possession or custody.

“land” includes—

- (a) the airspace above land; and
- (b) land that is, or is at any time, covered by waters; and
- (c) waters.

“landholder” includes—

- (a) for a reserve under the *Land Act 1994*—the trustees of the reserve; and
- (b) for land leased under the *Land Act 1994*—the lessee of the land.

“management plan” means a management plan approved under part 7.

“mining interest” means—

- (a) a mining claim, mineral development licence or mining lease granted under the *Mineral Resources Act 1989*; or
- (b) a petroleum lease granted under the *Petroleum Act 1923*.

“national park” means an area dedicated under this Act as a national park.

“national park (Aboriginal land)” means an area dedicated under this Act as a national park (Aboriginal land).

“national park (scientific)” means an area dedicated under this Act as a national park (scientific).

“national park (Torres Strait Islander land)” means an area dedicated under this Act as a national park (Torres Strait Islander land).

“native wildlife” means any taxon or species of wildlife indigenous to Australia.

“natural resources”, in relation to—

- (a) a protected area; or
- (b) an area identified under a conservation plan as, or including—
 - (i) a critical habitat; or
 - (ii) an area of major interest;

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means the natural and physical features of the area, including wildlife, soil, water, minerals and air.

“nature” has the meaning given by section 8.

“naturebased”, in relation to the use of a protected area, includes scientific, educational, spiritual, intellectual, cultural and recreational.

“nature refuge” means an area declared under this Act as a nature refuge.

“official name” of trustees of a protected area means trustees of (*name of the area*).

“place” includes—

- (a) vacant land or premises; and
- (b) a vehicle, boat or aircraft.

“planning scheme” has the meaning given by the *Integrated Planning Act 1997*, section 2.1.1.

“plant” means any member of the plant or fungus kingdom (whether alive or dead and standing or fallen), and includes—

- (a) any—
 - (i) flowering plant; or
 - (ii) cycad; or
 - (iii) conifer; or
 - (iv) fern or fern ally; or
 - (v) moss; or
 - (vi) liverwort; or
 - (vii) alga; or
 - (viii) fungus; or
 - (ix) lichen; and
- (b) the whole or any part of the flowers, seeds or genetic or reproductive material of a plant.

“premises” includes—

- (a) a building or structure, or a part of a building or structure, of any

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kind; and

- (b) the land on which a building or structure is situated; and
- (c) a vehicle, boat or aircraft.

“presumed extinct wildlife” means native wildlife that is prescribed under this Act as presumed extinct wildlife.

“procaryote” means a unicellular organism lacking a true nucleus, and includes bacteria and cyanobacteria.

“prohibited wildlife” means wildlife that is prescribed under this Act as prohibited wildlife.

“protect” includes rehabilitate.

“protected animal” means an animal that is prescribed under this Act as threatened, rare or common wildlife, but does not include a processed product that—

- (a) is made or derived from a protected animal; and
- (b) is declared under a regulation or conservation plan for the protected animal to be a processed product that is not included in this definition.

“protected area” means a protected area of a class mentioned in section 14.

“protected plant” means a plant that is prescribed under this Act as threatened, rare or common wildlife, but does not include a processed product that—

- (a) is made or derived from a protected plant; and
- (b) is declared under a regulation or conservation plan for the protected plant to be a processed product that is not included in this definition.

“protected wildlife” means native wildlife that is prescribed under this Act as—

- (a) presumed extinct wildlife; or
- (b) endangered wildlife; or
- (c) vulnerable wildlife; or
- (d) rare wildlife; or

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(e) common wildlife.

“protista” means a unicellular organism other than a procaryote.

“rare wildlife” means native wildlife that is prescribed under this Act as rare wildlife.

“registrar” means the person responsible for keeping a register in relation to dealings in land.

“resources reserve” means an area dedicated under this Act as resources reserve.

“sell” includes—

- (a) auction, exchange or supply; and
- (b) keep, expose, supply or receive for sale; and
- (c) send or deliver for sale; and
- (d) dispose of by hire or lease; and
- (e) cause or permit the doing of an act mentioned in paragraph (a), (b), (c) or (d); and
- (f) offer or attempt to do an act mentioned in paragraph (a), (b), (c) or (d); and
- (g) offer or attempt to sell; and
- (h) cause or permit to be sold.

“special conservation officer” means a special conservation officer appointed under this Act.

“species” means a species, subspecies, hybrid, variant, race, mutation or geographically separate population of any animal or plant.

“State land” means all land in Queensland that is not—

- (a) freehold land, or land contracted to be granted in fee-simple by the State; or
- (b) a reserve under the *Land Act 1994*; or
- (c) subject to a lease or licence under the *Land Act 1994*; or
- (d) subject to a mining interest.

“take” includes—

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- (a) in relation to an animal—
 - (i) hunt, shoot, wound, kill, skin, poison, net, snare, spear, trap, catch, dredge for, bring ashore or aboard a boat, pursue, lure, injure or harm the animal; or
 - (ii) attempt to do an act mentioned in subparagraph (i); and
- (b) in relation to a plant—
 - (i) gather, pluck, cut, pull up, destroy, dig up, fell, remove or injure the plant or any part of the plant; or
 - (ii) attempt to do an act mentioned in subparagraph (i).

“threatened wildlife” means native wildlife that is prescribed under this Act as—

- (a) presumed extinct wildlife; or
- (b) endangered wildlife; or
- (c) vulnerable wildlife.

“threatening process” has the meaning given by section 12.

“Torres Strait Islander land” has the meaning given by of the *Torres Strait Islander Land Act 1991*, section 9.

“unnatural hybrid” of wildlife means a hybrid, variant, race or mutation of the wildlife that has been derived because of manipulation by humans.

“use”, in relation to a cultural or natural resource or wildlife, includes buy, sell, process, move or gain any benefit from the resource or wildlife.

“vulnerable wildlife” means native wildlife that is prescribed under this Act as vulnerable wildlife.

“waters” means Queensland waters.

“wild by nature”, in relation to wildlife, means derived because of natural ecological and biological processes and not because of manipulation by humans.

“wilderness” means an area that is, or can be restored to be—

- (a) of sufficient size to enable the longterm protection of its natural systems and biological diversity; and

- (b) substantially undisturbed by modern society; and
- (c) remote at its core from points of mechanised access and other evidence of society.

“wilderness area” means an area declared under this Act as a wilderness area.

“wildlife” means any taxon or species of an animal, plant, protista, procaryote or virus.

“World Heritage Convention” means the Convention for the Protection of the World Cultural and Natural Heritage that has been adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization, a copy of which is set out in the schedule to the *World Heritage Properties Conservation Act 1983* (Cwlth).

“World Heritage management area” means an area declared under this or another Act as a World Heritage management area.

Meaning of “nature”

8.(1) “Nature” includes all aspects of nature.

(2) Without limiting subsection (1), “nature” includes—

- (a) ecosystems and their constituent parts; and
- (b) all natural and physical resources; and
- (c) natural dynamic processes; and
- (d) the characteristics of places, however large or small, that contribute to—
 - (i) their biological diversity and integrity; or
 - (ii) their intrinsic or scientific value.

Meaning of “conservation”

9. “Conservation” is the protection and maintenance of nature while allowing for its ecologically sustainable use.

Meaning of “biological diversity”

10.(1) “Biological diversity” is the natural diversity of native wildlife, together with the environmental conditions necessary for their survival, and includes—

- (a) regional diversity, that is, the diversity of the landscape components of a region, and the functional relationships that affect environmental conditions within ecosystems; and
- (b) ecosystem diversity, that is, the diversity of the different types of communities formed by living organisms and the relations between them; and
- (c) species diversity, that is, the diversity of species; and
- (d) genetic diversity, that is, the diversity of genes within each species.

(2) In subsection (1)—

“landscape components” includes landforms, soils, water, climate, wildlife and land uses.

Meaning of “ecologically sustainable use”

11. “Ecologically sustainable use” is—

- (a) in relation to wildlife—the taking or use of the wildlife; or
- (b) in relation to protected areas—the use of the areas;

within their capacity to sustain natural processes while—

- (c) maintaining the life support systems of nature; and
- (d) ensuring that the benefit of the use to present generations does not diminish the potential to meet the needs and aspirations of future generations.

Meaning of “threatening process”

12. A “threatening process” is any process that is capable of—

- (a) threatening the survival of any protected area, area of major interest, protected wildlife, community of native wildlife or native

wildlife habitat; or

- (b) affecting the capacity of any protected area, area of major interest, protected wildlife, community of native wildlife or native wildlife habitat to sustain natural processes.

Meaning of “critical habitat”

13.(1) “Critical habitat” is habitat that is essential for the conservation of a viable population of protected wildlife or community of native wildlife, whether or not special management considerations and protection are required.

(2) A “critical habitat” may include an area of land that is considered essential for the conservation of protected wildlife, even though the area is not presently occupied by the wildlife.

PART 4—PROTECTED AREAS

Division 1—Basic concepts

Classes of protected areas to which Act applies

14. The classes of protected areas to which this Act applies are—

- (a) national parks (scientific); and
- (b) national parks; and
- (c) national parks (Aboriginal land); and
- (d) national parks (Torres Strait Islander land); and
- (e) conservation parks; and
- (f) resources reserves; and
- (g) nature refuges; and
- (h) coordinated conservation areas; and
- (i) wilderness areas; and

- (j) World Heritage management areas; and
- (k) international agreement areas.

Management of protected areas

15.(1) Each protected area is to be managed in accordance with—

- (a) the management principles prescribed by this division for the class of protected area; and
- (b) if the area is—
 - (i) a national park (Aboriginal land) or national park (Torres Strait Islander land)—the lease or sublease of the area; or
 - (ii) a nature refuge or a wilderness area—the declared management intent, and the conservation agreement or covenant, for the area;
 - (iii) a coordinated conservation area—
 - (A) the interim management intent for the area until a management plan is approved for the area; and
 - (B) the conservation agreement for the area; and
- (c) the management plan for the area.

(2) The interim or declared management intent for a protected area is the management intent for the area specified in the regulation dedicating or declaring the area.

(3) The interim or declared management intent for a protected area must contain a statement of—

- (a) the area's significant cultural and natural resources and values; and
- (b) the proposed management intent for, and any proposed use of, the area.

Management principles of national parks (scientific)

16.(1) A national park (scientific) is to be managed to—

- (a) protect the area's exceptional scientific values and, in particular—

- (i) to ensure that the processes of nature continue unaffected in the area; and
 - (ii) to protect the area's biological diversity to the greatest possible extent; and
- (b) allow controlled scientific study and monitoring of the area's natural resources.

(2) However, if threatened wildlife is a significant natural resource for the area, management of the area may include—

- (a) manipulation of the wildlife's habitat; and
- (b) the control of threatening processes relating to the wildlife, including threatening processes caused by other wildlife.

Management principles of national parks

17.(1) A national park is to be managed to—

- (a) provide, to the greatest possible extent, for the permanent preservation of the area's natural condition and the protection of the area's cultural resources and values; and
- (b) present the area's cultural and natural resources and their values; and
- (c) ensure that the only use of the area is naturebased and ecologically sustainable.

(2) The management principle mentioned in subsection (1)(a) is the cardinal principle for the management of national parks.

Management principles of national parks (Aboriginal land)

18.(1) A national park (Aboriginal land) is to be managed as a national park.

(2) Subject to subsection (1), a national park (Aboriginal land) is to be managed, as far as practicable, in a way that is consistent with any Aboriginal tradition applicable to the area, including any tradition relating to activities in the area.

Management principles of national parks (Torres Strait Islander land)

19.(1) A national park (Torres Strait Islander land) is to be managed as a national park.

(2) Subject to subsection (1), a national park (Torres Strait Islander land) is to be managed, as far as practicable, in a way that is consistent with any Island custom applicable to the area, including any Island custom relating to activities in the area.

Management principles of conservation parks

20. A conservation park is to be managed to—

- (a) conserve and present the area's cultural and natural resources and their values; and
- (b) provide for the permanent conservation of the area's natural condition to the greatest possible extent; and
- (c) ensure that any commercial use of the area's natural resources, including fishing and grazing, is ecologically sustainable.

Management principles of resources reserves

21.(1) Subject to subsection (2), a resources reserve is to be managed to—

- (a) recognise and, if appropriate, protect the area's cultural and natural resources; and
- (b) provide for the controlled use of the area's cultural and natural resources; and
- (c) ensure that the area is maintained predominantly in its natural condition.

(2) Commercial forestry operations must not be conducted in a resources reserve.

Management principles of nature refuges

- 22.** A nature refuge is to be managed to—
- (a) conserve the area's significant natural resources; and
 - (b) provide for the controlled use of the area's natural resources; and
 - (c) provide for the interests of landholders to be taken into account.

Management principles of coordinated conservation areas

- 23.** A coordinated conservation area is to be managed to—
- (a) conserve the area's natural and cultural values by coordinated management involving the area's various landholders; and
 - (b) take account of the area's values, including its recreational, educational and commercial values; and
 - (c) provide for the interests of the various landholders to be maintained.

Management principles of wilderness areas

- 24.** A wilderness area is to be managed to—
- (a) protect or restore the wilderness values, and the cultural and natural resources, of the area to the greatest possible extent; and
 - (b) maintain the area to preserve its capacity to evolve in the absence of significant human interference; and
 - (c) provide opportunities for solitude and appropriate self-reliant recreational and spiritual activities.

Management principles of World Heritage management areas

- 25.** A World Heritage management area is to be managed to—
- (a) meet international obligations in relation to the area; and
 - (b) protect the area's internationally outstanding cultural and natural resources and its biological diversity; and
 - (c) transmit the area's world heritage values to future generations.

Management principles of international agreement areas

26. An international agreement area is to be managed to—

- (a) maintain the area's importance to the conservation of nature that is the subject of significant international concern; and
- (b) conserve the area's native wildlife habitat as far as practicable; and
- (c) provide for the interests of landholders to be taken into account.

Prohibition on mining

27.(1) A mining interest cannot be granted in relation to—

- (a) a national park (scientific); or
- (b) a national park; or
- (c) a national park (Aboriginal land); or
- (d) a national park (Torres Strait Islander land); or
- (e) a conservation park.

(2) In this section—

“mining interest” means a lease, claim or other interest in, or a permit, licence or other right in relation to land that is granted under the *Mineral Resources Act 1989*.

Division 2—Protected areas (State land)**Meaning of “protected area” in division**

28. In this division—

“protected area” means—

- (a) a national park (scientific); or
- (b) a national park; or
- (c) a conservation park; or
- (d) a resources reserve.

Dedication of protected areas

29.(1) The Governor in Council may, by regulation, dedicate a specified area of State land as—

- (a) a national park (scientific); or
- (b) a national park; or
- (c) a conservation park; or
- (d) a resources reserve.

(2) The regulation may define the extent of the area by reference to—

- (a) a specified depth below the surface of land; or
- (b) a specified height above the surface of land.

(3) The classes of protected areas mentioned in subsection (1) are listed in descending order of the level of protection given to them under this Act.

Revocation of State forests and timber reserves

30.(1) Despite the *Forestry Act 1959*, if an area that is dedicated as a protected area is, or includes part of, a State forest or timber reserve set apart and declared under that Act, the regulation dedicating the area may revoke, in whole or part, the setting apart and declaration of the State forest or timber reserve.

(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 dedicate the area.

Trustees of protected areas

31.(1) If an area is dedicated as a conservation park or resources reserve, the Governor in Council may, by regulation, place the area under the management of trustees.

(2) The trustees are to be appointed by the Governor in Council.

(3) The trustees must comply with section 15 in the management of the protected area.

(4) The *Acts Interpretation Act 1954*, section 25 applies to an office as trustee.

(5) The *Trusts Act 1973* does not apply to—

- (a) trusts created under this section; and
- (b) the trustees of such trusts.

(6) Trustees may, in their official name—

- (a) sue or be sued; and
- (b) take action for removal of trespassers or protection of property under their management.

(7) For the purpose of any legal proceeding, trustees are taken to be the owners of property under their management.

(8) The Governor in Council may, by gazette notice, revoke a trust created under this section.

(9) The persons who were the trustees of a trust immediately before its revocation must, within 30 days of receipt of written notice given to them by the Minister, repay to the State any unspent amount that—

- (a) was paid to them by the State for the purposes of the trust; and
- (b) was held by them when the trust was revoked.

(10) An amount payable to the State under subsection (9) is a debt due to the State and may be recovered in a court having jurisdiction for the recovery of debts up to the amount concerned.

Revocation of protected areas

32.(1) The Governor in Council may, by regulation, revoke the dedication of a protected area in whole or part.

(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.

(3) Subsection (2) does not apply to a resources reserve.

Amalgamation etc. of protected areas

33.(1) The Governor in Council may, by regulation—

- (a) amalgamate protected areas of the same class, and assign a name to the amalgamated area; or
- (b) change the class of a protected area by dedicating the area as another class of protected area; or
- (c) change the boundaries of a protected area.

(2) If—

- (a) because of the change in the class of a protected area, the area will be given less protection under this Act; or
- (b) because of the change in the boundaries of a protected area, land will be removed from the area (other than for the purpose of dedicating the removed land as land with a higher level of protection under this Act);

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.

(3) Subsection (2) does not apply to a resources reserve.

Leases etc. over protected areas

34.(1) A lease, agreement, licence, permit or other authority over, or in relation to, land in a protected area (other than a licence, permit or other authority issued or given under a regulation) may be granted, made, issued or given only—

- (a) by—
 - (i) if the area is a national park (scientific) or national park—the chief executive under this Act; or
 - (ii) if the area is a conservation park or resources reserve—the chief executive or trustees of the area with the consent of the chief executive; or
- (b) under another Act by—
 - (i) the Governor in Council; or

- (ii) someone else with the consent of the Minister or chief executive.

(2) A lease, agreement, licence, permit or other authority mentioned in subsection (1) must be consistent with—

- (a) the management principles for the area; and
- (b) the management plan for the area.

Chief executive's powers about permitted uses in national parks

35.(1) The chief executive may grant, make, issue or give a lease, agreement, licence, permit or other authority over, or in relation to, land in a national park if—

- (a) the use under the authority is prescribed under a regulation made for this section to be a permitted use for the area; and
- (b) the chief executive is satisfied—
 - (i) the cardinal principle for the management of national parks will be observed to the greatest possible extent; and
 - (ii) the use will be in the public interest; and
 - (iii) the use is ecologically sustainable; and
 - (iv) there is no reasonably practicable alternative to the use.

(2) Subsection (1) has effect despite sections 15 (Management of protected areas) and 34(2) (Leases etc. over protected areas).

Chief executive's powers to grant authorities for new national parks

36.(1) If, immediately before the dedication of an area as national park, the area or part of it was being used in a way that is inconsistent with the management principles for National Parks (the “**previous use**”), the chief executive may grant, make, issue or give a lease, agreement, licence, permit or other authority over or in relation to the area or part of it to allow the continued use of the area or part after the area's dedication.

- (2) The authority may only be granted, made, issued or given—

- (a) if the previous use was stock grazing or the location of beehives under—
 - (i) a stock grazing permit or apiary permit under the *Forestry Act 1959*; or
 - (ii) a lease under the *Land Act 1994*;
for a term not longer than the term that would have been the unexpired term of the permit or lease if the area had not been dedicated; or
- (b) if paragraph (a) does not apply—for a term not longer than 3 years after the dedication of the area.

(3) The authority must not be renewed beyond the end of the term mentioned in subsection (2).

(4) This section has effect despite sections 15 (Management of protected areas) and 34(2) (Leases etc. over protected areas).

Chief executive's powers to renew existing authorities for national parks

37.(1) In this section—

“**authority**” means a lease, agreement, permit or other authority (other than an authority permitting stock grazing or the location of beehives)—

- (a) granted, made, issued or given under the former Act or the *Land Act 1962* over, or in relation to, a national park under the former Act; and
- (b) in force immediately before the repeal of the former Act; and
- (c) continued in force under this Act.

“**former Act**” means the *National Parks and Wildlife Act 1975*.

(2) The chief executive may renew, or consent to the renewal of, an authority for the national park if the use under the authority is prescribed under a regulation made for this section to be a permitted use for the area.

(3) The authority may only be renewed for—

- (a) if no management plan is in force for the area when the renewal is granted—not longer than 10 years; or

(b) if a management plan is in force for the area when the renewal is granted—the term authorised under the plan.

(4) The authority may be renewed subject to the conditions the chief executive considers appropriate.

(5) This section has effect despite sections 15 (Management of protected areas) and 34(2) (Leases etc. over protected areas).

Leases may be granted under Land Act 1994

38.(1) Subject to subsection (2), a term lease under the *Land Act 1994* may be granted over any land within a protected area as if the land were reserved and set apart under that Act for public purposes.

(2) The lease must—

(a) be consistent with—

(i) the management principles for the area; and

(ii) the management plan for the area; and

(b) be granted only with the consent of, and subject to the conditions decided by, the chief executive.

(3) The *Land Act 1994* applies to the lease to the extent that it is not inconsistent with this Act.

Creation of interests in protected areas

39. Despite any other Act, an interest in land in a protected area may be created only in accordance with this Act.

Division 3—Protected areas (Aboriginal land and Torres Strait Islander land)

Dedication of national park as national park (Aboriginal land) or national park (Torres Strait Islander land)

40.(1) This section applies to a national park, or part of a national park,

(the “**national park land**”) that becomes Aboriginal land or Torres Strait Islander land.

(2) On approval of the management plan for the national park land under section 119, the Governor in Council must, by regulation, dedicate the national park land as national park (Aboriginal land) or national park (Torres Strait Islander land).

(3) Despite any other Act, a regulation under this section takes effect on the delivery of the deed of grant over the National Park land to the grantees of the area under the *Aboriginal Land Act 1991* or the *Torres Strait Islander Land Act 1991*.

Dedication of Aboriginal land as national park (Aboriginal land) or Torres Strait Islander land as national park (Torres Strait Islander land)

41.(1) This section applies to Aboriginal land or Torres Strait Islander land that is not a national park or included in a national park.

(2) If the grantees of the land and the Minister agree on a proposal for the lease of the land, or part of the land, to the State for the purpose of the land being managed as a national park (Aboriginal land) or national park (Torres Strait Islander land), the Minister may prepare a management plan for the land.

(3) Part 7 applies to the management plan as if it were a management plan required to be prepared under section 111(1).

(4) The Minister must prepare the management plan in cooperation with the grantees of, and the board of management for, the land.

(5) On—

- (a) the signing of the lease; and
- (b) the approval of a management plan for the land;

the Governor in Council must, by regulation, dedicate the land as national park (Aboriginal land) or national park (Torres Strait Islander land).

(6) The regulation may define the extent of the area by reference to—

- (a) a specified depth below the surface of land; or
- (b) a specified height above the surface of land.

(7) Despite any other Act, a regulation under this section takes effect on the registration of the lease.

Dedication of leasehold land as national park (Aboriginal land) or national park (Torres Strait Islander land)

42.(1) Despite the *Land Act 1994*, an authorised lessee may, under this section, sublease land to the State for the purpose of the land being managed as a national park (Aboriginal land) or national park (Torres Strait Islander land).

(2) If an authorised lessee and the Minister agree on a proposal for the sublease of land to the State for the purpose of the land being managed as a national park (Aboriginal land) or national park (Torres Strait Islander land), the Minister may prepare a management plan for the land.

(3) Part 7 applies to the management plan as if it were a management plan required to be prepared under section 111(1).

(4) The Minister must prepare the management plan in cooperation with the lessees of, and the board of management for, the land.

(5) On—

- (a) the signing of a sublease; and
- (b) the approval of a management plan for the land;

the Governor in Council must, by regulation, dedicate the area as national park (Aboriginal land) or national park (Torres Strait Islander land).

(6) The regulation may define the extent of the area by reference to—

- (a) a specified depth below the surface of land; or
- (b) a specified height above the surface of land.

(7) Despite any other Act, a regulation under this section takes effect on the registration of the sublease.

(8) In this section—

“authorised lessee” means a lessee of land under the *Land Act 1994* who the Governor in Council, by regulation, has declared to be an authorised lessee for the purpose of this section.

Division 4—Nature refuges, coordinated conservation areas and wilderness areas

Meaning of “protected area” in division

43. In this division—

“protected area” means—

- (a) a nature refuge; or
- (b) a coordinated conservation area; or
- (c) a wilderness area.

Proposal for declaration of protected area

44.(1) If the Minister is satisfied that an area should be declared a protected area, the Minister must prepare a proposal for the declaration.

(2) The proposal for the declaration must—

- (a) describe the lands to be included in the area; and
- (b) specify the proposed class of protected area and the proposed management intent for the area.

(3) The Minister must give written notice to all landholders affected by the proposal.

(4) The notice must specify a day by which the landholders may make submissions to the Minister relating to the proposal.

(5) If the Minister considers that it is impracticable to give notice to each landholder of a particular class, it is sufficient compliance with subsection (3) if the Minister gives notice to the class by publishing a notice in such newspapers as the Minister determines.

(6) In this section—

“landholder” includes a person having an interest in land.

Conservation agreements

45.(1) If the Minister and landholders concerned agree on—

Nature Conservation Act 1992

- (a) a proposal that an area should be a protected area; and
- (b) the class of the protected area; and
- (c) the management intent for the area;

the Minister may, on behalf of the State, enter into a conservation agreement in relation to the area with the landholders.

(2) The Minister must not enter into the conservation agreement without the written consent of—

- (a) if land in the area is subject to a lease or mining interest—the lessee or interest holder; or
- (b) if land in the area is subject to an encumbrance—the person entitled to the benefit of the encumbrance.

(3) Subsection (2)(a) applies only if the lessee's or holder's rights will be affected by the conservation agreement.

(4) The conservation agreement must be consistent with the management principles for the class of area.

(5) The conservation agreement may contain terms that are binding on—

- (a) the State; and
- (b) a landholder and the landholder's successors in title.

(6) Without limiting subsection (5), the conservation agreement may contain terms—

- (a) requiring the State to provide financial or other assistance; or
- (b) requiring the State to provide technical advice; or
- (c) requiring the State to carry out specified activities; or
- (d) allowing a landholder to carry out specified activities; or
- (e) prohibiting a specified use of land in the area; or
- (f) restricting the use or management of land in the area; or
- (g) requiring a landholder to refrain from, or not to permit, specified activities; or
- (h) requiring a landholder to carry out specified activities; or
- (i) requiring a landholder to permit or restrict access to the area by

- specified persons; or
- (j) specifying the way in which amounts provided to a landholder under the agreement are to be applied by the landholder; or
 - (k) requiring a landholder to repay amounts paid under the agreement if the landholder contravenes the agreement or the agreement is terminated under section 47(2); or
 - (l) providing for any other matter relating to the conservation of the area, including the implementation of the management plan for the protected area.

Declaration of protected area

46.(1) The Governor in Council may, by regulation, declare a specified area of State land, or the area the subject of a conservation agreement, as—

- (a) a nature refuge; or
- (b) a coordinated conservation area; or
- (c) a wilderness area.

(2) The regulation must specify—

- (a) if the area is—
 - (i) a nature refuge or a wilderness area—the declared management intent for the area; or
 - (ii) a coordinated conservation area—the interim management intent for the area; and
- (b) the duration of the declaration, which must, if the area is the subject of a conservation agreement, be the duration of the agreement.

(3) The regulation may define the extent of the area by reference to—

- (a) a specified depth below the surface of land; or
- (b) a specified height above the surface of land.

(4) To allay any doubt, a coordinated conservation area or wilderness area may include an area that is, or is part of, a protected area dedicated or declared under any provision of this Act.

(5) Subsection (4) does not apply to revoke the dedication or declaration of a protected area, or a part of a protected area, included in a coordinated conservation area or wilderness area.

(6) In subsection (1)—

“**State land**” includes a reserve under the *Land Act 1994*.

Duration and termination of conservation agreements

47.(1) A conservation agreement has effect until it expires under its terms unless—

- (a) it is terminated under subsection (2); or
- (b) the declaration of the protected area to which it relates is revoked.

(2) A conservation agreement may be terminated only if—

- (a) in the case of a nature refuge or wilderness area—
 - (i) the landholder who entered into the agreement requests its termination under the terms of the agreement; and
 - (ii) the Minister is of the opinion that the area to which the agreement relates is no longer needed for, or is no longer capable of being used to achieve, the declared management intent for the area; or
- (b) in the case of a coordinated conservation area—the landholder requests its termination under the terms of the agreement.

Variation of conservation agreements

48. A conservation agreement may be varied by a later agreement between the State and landholders concerned, including, for example—

- (a) in the case of a nature refuge or wilderness area—by removing, at the request of the landholder who entered into the agreement, a part of the area that, in the Minister’s opinion, is no longer needed for, or capable of being used to achieve, the declared management intent for the area; and
- (b) in the case of a coordinated conservation area—by removing a part of the area at the request of one of the landholders.

Compulsory declaration of nature refuge**49.(1)** If—

- (a) the Minister and landholders concerned are unable to agree on—
 - (i) a proposal to declare a nature refuge; or
 - (ii) the terms of a conservation agreement for the area concerned; and
- (b) the Minister is of the opinion that the area is, or includes—
 - (i) an area of major interest; or
 - (ii) a critical habitat;and should be declared a nature refuge;

the Minister may give written notice to the landholders, and persons having an interest in the landholders' land, advising that a recommendation may be made to the Governor in Council that the area be compulsorily declared as a nature refuge.

(2) The notice must specify—

- (a) the proposed management intent for the area; and
- (b) the reasons why the Minister has reached the opinion; and
- (c) a day by which objections relating to the recommendation must be received by the Minister.

(3) After consideration of any objections properly received by the Minister, the Governor in Council may, by regulation, declare the area, or part of the area, as a nature refuge.

(4) The regulation must—

- (a) describe the area for which the declaration is made; and
- (b) specify the declared management intent for the area; and
- (c) specify the covenant applying to the declaration; and
- (d) specify such other particulars as are prescribed.

Revocation of protected area

50. The Governor in Council may, by regulation, revoke the declaration of a protected area in whole or part.

Conservation agreements and covenants binding

51.(1) A conservation agreement that is recorded by the registrar under section 134 (Records to be maintained by registrar) in relation to land is binding on—

- (a) the successors in title to the landholder who entered into the agreement; and
- (b) persons who have an interest in the land.

(2) A conservation agreement (other than an agreement mentioned in subsection (1)) is binding on the persons mentioned in section 45(2) (Conservation agreements).

(3) A conservation covenant is binding on—

- (a) the landholder and the landholder's successors in title; and
- (b) persons who have an interest in the land.

Liability of State

52.(1) In this section—

“private land” means land other than State land.

(2) The State is not legally liable for an act or omission merely because—

- (a) a conservation agreement has been entered into under section 45 (Conservation agreements) for private land; or
- (b) private land has been declared under section 46 (Declaration of protected area) or 49 (Compulsory declaration of nature refuge) as, or as part of, a protected area.

Division 5—World Heritage management areas**Proposal to declare World Heritage management area**

53.(1) If an area has been included in the World Heritage List established and kept under the World Heritage Convention, the Minister may, by advertisement published in a newspaper circulating throughout Queensland, propose that the whole or part of the area be declared a World Heritage management area.

(2) The advertisement must—

- (a) describe the lands to be included in the proposed area; and
- (b) specify the proposed management of the area; and
- (c) invite submissions from affected landholders, interested groups and persons and members of the public; and
- (d) specify a day by which submissions are to be made to the Minister.

Preparation of management plan

54. After consideration of any submissions properly made in relation to the proposal, the Minister may prepare a management plan under part 7 for the area as if it were required under section 111(1), except that the Minister need not give notice of the proposal to prepare a draft management plan.

Declaration of World Heritage management area

55.(1) On approval of a management plan for an area that is proposed to become a World Heritage management area, the Governor in Council must, by regulation, declare the area to which the plan relates to be a World Heritage management area.

(2) The regulation must—

- (a) describe the area for which the declaration is made; and
- (b) specify such other particulars as are prescribed.

(3) The regulation may define the extent of the area by reference to—

- (a) a specified depth below the surface of land; or
- (b) a specified height above the surface of land.

(4) To allay any doubt, a World Heritage management area may include an area that is, or is part of, a protected area dedicated or declared under any provision of this Act.

(5) Subsection (4) does not apply to revoke the dedication or declaration of a protected area, or a part of a protected area, included in a World Heritage management area.

Revocation of World Heritage management area

56.(1) The Governor in Council may, by regulation, revoke the declaration under this Act of a World Heritage management area, in whole or part.

(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.

Division 6—International agreement areas

Proposal to declare international agreement area

57.(1) If the Minister is of the opinion that an area has internationally significant natural values, the Minister may, by advertisement published in a newspaper circulating throughout Queensland, propose that the area be declared an international agreement area.

- (2) The advertisement must—
- (a) describe the lands to be included in the proposed area; and
 - (b) specify the proposed management of the area; and
 - (c) invite submissions from affected landholders, interested groups and persons and members of the public; and
 - (d) specify a day by which submissions are to be made to the Minister.

Preparation of management plan

58. After consideration of any submissions properly made in relation to the proposal, the Minister may prepare a management plan under part 7 for the area as if it were required under section 111(1), except that the Minister need not give notice of the proposal to prepare a draft management plan.

Declaration of international agreement area

59.(1) On approval of a management plan for an area that is proposed to become an international agreement area, the Governor in Council must, by regulation, declare the area to which the plan relates to be an international agreement area.

(2) The regulation must—

- (a) describe the area for which the declaration is made; and
- (b) specify such other particulars as are prescribed.

(3) The regulation may define the extent of the area by reference to—

- (a) a specified depth below the surface of land; or
- (b) a specified height above the surface of land.

(4) To allay any doubt, an international agreement area may include an area that is, or is part of, a protected area dedicated or declared under any provision of this Act.

(5) Subsection (4) does not apply to revoke the dedication or declaration of a protected area, or a part of a protected area, included in an international agreement area.

Revocation of international agreement area

60. The Governor in Council may, by regulation, revoke the declaration under this Act of an international agreement area, in whole or part.

Division 7—Cultural and natural resources**Property in cultural and natural resources**

61. All cultural and natural resources of a national park (scientific), national park, conservation park or resources reserve are the property of the State.

Restriction on taking etc. of cultural and natural resources of protected areas

62.(1) A person must not take, use, keep or interfere with a cultural or natural resource of a protected area, other than under—

- (a) the interim or declared management intent for the area; or
- (b) any conservation agreement or covenant applicable to the area; or
- (c) a lease, agreement, licence, permit or other authority granted, made, issued or given—
 - (i) by the chief executive under section 34 (Leases etc. over protected areas); or
 - (ii) under the *Forestry Act 1959* or *Mineral Resources Act 1989*; or
 - (iii) under another Act by the Governor in Council, or someone else with the consent of the Minister or chief executive; or
- (d) a licence, permit or other authority issued or given under a regulation; or
- (e) if the area is a conservation park, resources reserve, nature refuge, coordinated conservation area, wilderness area, World Heritage management area or international agreement area—an exemption under a regulation.

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

(2) It is a defence to a charge of taking or interfering with a cultural or natural resource in contravention of subsection (1) to prove that—

- (a) the taking or interference happened in the course of a lawful

activity that was not directed towards the taking or interference;
and

(b) the taking or interference could not have been reasonably avoided.

(3) Subsection (2) does not allow a person to use or keep the resource.

(4) Despite subsection (1) and section 15,¹ but subject to the conditions prescribed under a regulation, a person may take—

(a) a fish in a prescribed place; or

(b) an invertebrate animal in a prescribed place for use as bait to take fish under paragraph (a); or

(c) a mud crab (*Scylla serrata*) in a prescribed place.

(5) However, subsection (4) does not authorise a person to take—

(a) an animal for a commercial purpose; or

(b) an animal prescribed under this Act as threatened or rare wildlife;
or

(c) an animal prescribed under a regulation for this paragraph.

(6) Also, subsection (4) does not, in itself, authorise a person to enter a prescribed place.

(7) In this section—

“**national park**” includes a national park (Aboriginal land) or national park (Torres Strait Islander land).

“**prescribed place**” means a national park, or part of a national park, prescribed under a regulation for subsection (4)(a), (b) or (c).

Division 8—General

Meaning of “landholder” in division

63. In this division—

“**landholder**” includes a person having an interest in land.

¹ Section 15 (Management of protected areas)

Naming of protected areas

64. The Governor in Council may, by regulation, assign a name to, or alter the name of, a protected area or aggregation of protected areas.

Effect of change in class of protected area

65.(1) If a protected area, or part of a protected area, is dedicated or declared under this Act to be a protected area of a different class—

- (a) the later dedication or declaration revokes the earlier dedication or declaration of the area or the part of the area to which the dedication or declaration relates; and
- (b) the management plan for the area ceases to apply to the area, unless the regulation dedicating or declaring the area otherwise declares.

(2) To allay any doubt—

- (a) subsection (1) applies subject to sections 32 and 33; and
- (b) subsection (1) does not apply to the declaration of a protected area that includes another class of protected area.

Cancellation of licences etc.

66.(1) If a licence, permit or other authority issued or given under any Act permits the holder to do an act that would contravene a regulation giving effect to a management plan for—

- (a) a World Heritage management area; or
- (b) an international agreement area;

the operation of such an authority is, by force of this section, cancelled to the extent that it permits the doing of the act.

(2) The Minister must, immediately after the making of the regulation, give written notice of the cancellation to the authority holder.

(3) If the Minister considers that it is impracticable to give notice to each holder of a particular class of authority holder, it is sufficient compliance with subsection (2) if the Minister gives notice of the cancellation to the

authority holders by publishing a notice in such newspapers as the Minister determines.

- (4) The cancellation takes effect from the day the regulation commences.
- (5) Subsection (1) applies despite any other Act.

Compensation when protected area declared

67.(1) This section applies if—

- (a) a nature refuge is declared under section 49 (Compulsory declaration of nature refuge); or
- (b) a regulation giving effect to a management plan for a World Heritage management area or international agreement area commences.

(2) If a land-holder's interest in land is injuriously affected by a restriction or prohibition imposed under the declaration or regulation on the land-holder's existing use of the land, the land-holder is entitled to be paid by the State the reasonable compensation because of the restriction or prohibition that is agreed between the State and the land-holder or, failing agreement, decided by the Land Court.

(3) The land-holder's interest in the land is not injuriously affected if the restriction or prohibition under the declaration or regulation is the same, or to the same effect, as a provision of another law applying to the land immediately before the commencement of the declaration or regulation.

(4) Compensation is not payable if compensation has already been paid for—

- (a) the restriction or prohibition; or
- (b) a restriction or prohibition to the same effect.

(5) A claim for compensation must—

- (a) be made in a form approved by the chief executive; and
- (b) be made to the chief executive within 6 months after the declaration of the protected area or the commencement of the regulation, or the longer period the chief executive or Land Court in special circumstances allows.

(6) In making a determination, the Land Court must have regard to the following matters—

- (a) the capacity of the land to sustain the existing use;
- (b) any change in the value of the land because of the declaration or regulation;
- (c) any change in the profitability of the land because of the declaration or regulation;
- (d) any conservation agreement with the land-holder.

(7) Subsection (6) does not limit the matters to which the Land Court may have regard in making a determination.

(8) Subsection (2) does not apply to land—

- (a) if—
 - (i) a regulation giving effect to a management plan for a nature refuge is in force; and
 - (ii) the nature refuge is declared to be included in a World Heritage management area or international agreement area; and
 - (iii) the regulation continues to apply to the nature refuge after declaration; and
 - (iv) the landholder receives, or is entitled to receive, compensation under this section in relation to the land because of the declaration of the nature refuge; or
- (b) if—
 - (i) an area is identified in a conservation plan as, or including, a critical habitat or an area of major interest; and
 - (ii) the area is declared to be a protected area; and
 - (iii) the regulation making the declaration declares that the plan continues to apply to the area after declaration; and
 - (iv) the landholder receives, or is entitled to receive, compensation under section 126 (Compensation) in relation to the land because of the approval of the plan.

(9) In this section—

“**existing use**” of land includes a lawful use made of the land immediately before the commencement of the declaration or regulation that restricts or prohibits the use.

No compensation on termination of conservation agreements or revocation of protected areas

68. If—

- (a) a conservation agreement is terminated under this Act; or
- (b) a declaration of a protected area is revoked, in whole or part;

the landholders concerned are not entitled to compensation because of the termination or revocation.

Preservation of landholders’ interests

69. The interests of a landholder of land forming part of a protected area are not affected by the dedication or declaration of the protected area except to the extent of—

- (a) any binding conservation agreement, or conservation covenant, in relation to the land; or
- (b) a regulation giving effect to the management plan for the area.

Unlawful use of certain words

70.(1) A person must not use words about an area that is not a protected area in a way that is likely to cause someone else reasonably to believe the area is a protected area.

(2) A person must not use words about a protected area in a way that is likely to cause someone else reasonably to believe the area is a protected area of a different class.

Maximum penalty—50 penalty units.

PART 5—WILDLIFE AND HABITAT CONSERVATION

Division 1—Basic concepts

Classes of wildlife to which Act applies

71. The classes of wildlife to which this Act applies are—

- (a) protected wildlife, that is—
 - (i) presumed extinct wildlife; and
 - (ii) endangered wildlife; and
 - (iii) vulnerable wildlife; and
 - (iv) rare wildlife; and
 - (v) common wildlife; and
- (b) international wildlife; and
- (c) prohibited wildlife.

Management of wildlife—general

72.(1) Wildlife is to be managed in accordance with—

- (a) the management principles prescribed by this division for the class of the wildlife; and
- (b) the declared management intent for the wildlife; and
- (c) any conservation plan for the wildlife.

(2) The declared management intent for wildlife is the management intent applicable to the wildlife under the regulations.

(3) The declared management intent for wildlife must contain a statement of—

- (a) the significance of the wildlife to nature and its value; and
- (b) the proposed management intent for the wildlife; and

- (c) the principles relating to any proposed taking and use of the wildlife.

Management principles of protected wildlife

73. Protected wildlife is to be managed to—

- (a) conserve the wildlife and its values and, in particular to—
 - (i) ensure the survival and natural development of the wildlife in the wild; and
 - (ii) conserve the biological diversity of the wildlife to the greatest possible extent; and
 - (iii) identify, and reduce or remove, the effects of threatening processes relating to the wildlife; and
 - (iv) identify the wildlife's critical habitat and conserve it to the greatest possible extent; and
- (b) ensure that any use of the wildlife—
 - (i) for scientific study and monitoring; or
 - (ii) for educational, recreational, commercial and authorised purposes; or
 - (iii) by Aboriginal people under Aboriginal tradition or Torres Strait Islanders under Island custom;is ecologically sustainable.

Management principles of international wildlife

74. International wildlife is to be managed in accordance with the wildlife's international conservation significance and, in particular—

- (a) to ensure the protection of protected wildlife from any threatening process that may be posed by the wildlife; and
- (b) to prevent unlawful introduction of the wildlife into Queensland; and
- (c) prohibit the release of the wildlife into the wild except under a

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

Management principles of prohibited wildlife

75. Prohibited wildlife is to be managed to—

- (a) prohibit the release of the wildlife into the wild except under a licence, permit or other authority issued or given under a regulation; and
- (b) identify and, if practicable, control any threatening process caused by the wildlife; and
- (c) reduce and, if possible, eliminate the population and distribution of the wildlife in the wild; and
- (d) encourage the humane taking and use of the wildlife.

Division 2—Classes of wildlife

Native wildlife may be prescribed as presumed extinct wildlife

76.(1) If the Governor in Council is of the opinion that native wildlife is extinct, the wildlife may be prescribed as presumed extinct wildlife.

(2) Native wildlife is taken to be extinct if it has not been sighted in the wild for a period critical to its life cycle despite thorough searching.

Native wildlife may be prescribed as endangered wildlife

77.(1) If the Governor in Council is of the opinion that—

- (a) native wildlife is in danger of extinction; or
- (b) the survival of native wildlife in the wild is unlikely if threatening processes continue;

the wildlife may be prescribed as endangered wildlife.

(2) Native wildlife is taken to be in danger of extinction if—

- (a) its number has been reduced to a critical level or its habitat has

been so drastically reduced that it may be in immediate danger of extinction; or

- (b) it has not been sighted in the wild for a period critical to its life cycle although no thorough search has been made for it.

Native wildlife may be prescribed as vulnerable wildlife

78.(1) If the Governor in Council is of the opinion that the survival of native wildlife in the wild is vulnerable if threatening processes continue, the wildlife may be prescribed as vulnerable wildlife.

(2) Native wildlife is taken to be vulnerable if—

- (a) its population is decreasing because of threatening processes; or
- (b) its population has been seriously depleted and its protection is not secured; or
- (c) its population, while abundant, is at risk because of threatening processes; or
- (d) its population is—
 - (i) low or localised; or
 - (ii) dependent on limited habitat that is at risk because of threatening processes.

Native wildlife may be prescribed as rare wildlife

79.(1) If the Governor in Council is of the opinion that native wildlife that is not threatened wildlife is rare, the wildlife may be prescribed as rare wildlife.

(2) Rare wildlife may include native wildlife whose population is represented by—

- (a) a relatively large population in a restricted range; or
- (b) smaller populations thinly spread over a wider range.

Native wildlife may be prescribed as common wildlife

80.(1) If the Governor in Council is of the opinion that—

- (a) native wildlife is common or abundant; and
- (b) the wildlife is likely to survive in the wild;

the wildlife may be prescribed as common wildlife.

(2) Native wildlife may be prescribed as common wildlife even though the wildlife is the subject of a threatening process.

Wildlife may be prescribed as international wildlife

81. If the Governor in Council is of the opinion that wildlife included in Appendix I or II of CITES is not indigenous to Australia, the wildlife may be prescribed as international wildlife.

Wildlife may be prescribed as prohibited wildlife

82. If the Governor in Council is of the opinion that wildlife is—

- (a) an unnatural hybrid or not indigenous to Australia; and
- (b) likely to constitute a threatening process to protected wildlife;

the wildlife may be prescribed as prohibited wildlife.

*Division 3—Ownership of protected wildlife***Property in protected animals**

83.(1) Subject to subsections (2) to (5) and sections 85 (Property in newly protected animals) and 86 (Preservation of existing property rights), all protected animals are the property of the State.

(2) A protected animal ceases to be the property of the State if—

- (a) the animal is taken under a licence, permit or other authority issued or given under a regulation; and
- (b) under a conservation plan property in the animal passes from the State on that taking of the animal.

(3) A protected animal to which subsection (2) applies becomes the property of the holder of the authority, subject to the rights in the animal of any other person (other than the rights of the State under subsection (1)).

(4) A protected animal that is the progeny of an animal to which subsection (2) applies is the property of the owner of the progeny's female parent, subject to the rights in the animal of any other person (other than the rights of the State under subsection (1)).

(5) If—

- (a) a person is keeping an animal that is not a protected animal; and
- (b) the animal becomes a protected animal because of the making of a regulation under this Act;

the animal and its progeny do not become the property of the State merely because of the making of the regulation.

Property in protected plants

84.(1) Subject to subsections (2) to (4) and section 86 (Preservation of existing property rights), all protected plants (other than protected plants on private land) are the property of the State.

(2) A protected plant ceases to be the property of the State if—

- (a) the plant is taken under a licence, permit or other authority issued or given under a regulation; and
- (b) under a conservation plan property in the plant passes from the State on that taking of the plant.

(3) A protected plant to which subsection (2) applies becomes the property of the holder of the authority, subject to the rights in the plant of any other person (other than the rights of the State under subsection (1)).

(4) The progeny of a plant to which subsection (2) applies is the property of the owner of the plant from which the progeny is propagated, subject to the rights in the plant of any other person (other than the rights of the State under subsection (1)).

(5) In this section—

“protected plant” means a protected plant that—

- (a) is prescribed under this Act as rare or threatened wildlife; and
- (b) is in the wild.

“private land” means—

- (a) freehold land; or
- (b) land the subject of a lease under any Act containing an entitlement to a deed of grant in fee simple.

Property in newly protected animals

85.(1) In this section—

“commencing day” means the day on which this division commences.

“declaration day” for an animal means the day on which the animal becomes a newly protected animal.

“newly protected animal” means a protected animal that, immediately before the commencing day, was not fauna under the *Fauna Conservation Act 1974*.

(2) If a person is keeping a newly protected animal at the beginning of the declaration day, the animal and its progeny do not become the property of the State merely because of the animal becoming a protected animal.

Preservation of existing property rights

86. Sections 83 (Property in protected animals) and 84 (Property in protected plants) do not affect property rights a person (other than the State) has in native wildlife immediately before the wildlife becomes protected wildlife.

Liability of State

87. The State is not legally liable for an act or omission merely because protected animals and plants are the property of the State.

Division 4—Restrictions on activities relating to protected wildlife**Restriction on taking etc. protected animals**

88.(1) Subject to section 93, a person must not take, use or keep a protected animal, other than under—

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

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

(2) Subsection (1) does not apply to the taking of protected animals in a protected area.²

(3) It is a defence to a charge of taking a protected animal in contravention of subsection (1) to prove that—

- (a) the taking happened in the course of a lawful activity that was not directed towards the taking; and
- (b) the taking could not have been reasonably avoided.

(4) Subsection (3) does not allow a person to use or keep the animal.

Restriction on taking etc. protected plants

89.(1) Subject to section 93, a person must not take a protected plant, other than under—

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

(2) Subsection (1) does not apply to the taking of protected plants in a

² Section 62 deals with the taking of protected animals in a protected area.

protected area.³

(3) It is a defence to a charge of taking a protected plant in contravention of subsection (1) to prove that—

- (a) the taking happened in the course of a lawful activity that was not directed towards the taking; and
- (b) the taking could not have been reasonably avoided.

(4) A person must not use or keep a protected plant that has been taken in contravention of subsection (1).

(5) In this section—

“protected plant” means a protected plant that—

- (a) is prescribed under this Act as rare or threatened wildlife; and
- (b) is in the wild.

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

Restriction on using threatened or rare plants

90. Subject to section 93 (Aborigines’ and Torres Strait Islanders’ rights to take etc. protected wildlife), a person must not use a protected plant that is threatened or rare wildlife other than under—

- (a) a licence, permit or other authority issued under a regulation; or
- (b) an exemption under a regulation.

Maximum penalty—1 000 penalty units.

Prohibition on release etc. of international and prohibited wildlife

91. A person must not—

- (a) abandon international or prohibited wildlife in the wild; or
- (b) release international or prohibited wildlife into the wild; or
- (c) keep or use international or prohibited wildlife; or

³ Section 62 deals with the taking of protected animals in a protected area.

(d) introduce international or prohibited wildlife into Queensland; other than under—

- (e) a conservation plan applicable to the wildlife; or
- (f) a licence, permit or other authority issued or given under a regulation.

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

Prohibition on breeding etc. hybrids of protected animals

92.(1) A person must not—

- (a) knowingly breed a hybrid or mutation of a protected animal; or
- (b) abandon a hybrid or mutation of a protected animal in the wild;

other than under a regulation or exemption under a regulation.

Maximum penalty—165 penalty units.

(2) A person must not release a hybrid or mutation of a protected animal into the wild other than under a conservation plan for the protected animal.

Maximum penalty—165 penalty units or 1 year's imprisonment.

Aborigines' and Torres Strait Islanders' rights to take etc. protected wildlife

93.(1) *Despite any other Act, an Aborigine or Torres Strait Islander may take, use or keep protected wildlife under Aboriginal tradition or Island custom.*

(2) *Subsection (1) applies subject to any provision of a conservation plan that expressly applies to the taking, using or keeping of protected wildlife under Aboriginal tradition or Island custom.*

(3) *An Aborigine or Torres Strait Islander who takes, uses or keeps protected wildlife in contravention of a provision of a conservation plan that expressly prohibits the taking, using or keeping of protected wildlife under Aboriginal tradition or Island custom commits an offence against this Act.⁴*

⁴ This provision had not commenced on or before reprint date.

(4) *Subsection (1) does not apply to the taking, using or keeping of protected wildlife in a protected area.*⁵

*Maximum penalty—3 000 penalty units or imprisonment for 2 years.*⁶

Conservation officers prohibited in dealing with protected wildlife

94. A conservation officer must not acquire or hold an interest in—

- (a) a licence, permit or other authority issued or given under a regulation for the purpose of conducting the business of dealing in protected wildlife; or
- (b) any business dealing in protected wildlife; or
- (c) any place at or in which the business of dealing in protected wildlife is conducted; or
- (d) any contract or arrangement made for the purpose of dealing in protected wildlife.

Maximum penalty—50 penalty units.

Division 5—Conservation value for protected wildlife

Payment of conservation value

95.(1) Subject to subsection (8), there is payable to the State for protected wildlife taken under a licence, permit or other authority issued or given under a regulation, the conservation value (if any) prescribed under this Act for the wildlife.

(2) The conservation value of protected wildlife is an expression in monetary terms of the State's conservation concern for the wildlife.

(3) Despite any Act or law, payment of the conservation value does not, of itself, transfer property in protected wildlife from the State.

(4) The person who lawfully takes protected wildlife must pay the

⁵ Section 62 deals with, among other things, the taking, using or keeping of protected wildlife in a protected area.

⁶ This provision had not commenced on or before reprint date.

conservation value for the wildlife within 30 days after the wildlife is taken.

Maximum penalty—50 penalty units.

(5) A person who lawfully takes protected wildlife must not give up or surrender possession of the wildlife unless the conservation value for the wildlife has been paid.

Maximum penalty—50 penalty units.

(6) A person must not keep protected wildlife knowing that the conservation value for the wildlife has not been paid.

Maximum penalty—50 penalty units.

(7) If a person lawfully takes wildlife, subsection (6) does not apply to the keeping of the wildlife by the person during the period allowed under subsection (4) for the payment of the conservation value for the wildlife.

(8) The conservation value of wildlife is not payable by a person if the person—

- (a) is exempt from the payment under a regulation; or
- (b) takes the wildlife for an authorised purpose under a conservation plan applicable to the wildlife.

Recovery of unpaid conservation value

96.(1) An amount of conservation value payable under this Act is a debt due to the State and may be recovered in a court having jurisdiction for the recovery of debts up to the amount concerned.

(2) A proceeding may be instituted against a person for the recovery of an amount of conservation value payable under this Act whether or not—

- (a) a prosecution has been instituted against the person for an offence in relation to the nonpayment; or
- (b) the person has been convicted of an offence in relation to the non-payment.

Division 6—Specific restriction on activities relating to native wildlife**Restriction on taking etc. of native wildlife in areas of major interest and critical habitats**

97.(1) This section applies to native wildlife (other than protected wildlife⁷) in an area that is identified under a conservation plan as, or including—

- (a) a critical habitat; or
- (b) an area of major interest.

(2) A person must not take, use, keep or interfere with the wildlife, other than under—

- (a) the conservation plan; or
- (b) a licence, permit or other authority issued or given under a regulation.

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

(3) It is a defence to a charge of taking or interfering with wildlife in contravention of subsection (2) to prove that—

- (a) the taking or interference happened in the course of a lawful activity that was not directed towards the taking or interference; and
- (b) the taking or interference could not have been reasonably avoided.

(4) Subsection (3) does not allow a person to use or keep the wildlife.

Division 7—General**No right to enter land**

98. Nothing in this Act gives—

- (a) the holder of a licence, permit or other authority issued or given

⁷ Sections 62, 88 and 89 deal with the taking, using and keeping of protected wildlife.

under a regulation; or

- (b) an Aborigine or Torres Strait Islander;

the right to enter any land for the purpose of taking wildlife without the landholder's consent.

Offence to trespass—general

99. A person must not—

- (a) take wildlife on any land; or
 (b) enter or be on any land for the purpose of taking wildlife;

without the landholder's consent.

Maximum penalty—165 penalty units.

Offence to trespass—landholders' rights

100.(1) This section applies to a person who a landholder suspects on reasonable grounds—

- (a) is trespassing on the landholder's land; and
 (b) is committing on the land, has committed on the land or is on the land for the purpose of committing, an offence against this Act.

(2) The landholder may—

- (a) require the person to state—
 (i) the person's name and address; and
 (ii) the person's purpose for being on the land; and
 (b) if the person is on the land without lawful authority—require the person to leave the land immediately.

(3) If—

- (a) the person fails to give—
 (i) his or her name and address; or
 (ii) the person's purpose for being on the land;
 if required to do so by the landholder; or

- (b) the person—
 - (i) is on the land without lawful authority; and
 - (ii) fails to leave the land immediately if required to do so by the landholder;

the person commits an offence against this Act.

Maximum penalty—165 penalty units.

(4) This section does not affect any other right or remedy that the land-holder may have against the trespasser.

PART 6—INTERIM CONSERVATION ORDERS

Definitions

101. In this part—

“**landholder**” includes a person having an interest in land.

“**protected area**” includes the Wet Tropics Area within the meaning of the *Wet Tropics World Heritage Protection and Management Act 1993*.

Issue of order

102. If the Minister is of the opinion that—

- (a) rare or threatened wildlife; or
- (b) a protected wildlife habitat that is, in the Minister’s opinion, a critical habitat; or
- (c) an area of major interest; or
- (d) a protected area;

is subject to a threatening process that is likely to have significant detrimental effect on the wildlife, habitat or area, the Minister may make an interim conservation order for the conservation, protection or management of the wildlife, habitat or area.

Effect of order

103.(1) An interim conservation order may provide for—

- (a) the prohibition or control of a specified threatening process; or
- (b) such other matters as are prescribed.

(2) An order may be made in relation to land even though—

- (a) the wildlife or habitat is not within the land; or
- (b) the land is not within an area of major interest or protected area.

Notice of order

104.(1) On the day an interim conservation order is made, the Minister must give or send written notice to—

- (a) all landholders of land to which the order relates; and
- (b) the local government for the area in which the land is situated;

that the order has been made and of the terms of the order.

(2) It is sufficient compliance with subsection (1)(a) in relation to a land-holder if the Minister gives notice of the order to the landholder by displaying the notice in a prominent place on the land.

Duration of order

105.(1) An interim conservation order has effect from the time it is made and continues in force for not more than 60 days.

(2) The Governor in Council may, by gazette notice, extend the order by not more than 90 days.

Orders prevail over planning schemes

106. If there is any conflict between an interim conservation order and a planning scheme, the order prevails over the planning scheme.

Suspension of licences etc.

107.(1) If a licence, permit or other authority issued or given under any Act permits the holder to do an act that would contravene an interim conservation order, the Minister may, by order, suspend the operation of the authority to the extent that it permits the doing of the act.

(2) The Minister must give written notice of the order to the authority holder.

(3) If the Minister considers that it is impracticable to give notice to each holder of a particular class of authority, it is sufficient compliance with subsection (2) if the Minister gives notice of the order to the authority holders by publishing a notice in such newspapers as the Minister determines.

(4) The suspension—

(a) takes effect from—

- (i) if notice is given under subsection (2)—the day the notice is received by the holder; or
- (ii) if notice is given under subsection (3)—the day the notice is first published in a newspaper; or
- (iii) if a later day is specified in the notice—the later day; and

(b) ends—

- (i) when the interim conservation order ends; or
- (ii) if an earlier day is specified in the notice—the earlier day.

(5) This section applies despite any other Act.

Compensation

108.(1) A landholder of land subject to an interim conservation order is entitled to be paid by the State such reasonable compensation because of the making of the order as is agreed between the State and the landholder or, failing agreement, as is determined by the Land Court.

(2) A claim for compensation must—

- (a) be made in a form approved by the chief executive; and

- (b) be made to the chief executive within 6 months after the making of the order or the longer period the chief executive or the Land Court in special circumstances allows.

Compliance with order

109. A person must not contravene an interim conservation order.

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

PART 7—MANAGEMENT AND CONSERVATION PLANS

Meaning of “landholder” in part

110. In this part—

“**landholder**” includes a person having an interest in land.

Management plans

111.(1) The Minister must, as soon as practicable after—

- (a) the dedication of—
- (i) a national park (scientific); or
 - (ii) a national park; or
 - (iii) a conservation park; or
 - (iv) a resources reserve; or
- (b) the declaration of—
- (i) a nature refuge (other than a nature refuge that is the subject of a conservation agreement under which a conservation plan is not to be prepared); or
 - (ii) a coordinated conservation area; or
 - (iii) a wilderness area;

prepare a management plan for the area.

(2) Subsection (1) does not apply if—

- (a) the dedication or declaration is a dedication or declaration of a change in the class of a protected area; and
- (b) the regulation dedicating or declaring the area declares that the management plan for the area continues to apply.

(3) Subsection (1) does not apply if—

- (a) on the dedication or declaration of a protected area (the **“new area”**), the new area is amalgamated with another protected area for which a management plan is in force; and
- (b) the regulation dedicating or declaring the new area declares that the management plan applies to the amalgamated area.

(4) If—

- (a) on or after the dedication or declaration of a protected area (the **“new area”**), the new area is amalgamated with another protected area (the **“original area”**) for which a management plan is in force; and
- (b) a management plan is required to be prepared for the new area under this section;

the Minister may prepare a management plan for the amalgamated area or a management plan amending the plan for the original area to apply the plan to the new area.

(5) If—

- (a) on or after the dedication or declaration of a protected area, the area is included in an aggregation of protected areas assigned a name under section 64 (Naming of protected areas); and
- (b) a management plan is required to be prepared for the area under this section;

the Minister may prepare a management plan for the aggregation of areas instead of a plan for the area (whether or not plans have been prepared for other areas included in the aggregation of areas).

(6) If the Minister decides to prepare a management plan for an

amalgamated area or aggregation of areas, this part applies to the preparation and approval of the plan with any necessary changes and any changes prescribed by regulation.

Conservation plans

112.(1) The Minister may prepare a conservation plan for any native wildlife, class of wildlife, native wildlife habitat or area that is, in the Minister's opinion, an area of major interest.

(2) If a person applies for a licence, permit or other authority under a regulation to—

- (a) take or use protected wildlife; or
- (b) release international or prohibited wildlife into the wild; or
- (c) introduce international or prohibited wildlife into Queensland;

the Minister may, before the authority is given—

- (d) require the person, at the person's cost, to prepare a draft conservation plan; or
- (e) prepare a draft conservation plan;

for the taking, use, release or introduction of the wildlife.

(3) The procedures applying to the preparation and approval of plans under this part (other than sections 113 and 114) apply to a draft conservation plan prepared under subsection (2).

(4) The Minister may require the person to pay—

- (a) if subsection (2)(d) applies—the reasonable costs incurred by the Minister in relation to the preparation and approval of a final conservation plan; or
- (b) if subsection (2)(e) applies—the reasonable costs incurred by the Minister in relation to—
 - (i) the preparation of the draft and final conservation plans; and
 - (ii) the approval of the final conservation plan.

(5) A conservation plan may make provision about the following matters—

- (a) any matter for which a regulation may be made under this Act, including, for example, prescribing offences for contraventions of the plan, and fixing a maximum penalty of a fine of not more than 165 penalty units for the contravention;
- (b) the use or development of land, and activities, in an area identified under the plan as, or including, a critical habitat or an area of major interest.

Notice of proposal to prepare draft plan

113.(1) The Minister must give public notice that the Minister proposes to prepare a draft management or conservation plan (other than a plan for a nature refuge that is subject to a conservation agreement).

(2) The notice must—

- (a) be published in such newspapers as the Minister determines; and
- (b) specify the protected area, area of major interest, wildlife or native wildlife habitat concerned; and
- (c) invite submissions from landholders, local governments, interested groups and persons, including Aborigines and Torres Strait Islanders and members of the public; and
- (d) specify a day by which submissions may be made to the Minister.

Preparation of draft plan

114. When preparing a draft management or conservation plan, the Minister must consider all submissions properly made to the Minister.

Notice of preparation of draft plan

115.(1) The Minister must give public notice when a draft management or conservation plan has been prepared (other than a plan for a nature refuge that is subject to a conservation agreement).

(2) The notice must—

- (a) be published in such newspapers as the Minister determines; and

- (b) specify the protected area, area of major interest, wildlife or native wildlife habitat concerned; and
 - (c) specify the addresses at which copies of the draft plan may be inspected and, on payment of the appropriate fee, purchased; and
 - (d) invite submissions from landholders, local governments, interested groups and persons, including Aborigines and Torres Strait Islanders and members of the public; and
 - (e) specify a day by which submissions may be made to the Minister.
- (3) The fee for the purchase of a copy of a draft plan is the amount that—
- (a) the chief executive considers to be reasonable; and
 - (b) is not more than the reasonable cost of preparing the plan.

Submissions to be considered when preparing final plans

116. When preparing a final management or conservation plan, the Minister must consider all submissions properly made to the Minister.

Final management plans

117.(1) A final management plan for a protected area must—

- (a) be consistent with the management principles for the class of the area and, if the area is a nature refuge, coordinated conservation area or wilderness area, any conservation agreement or covenant for the area; and
- (b) specify management outcomes for the protection, presentation and use of the area and the policies, guidelines and actions to achieve the outcomes.

(2) A final management plan for a protected area may divide the area into management zones.

Final conservation plans

118.(1) A final conservation plan for wildlife must be consistent with the management principles for the class of wildlife.

(2) A final conservation plan for wildlife, or a class of wildlife, may provide for the State to be divided into wildlife districts.

Approval of final plan

119.(1) A final management or conservation plan does not have effect until it has been approved by the Governor in Council.

(2) A final conservation plan is subordinate legislation.

(3) The chief executive must keep the approved plan open for inspection by members of the public during office hours on business days at—

- (a) the department's head office; and
- (b) each regional office of the department; and
- (c) such other places as the chief executive considers appropriate.

Implementation of approved plan

120.(1) On approval of a management plan for a protected area—

- (a) if the area is a national park (Aboriginal land) or national park (Torres Strait Islander land)—the board of management for the area; or
- (b) if the area is under the control of trustees—the trustees; or
- (c) if paragraphs (a) and (b) do not apply—the chief executive;

must give effect to the plan.

(2) On approval of a conservation plan for wildlife, native wildlife habitat or area of major interest, the chief executive must give effect to the plan.

Plan replaces interim or declared management intent

121.(1) A management plan for a coordinated conservation area or wilderness area replaces the interim or declared management intent for the area.

(2) A conservation plan for wildlife, or a class of wildlife, replaces the declared management intent for the wildlife, or class of wildlife, unless the plan declares that this subsection does not apply to the plan.

Conservation plans and regulations prevail over planning schemes

122. If there is any conflict between a conservation plan, or regulation giving effect to a management plan, and a planning scheme (whether made before or after the plan or regulation), the plan or regulation prevails over the planning scheme.

Local governments' decisions to be consistent with plans

123.(1) This section applies to land in—

- (a) a protected area for which a regulation is in force giving effect to a management plan for the area; or
- (b) an area identified under a conservation plan 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 or plan.

Amendment of plans

124.(1) The Governor in Council may amend a management or conservation plan by a subsequent management or conservation plan only if the procedures applying to the preparation and approval of plans under this part (other than sections 113 and 114) are followed.

(2) However, subsection (1) does not apply to the amendment of a management or conservation plan to—

- (a) correct an error in the plan; or
- (b) make a change (other than a change of substance) in the plan; or
- (c) if the plan or a regulation provides that an amendment of a stated type may be made to the plan by amendment under this subsection—make an amendment of that type.

Review of plans

125.(1) The Minister must review the operation of each management and conservation plan not later than 10 years after its approval.

(2) The procedures applying to the preparation and approval of plans under this part apply to the review of plans with any necessary changes and any changes prescribed by regulation.

Compensation

126.(1) This section applies if—

- (a) a conservation plan is approved for an area identified under the plan as, or including, a critical habitat or an area of major interest; and
- (b) a land-holder's interest in land in the area is injuriously affected by a restriction or prohibition imposed under the plan on the land-holder's existing use of the land.

(2) The land-holder is entitled to be paid by the State the reasonable compensation because of the restriction or prohibition that is agreed between the State and the land-holder or, failing agreement, decided by the Land Court.

(3) The land-holder's interest in the land is not injuriously affected if the restriction or prohibition under the conservation plan is the same, or to the same effect, as a provision of another law applying to the land immediately before the commencement of the plan.

(4) Compensation is not payable if compensation has already been paid for—

- (a) the restriction or prohibition; or
- (b) a restriction or prohibition to the same effect.

(5) A claim for compensation must—

- (a) be made in a form approved by the chief executive; and
- (b) be made to the chief executive within 6 months after the approval of the conservation plan or the longer period the chief executive or Land Court in special circumstances allows.

(6) In making a determination, the Land Court must have regard to the following matters—

- (a) the capacity of the land to sustain the existing use;

- (b) any change in the value of the land because of the approval of the conservation plan;
- (c) any change in the profitability of the land because of the approval of the conservation plan;
- (d) any conservation agreement with the land-holder.

(7) Subsection (6) does not limit the matters to which the Land Court may have regard in making a determination.

(8) In this section—

“**existing use**” of land includes a lawful use made of the land immediately before the commencement of the conservation plan that restricts or prohibits the use.

PART 8—ADMINISTRATION

Appointment of conservation officers

127.(1) The Minister may—

- (a) appoint an employee of the department; or
- (b) appoint an officer of the public service; or
- (c) appoint a police officer;⁸ or
- (d) with the person’s consent, appoint another person;

to be a conservation officer.

(2) The Minister may appoint a conservation officer, who has satisfactorily completed a course of training approved by the Minister, to be a special conservation officer.

(3) An appointment under subsection (1) or (2) must be in, or evidenced by, writing signed by the Minister.

⁸ A proposed appointment must have the approval of the commissioner of the police service under the *Police Powers and Responsibilities Act 2000*, section 12.

(4) A conservation officer appointed under subsection (1)(a) or (b) holds office subject to the conditions specified in the instrument of appointment.

(5) A conservation officer appointed under subsection (1)(d)—

- (a) holds office for the term, and subject to the conditions, specified in the instrument of appointment; and
- (b) may resign office by writing signed and given to the Minister.

Appointment of honorary protectors

128.(1) The Minister may, by signed writing, appoint a qualified person, with the person's consent, to be an honorary protector.

(2) An honorary protector—

- (a) holds office for the term, and subject to the conditions, specified in the instrument of appointment; and
- (b) has the powers of a conservation officer under section 151 and such other powers as may be prescribed; and
- (c) may resign by writing signed and given to the Minister.

(3) In this section—

“qualified person” means a person who—

- (a) in the Minister's opinion, has the necessary expertise or experience to be an honorary protector; or
- (b) has satisfactorily completed a course of training approved by the Minister.

Minister may inquire into suitability of proposed appointees

129.(1) Before appointing a person as a conservation officer or honorary protector, the Minister may inquire into the suitability of the person.

(2) The Minister may obtain a report from the commissioner of the police service about the criminal history of the person.

(3) The report must include reference to, or disclosure of, convictions mentioned in of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6.

Identity cards

130.(1) The Minister must issue an identity card to—

- (a) each conservation officer, other than a police officer or an officer of a prescribed class; and
- (b) each honorary protector.

(2) The identity card must—

- (a) contain a recent photograph of the conservation officer or honorary protector; and
- (b) be in a form approved, in writing, by the Minister; and
- (c) in the case of a conservation officer who is a special conservation officer—state that the officer is a special conservation officer; and
- (d) be signed by the conservation officer or honorary protector.

(3) A person who ceases to be a conservation officer or honorary protector must, as soon as practicable, return his or her card to the Minister.

Maximum penalty for subsection (3)—50 penalty units.

Proof of authority

131. A conservation officer (other than an officer who is in uniform) or an honorary protector must not exercise any power under this Act in relation to a person unless the conservation officer or honorary protector first produces his or her identity card for inspection by the person.

Advisory committees

132.(1) The Minister may establish as many advisory committees as the Minister considers appropriate for the purposes of the administration of this Act, including, for example—

- (a) scientific advisory committees; and
- (b) wilderness area advisory committees; and
- (c) protected area management advisory committees; and
- (d) wildlife management advisory committees.

(2) An advisory committee is to have the functions that the Minister specifies, including, for example, the function of advising the Minister on—

- (a) the management intent of, and the identification of areas that are suitable for declaration as, wilderness areas; and
- (b) the identification, classification and management of protected areas; and
- (c) the classification of wildlife; and
- (d) the suitability of management and conservation plans.

(3) A member of an advisory committee may be paid such fees and allowances as are approved by the Governor in Council.

Chief executive to keep register

133.(1) The chief executive must keep a register of—

- (a) protected areas; and
- (b) protected wildlife; and
- (c) international wildlife; and
- (d) prohibited wildlife; and
- (e) conservation agreements; and
- (f) management and conservation plans; and
- (g) critical habitats; and
- (h) areas of major interest; and
- (i) interim conservation orders; and
- (j) conservation officers; and
- (k) honorary protectors.

(2) Subject to subsection (3), the chief executive must—

- (a) keep the registers open for inspection by members of the public during office hours on business days at—
 - (i) the department's head office; and
 - (ii) such other places as the chief executive considers

appropriate; and

- (b) on payment of the prescribed fee by a person—
 - (i) permit the person to take extracts from a register; or
 - (ii) give the person a copy of a part of a register.

(3) A person must not be given information that is declared under section 136 to be confidential information.

Records to be maintained by registrar

134.(1) The chief executive must, within 14 days after—

- (a) a registrable conservation agreement is entered into; or
- (b) a nature refuge is declared under section 45; or
- (c) a regulation giving effect to a management plan for a World Heritage management area or international agreement area commences; or
- (d) an area is identified under a conservation plan as, or including—
 - (i) a critical habitat; or
 - (ii) an area of major interest;

give written notice to the registrar that the agreement has been entered into, the declaration made, the regulation has commenced or the plan approved, in relation to specified private land.

(2) The registrar must maintain records that—

- (a) show that the land specified in the notice is—
 - (i) the subject of a registrable conservation agreement; or
 - (ii) subject to a conservation covenant; or
 - (iii) the subject of a management plan and the regulation giving effect to it; or
 - (iv) the subject of a conservation plan; and
- (b) state the places where—
 - (i) particulars of the agreement; or

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- (ii) particulars of the conservation covenant applying to the declaration; or
 - (iii) the management plan for the area and regulation; or
 - (iv) the conservation plan for the area;
- may be inspected.

(3) The registrar must maintain the records in such a way that a search of the register maintained by the registrar under any Act relating to the land will show the existence of—

- (a) the registrable conservation agreement; or
- (b) the conservation covenant; or
- (c) the management plan and regulation; or
- (d) the conservation plan.

(4) The chief executive must, within 14 days after—

- (a) a registrable conservation agreement is terminated; or
- (b) the declaration of a protected area is revoked; or
- (c) a regulation giving effect to a management plan is repealed; or
- (d) a conservation plan is revoked; or
- (e) an area is removed from the operation of the conservation plan;

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

(5) The registrar must, on receipt of a notice under subsection (4), remove the particulars of the land from the registrar's records.

(6) In this section—

“private land” means land other than State land.

“registrable conservation agreement” means a conservation agreement expressed to be binding on the land-holder's successor's in title and other persons who have an interest in the land the subject of the agreement.

Chief executive may inquire into applications

135.(1) The chief executive may, in relation to—

- (a) an application for, or renewal of, a licence, permit or other authority;
- (b) an application for the consent of the Minister to, or to the renewal of, a lease, agreement, licence, permit or other authority;

inquire into—

- (c) if the applicant is an individual—the fame, character and suitability of the applicant; or
- (d) if the applicant is a corporation—the fame, character and suitability of each executive officer of the corporation.

(2) The chief executive may obtain—

- (a) a report from the commissioner of the police service in respect of the criminal history of the applicant and, if the applicant is a corporation, in respect of each executive officer of the corporation; and
- (b) if the applicant, or an executive officer of a corporation that is an applicant, holds or previously held in another State or a Territory a relevant lease, licence, permit or other authority—a report from the appropriate authority in the State or Territory.

(3) A report under subsection (2)(a) must include reference to or disclosure of convictions mentioned in of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6.

Confidentiality of information

136.(1) The chief executive may declare information acquired in the administration of this Act to be confidential information if the chief executive is of the opinion that disclosure of the information may result in an unreasonable level of risk to the wellbeing of a cultural or natural resource or critical habitat.

(2) If, while performing duties under, or in relation to, this Act, a person gets—

- (a) confidential information; or

- (b) information obtained under section 129 (Minister may inquire into suitability of proposed appointees) or 135 (Chief executive may inquire into applications);

the person must not, whether directly or indirectly, disclose or make use of the information except to the extent necessary to perform the person's duties under or in relation to this Act.

Maximum penalty—165 penalty units.

(3) In this section—

“**this Act**” includes the Acts repealed by this Act.

Licences to be consistent with management principles, and management intent or plan

137.(1) A licence, permit or other authority issued or given under a regulation or another Act to take, use, keep or interfere with a cultural or natural resource of a protected area must be consistent with—

- (a) the management principles for the area; and
- (b) the interim or declared management intent, or management plan, for the area.

(2) A licence, permit or other authority issued or given under a regulation to—

- (a) take, use or keep protected wildlife; or
- (b) abandon, release, keep, use or introduce international or prohibited wildlife;

must be consistent with—

- (c) the management principles for the wildlife; and
- (d) the declared management intent, or conservation plan, applicable to the wildlife.

Compensation not payable

138.(1) In this section—

“**authority**” means a licence, permit or other authority issued or given

under a regulation or conservation plan.

(2) Compensation is not payable if, under a regulation or conservation plan—

- (a) the renewal of an authority is refused; or
- (b) conditions are imposed on an authority, or anything previously permitted under an authority is prohibited or regulated; or
- (c) an authority is amended, or anything previously permitted under an authority is prohibited or regulated; or
- (d) an authority is suspended or cancelled.

(3) However, subsection (2) does not prevent a regulation or conservation plan providing for payment of compensation.

Annual report

139.(1) The chief executive must, within 3 months after the end of each financial year, give to the Minister a report on the administration of this Act during the year.

(2) The Minister must lay a copy of the report before the Legislative Assembly within 14 sitting days after its receipt by the Minister.

Delegation by Minister

140. The Minister may delegate to an officer of the public service powers under this Act (other than sections 102 and 107).

Delegation by chief executive

141.(1) The chief executive may delegate the chief executive's powers under this Act to a conservation officer or an officer of the public service.

(2) However, the chief executive may not delegate powers under the following sections—

- section 34 (Leases etc. over protected areas)
- section 35 (Chief executive's powers about permitted uses in national parks)

- section 36 (Chief executive's powers to grant authorities for new national parks)
- section 37 (Chief executive's powers to renew existing authorities for national parks)
- section 38 (Special leases may be granted under Land Act 1994)
- section 136 (Confidentiality of information).

Protection from liability

142.(1) This section applies to—

- (a) the Minister or chief executive; and
- (b) a conservation officer; and
- (c) a person acting under the direction of a person mentioned in paragraph (a) or (b).

(2) A person to whom this section applies does not incur civil liability for an act or omission done or omitted to be done honestly and without negligence under, or for the purposes of, this Act.

(3) A liability that would, but for this section, attach to a person to whom this section applies attaches instead to the State.

Immunity from prosecution

143.(1) A conservation officer is not liable to be prosecuted for an offence against this Act for anything done or omitted to be done—

- (a) under the direction of the Minister or chief executive; or
- (b) in the exercise of a power or performance of a function conferred or imposed on the officer under this Act.

(2) A person acting under the direction of the Minister, chief executive or a conservation officer is not liable to be prosecuted for an offence against this Act for anything done or omitted to be done under the direction.

PART 9—INVESTIGATION AND ENFORCEMENT

Power to stop and search vehicles etc.

144.(1) This section applies if a conservation officer suspects on reasonable grounds that—

- (a) a vehicle, boat or aircraft is being, or has been, used in the commission of an offence against this Act; or
- (b) a vehicle, boat or aircraft, or anything on or in, a vehicle, boat or aircraft may afford evidence of the commission of an offence against this Act.

(2) The conservation officer may, with such assistance and by such force as is necessary and reasonable—

- (a) enter or board the vehicle, boat or aircraft; and
- (b) exercise the powers set out in section 147.

(3) If—

- (a) the vehicle or boat is moving or about to move; or
- (b) the aircraft is moving, or about to move, on the ground;

the conservation officer may signal the driver or the person in command or control, or who appears to be in command or control, of the vehicle, boat or aircraft, to stop or not to move the vehicle, boat or aircraft.

(4) A person must not, without reasonable excuse, disobey a signal under subsection (3).

Maximum penalty—165 penalty units or 1 year's imprisonment.

(5) It is a reasonable excuse for the person to fail to stop or to move the vehicle, boat or aircraft if—

- (a) to immediately obey the signal would have endangered the person or another person; and
- (b) the person obeys the signal as soon as it is practicable to obey the signal.

(6) The conservation officer may require the driver or the person in command or control, or who appears to be in command or control, of the

vehicle, boat or aircraft—

- (a) to provide such reasonable assistance as the officer requires to enable the vehicle, boat or aircraft to be entered or boarded under subsection (2); or
- (b) to bring the vehicle, boat or aircraft to a specified place and remain in control of the vehicle, boat or aircraft at the place for a reasonable time to enable the officer to exercise the officer's powers in relation to the vehicle, boat or aircraft.

(7) A person must not, without reasonable excuse, contravene a requirement under subsection (6).

Maximum penalty—165 penalty units or 1 year's imprisonment.

(8) If, while searching the vehicle, boat or aircraft, the conservation officer finds a thing that the officer believes, on reasonable grounds, will afford evidence of the commission of an offence against this Act, section 146(2)(a) to (c) apply to the thing.

(9) If, after searching the vehicle, boat or aircraft, the conservation officer believes on reasonable grounds that the vehicle, boat or aircraft will afford evidence of the commission of an offence against this Act, section 146(2)(a) and (b) apply to the vehicle, boat or aircraft.

Entry and search—monitoring compliance

145.(1) Subject to subsection (2), a conservation officer may, for the purpose of finding out whether this Act is being complied with—

- (a) enter any place at any reasonable time of the day or night; and
- (b) exercise the powers set out in section 147.

(2) The conservation officer must not enter a place, or exercise a power under subsection (1), unless—

- (a) the occupier of the place consents to the entry or exercise of the power; or
- (b) a warrant under section 148 authorises the entry or exercise of the power; or
- (c) the place is a place to which the public are admitted (whether or not for consideration) and the entry is made when members of the

public attend or the premises are open for admission by the public; or

- (d) the place is premises, or the part of premises, that—
 - (i) are licensed under a regulation and the entry is made when the premises are open for conduct of business or otherwise open for entry; and
 - (ii) are not used exclusively for residential purposes.

(3) In this section—

“**place**” does not include a vehicle, boat or aircraft.

Entry and search—evidence of offences

146.(1) Subject to subsection (3), if a conservation officer has reasonable grounds for suspecting that there is in a place a particular thing (“**the evidence**”) that may afford evidence of the commission of an offence against this Act, the officer may—

- (a) enter the place; and
- (b) exercise the powers set out in section 147.

(2) If the conservation officer enters the place and finds the evidence, the following provisions have effect—

- (a) the officer may seize the evidence;
- (b) the officer may keep the evidence for 6 months or, if a prosecution for an offence against this Act in the commission of which the evidence may have been used or otherwise involved is instituted within that period, until the completion of the proceeding for the offence and any appeal in relation to the proceeding;
- (c) if the evidence is a document—while the officer has possession of the document, the officer may take extracts from and make copies of the document, but must allow the document to be inspected at any reasonable time by a person who would be entitled to inspect it if it were not in the officer’s possession.

(3) A conservation officer must not enter the place or exercise a power under subsection (1) unless—

- (a) the occupier of the place consents to the entry or exercise of the power; or
- (b) a warrant under section 149 that was issued in relation to the evidence authorises the entry or exercise of the power.

(4) If, while searching the place under subsection (1) under a warrant under section 149—

- (a) a conservation officer finds a thing that the officer believes, on reasonable grounds, to be—
 - (i) a thing (other than the evidence) that will afford evidence of the commission of the offence mentioned in subsection (1); or
 - (ii) a thing that will afford evidence of the commission of another offence against this Act; and
- (b) the officer believes, on reasonable grounds, that it is necessary to seize the thing to prevent—
 - (i) its concealment, loss or destruction; or
 - (ii) its use in committing, continuing or repeating the offence mentioned in subsection (1) or the other offence, as the case may be;

subsection (2) applies to the thing as if it were the evidence.

(5) In this section—

“**place**” does not include a vehicle, boat or aircraft.

General powers of conservation officer in relation to places

147.(1) A conservation officer who enters or boards a place under this part may exercise any of the following powers—

- (a) search any part of the place;
- (b) inspect, examine, photograph or film anything in or on the place;
- (c) take extracts from, and make copies of, any documents in or on the place;
- (d) take into or onto the place such persons, equipment and materials

as the conservation officer reasonably requires for the purpose of exercising any powers in relation to the place;

- (e) require the occupier or any person in or on the place to give to the conservation officer reasonable assistance in relation to the exercise of the powers mentioned in paragraphs (a) to (d);
- (f) the powers mentioned in the following provisions—
 - (i) section 151 (Conservation officer may require name and address);
 - (ii) section 152 (Power to require answers to questions);
 - (iii) section 154(1)(b) to (e) (Other powers of conservation officers).

(2) A person must not, without reasonable excuse, fail to comply with a requirement made under subsection (1)(e).

Maximum penalty—50 penalty units.

(3) It is a reasonable excuse for a person to fail to answer a question or produce a document (other than a document required to be kept by the person under a regulation) if answering the question, or producing the document, might tend to incriminate the person.

(4) A conservation officer who seizes or damages anything under this part must, as soon as it is reasonably practicable after seizing or damaging the thing, give written notice of particulars of the thing or damage.

(5) The notice must be given to—

- (a) if anything is seized—the person from whom the thing was seized; or
- (b) if damage was caused to anything—the person who appears to the conservation officer to be the owner of the thing.

(6) This section does not limit any power that a conservation officer has apart from this section.

Monitoring warrants

148.(1) A conservation officer may apply to a magistrate for a warrant under this section in relation to a particular place (other than premises, or the

part of premises, used exclusively for residential purposes).

(2) Subject to subsection (3), the magistrate may issue the warrant if the magistrate is satisfied, by information on oath, that it is reasonably necessary that the conservation officer should have access to the place for the purpose of finding out whether this Act is being complied with.

(3) If the magistrate requires further information concerning the grounds on which the issue of the warrant is being sought, the magistrate must not issue the warrant unless the conservation officer or some other person has given the information to the magistrate in the form (either orally or by affidavit) that the magistrate requires.

(4) The warrant must—

- (a) authorise the conservation officer, with such assistance and by such force as is necessary and reasonable—
 - (i) to enter the place; and
 - (ii) to exercise the powers set out in section 147(1)(a) to (e); and
- (b) state whether the entry is authorised to be made at any reasonable time of the day or night or only during specified reasonable hours of the day or night; and
- (c) specify the day (not more than 14 days after the issue of the warrant) on which the warrant ceases to have effect; and
- (d) state the purpose for which the warrant is issued.

Offence related warrants

149.(1) A conservation officer may apply to a magistrate for a warrant under this section in relation to a particular place.

(2) Subject to subsection (3), the magistrate may issue the warrant if the magistrate is satisfied, by information on oath, that there are reasonable grounds for suspecting that there is, or there may be within the next 7 days, in or on the place a particular thing (“**the evidence**”) that may afford evidence of the commission of an offence against this Act.

(3) If the magistrate requires further information concerning the grounds on which the issue of the warrant is being sought, the magistrate must not issue the warrant unless the conservation officer or another person has given

the information to the magistrate in the form (either orally or by affidavit) that the magistrate requires.

(4) The warrant must—

- (a) authorise the conservation officer, with such assistance and by such force as is necessary and reasonable—
 - (i) to enter the place; and
 - (ii) to exercise the powers set out in section 147(1)(a) to (e); and
 - (iii) to seize the evidence; and
- (b) state whether the entry is authorised to be made at any time of the day or night or only during specified hours of the day or night; and
- (c) specify the day (not more than 14 days after the issue of the warrant) on which the warrant ceases to have effect; and
- (d) state the purpose for which the warrant is issued.

Warrants may be granted by telephone, facsimile, radio etc.

150.(1) If a conservation officer considers it necessary to do so because of—

- (a) urgent circumstances; or
- (b) other special circumstances, including, for example, the officer's remote location;

the officer may, under this section, apply by telephone, facsimile, radio or another form of communication for a warrant under section 148 or 149.

(2) Before applying for the warrant, the conservation officer must prepare an information of the kind mentioned in section 148(2) or 149(2) that sets out the grounds on which the issue of the warrant is sought.

(3) If it is necessary to do so, a conservation officer may apply for the warrant before the information has been sworn.

(4) If the magistrate is satisfied—

- (a) after having considered the terms of the information; and
- (b) after having received such further information (if any) as the

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magistrate requires concerning the grounds on which the issue of the warrant is being sought;

that there are reasonable grounds for issuing the warrant, the magistrate may, under section 148 or 149, complete and sign the warrant that the magistrate would issue under the section if the application had been made under the section.

(5) If the magistrate completes and signs the warrant, the magistrate must immediately send a copy of the warrant to the conservation officer by facsimile or, if it is not reasonably practicable to do so—

- (a) the magistrate must—
 - (i) tell the officer what the terms of the warrant are; and
 - (ii) tell the officer the day and time when the warrant was signed; and
 - (iii) record on the warrant the reasons for granting the warrant; and
- (b) the officer must—
 - (i) complete a form of warrant in the same terms as the warrant completed and signed by the magistrate; and
 - (ii) write on the form of warrant the name of the magistrate and the day and time when the magistrate signed the warrant.

(6) The conservation officer must also—

- (a) not later than the day after the day of expiry or execution of the warrant (whichever is the earlier); or
- (b) if it is not practicable to comply with paragraph (a)—as soon as practicable after the day mentioned in the paragraph;

send to the magistrate—

- (c) the information mentioned in subsection (2), which must have been properly sworn; and
- (d) if a form of warrant was completed by the conservation officer under subsection (5)(b)—the completed form of warrant.

(7) When the magistrate receives the documents mentioned in subsection (6), the magistrate must—

- (a) attach them to the warrant that the magistrate completed and signed; and
- (b) deal with them in the way in which the magistrate would have dealt with the information if the application for the warrant had been made under section 148 or 149.

(8) A facsimile copy of a warrant, or a form of warrant properly completed by the conservation officer under subsection (5)(b), is authority for any entry, search, seizure or other exercise of a power that the warrant signed by the magistrate authorises.

(9) If—

- (a) it is material for a court to be satisfied that an entry, search, seizure or other exercise of power was authorised by this section; and
- (b) the warrant completed and signed by the magistrate authorising the exercise of power is not produced in evidence;

the court must assume, unless the contrary is proved, that the exercise of power was not authorised by such a warrant.

Conservation officer may require name and address

151.(1) This section applies if a conservation officer—

- (a) finds a person committing an offence against this Act; or
- (b) finds a person in circumstances that lead the officer to suspect, on reasonable grounds, that the person has just committed an offence against this Act; or
- (c) has information that leads the officer to suspect, on reasonable grounds, that a person has just committed an offence against this Act; or
- (d) believes, on reasonable grounds, that the name and address of a person is required for the administration or enforcement of this Act.

(2) The conservation officer may require the person to state the person's name and address.

(3) When making the requirement, the conservation officer must warn

the person it is an offence to fail to state the person's name and address, unless the person has a reasonable excuse.

(4) The conservation officer may require the person to give evidence of the correctness of the person's name or address if the officer suspects, on reasonable grounds, that the name or address given is false.

(5) A person must comply with a conservation officer's requirement under subsection (2) or (4), unless the person has a reasonable excuse for not complying with the requirement.

Maximum penalty—100 penalty units.

(6) The person does not commit an offence against this section if—

- (a) the conservation officer required the person to state the person's name and address on suspicion of the person having committed an offence against this Act; and
- (b) the person is not proved to have committed the offence.

Power to require information from certain persons

152.(1) This section applies if a conservation officer suspects, on reasonable grounds, that—

- (a) an offence against this Act has happened; and
- (b) a person may be able to give information about the offence.

(2) The conservation officer may require the person to give information about the offence.

(3) When making the requirement, the conservation officer must warn the person it is an offence to fail to give the information, unless the person has a reasonable excuse.

(4) The person must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—100 penalty units.

(5) It is a reasonable excuse for the person to fail to give information if giving the information might tend to incriminate the person.

(6) The person does not commit an offence against this section if the

information sought by the conservation officer is not in fact relevant to the offence.

Power to keep protected wildlife until conservation value is paid

153.(1) If a conservation officer, under this Act, seizes protected wildlife for which an amount of conservation value remains unpaid, the officer may keep the wildlife until the conservation value for the wildlife is paid.

(2) If the amount is not paid within 30 days after the seizure, the wildlife may be disposed of in such way as the chief executive directs.

(3) The seizure and keeping of wildlife does not affect any proceeding under this Act for the recovery of an amount of conservation value for the wildlife or an offence in relation to the nonpayment of the amount.

Other powers of conservation officers

154.(1) Subject to subsections (2) to (5), a conservation officer may, for the purposes of this Act, exercise any of the following powers—

- (a) enter any land at any reasonable time for the purpose of—
 - (i) inspecting, researching or reporting on protected, international or prohibited wildlife, critical habitats or areas of major interest; or
 - (ii) inspecting an area to ascertain—
 - (A) its suitability for dedication or declaration as a protected area; or
 - (B) whether a conservation agreement should be entered into in relation to the area;
- (b) require a person to produce to the officer—
 - (i) any licence, permit or other authority held by the person under a regulation; or
 - (ii) any document required to be kept by the person under a regulation;
- (c) inspect, take extracts from, make copies of or keep a document produced to the officer under paragraph (b);

- (d) if the officer is a special conservation officer—
 - (i) arrest a person found by the officer committing an offence against this Act; or
 - (ii) arrest a person who the officer suspects on reasonable grounds of having committed an offence against this Act;
if the officer believes on reasonable grounds that proceedings by way of complaint and summons against the person would be ineffective;
- (e) such other powers as are prescribed.

(2) Before exercising the power mentioned in subsection (1)(a), a conservation officer must—

- (a) obtain or, in urgent circumstances, take all reasonable steps to obtain, the consent of the landholder concerned; or
- (b) give at least 14 days written notice to the landholder concerned of—
 - (i) the officer's intention to enter the land; and
 - (ii) the proposed purpose in entering the land; and
 - (iii) the day and time when the officer proposes to enter the land.

(3) In exercising the power mentioned in subsection (1)(a), a conservation officer must take all reasonable steps to ensure that the officer causes as little inconvenience, and does as little damage, as is practicable.

(4) A conservation officer may keep a document under subsection (1)(c) only for the purpose of taking copies of the document and must, as soon as practicable after taking the copies, return the document to the person who produced it.

(5) If a special conservation officer arrests a person under subsection (1)(d), the officer must, as soon as it is reasonably practicable to do so, deliver the person into the custody of a police officer at the nearest accessible police station or watchhouse to be dealt with according to law.

Obstruction of conservation officers

155.(1) A person must not obstruct a conservation officer in the exercise

of a power under this Act.

(2) A person is taken to obstruct a conservation officer in the exercise of a power under this Act if the person—

- (a) assaults, abuses, hinders, resists or intimidates the officer or a person assisting the officer in the exercise of the officer's powers under this Act; or
- (b) deliberately prevents or attempts to prevent (whether directly or indirectly) a person from—
 - (i) being questioned by a conservation officer; or
 - (ii) giving, under this Act, any information or document to a conservation officer; or
- (c) in any other way obstructs, or attempts to obstruct, a conservation officer in the exercise of the officer's powers under this Act.

Maximum penalty—165 penalty units or 1 year's imprisonment.

Court may order compensation

156.(1) A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under this part, including, for example, in complying with a requirement made of the person under this part.

(2) Payment of compensation may be claimed and ordered in a proceeding for—

- (a) compensation brought in a court of competent jurisdiction; or
- (b) an offence against this Act brought against the person making the claim for compensation.

(3) A court may order the payment of compensation for the loss or expense only if it is satisfied it is just to make the order in the circumstances of the particular case.

False or misleading information

157.(1) A person must not—

- (a) make a statement to a conservation officer that the person knows is false or misleading in a material particular; or
- (b) omit from a statement made to a conservation officer anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—100 penalty units.

(2) A complaint against a person for an offence against subsection (1)(a) or (b) is sufficient if it states that the information given was false or misleading to the person's knowledge.

False or misleading documents

158. A person must not give to a conservation officer a document containing information that the person knows is false, misleading or incomplete in a material particular without—

- (a) indicating to the officer that the document is false, misleading or incomplete and the respect in which the document is false, misleading or incomplete; and
- (b) giving the correct information to the officer if the person has, or can reasonably obtain, the correct information.

Maximum penalty—100 penalty units.

Impersonation of conservation officer

159. A person must not pretend to be a conservation officer.

Maximum penalty—50 penalty units.

PART 10—LEGAL PROCEEDINGS

Evidentiary provisions

160.(1) This section applies to any proceeding under or in relation to this Act.

(2) It is not necessary to prove the appointment of a conservation officer or the authority of a conservation officer to do any act under this Act.

(3) A signature purporting to be that of the chief executive or a conservation officer is evidence of the signature it purports to be.

(4) A certificate purporting to be signed by the chief executive stating that—

- (a) a specified document is a copy of a notice, order, licence, permit or other authority issued or given under this Act; or
- (b) on a specified day, or during a specified period, a specified person was or was not the holder of a licence, permit or other authority issued or given under this or another Act; or
- (c) a licence, permit or other authority was or was not issued or given for a specified term, or was or was not subject to specified conditions; or
- (d) on a day mentioned in the certificate, a specified person was given a notice under this Act; or
- (e) a specified document is a copy of a part of a register kept under this Act; or
- (f) an amount payable under this Act has not been paid by a specified person;

is evidence of the matter stated in the certificate.

(5) A statement in a complaint starting the proceeding of any of the following matters is evidence of the matters—

- (a) that the matter of the complaint came to the knowledge of the complainant on a specified day;
- (b) that specified wildlife is a specified class of wildlife under this Act;
- (c) that the whole or any part of—
 - (i) the progeny, larvae, pupae, eggs or genetic or reproductive material of an animal; or
 - (ii) the carcass or another part of an animal; or

(iii) the flowers, seeds or genetic or reproductive material of a plant;

is, or is from, specified wildlife or a specified class of wildlife;

(d) that wildlife is indigenous to Australia or Queensland;

(e) that the place where the offence was committed was in a specified protected area or in a specified zone in a specified protected area.

(6) In a proceeding for an offence that an act or omission was committed in a protected area, it is not necessary to prove the particular protected area in which the offence was committed.

Conduct of executive officers, servants and agents

161.(1) If, in a proceeding for an offence against this Act, it is necessary to establish the state of mind of a corporation in relation to particular conduct, it is sufficient to show—

(a) that the conduct was engaged in by an executive officer, servant or agent of the corporation within the scope of his or her actual or apparent authority; and

(b) that the executive officer, servant or agent had the state of mind.

(2) Any conduct engaged in on behalf of a corporation by an executive officer, servant or agent of the corporation within the scope of his or her actual or apparent authority is to be taken, in a proceeding for an offence against this Act, to have been engaged in also by the corporation unless the corporation establishes that it took reasonable precautions and exercised due diligence to avoid the conduct.

(3) If, in a proceeding for an offence against this Act, it is necessary to establish the state of mind of a person other than a corporation in relation to particular conduct, it is sufficient to show—

(a) that the conduct was engaged in by a servant or agent of the person within the scope of his or her actual or apparent authority; and

(b) that the servant or agent had the state of mind.

(4) Any conduct engaged in on behalf of a person other than a corporation by a servant or agent of the person within the scope of his or her

actual or apparent authority is to be taken, in a proceeding for an offence against this Act, to have been engaged in also by the first person unless the first person establishes that the person took reasonable precautions and exercised due diligence to avoid the conduct.

(5) If—

- (a) a person other than a corporation is convicted of an offence; and
- (b) the person would not have been convicted of the offence if subsections (3) and (4) had not been enacted;

the person is not liable to be punished by imprisonment for the offence.

(6) In this section—

“**engaging**” in conduct includes failing to engage in conduct.

“**state of mind**” of a person includes a reference to—

- (a) the person’s knowledge, intention, opinion, belief or purpose; and
- (b) the person’s reasons for the intention, opinion, belief or purpose.

Executive officers must ensure corporation complies with Act

162.(1) The executive officers of a corporation must ensure that the corporation complies with this Act.

(2) If a corporation commits an offence against a provision of this Act, each of the executive officers of the corporation also commit an offence, namely, the offence of failing to ensure that the corporation complies with this Act.

Maximum penalty—the penalty for the contravention of the provision by an individual.

(3) Evidence that the corporation has committed an offence against this Act is evidence that each of the executive officers committed the offence of failing to ensure that the corporation complies with this Act.

(4) However, it is a defence for an executive officer to prove that—

- (a) the corporation’s offence was committed without the officer’s knowledge or consent; and

- (b) the officer took all reasonable steps to ensure that the corporation complied with this Act.

Offence committed over a period

163.(1) This section applies to the offence of taking—

- (a) a cultural or natural resource in contravention of section 62; or
- (b) protected wildlife in contravention of section 88 or 89; or
- (c) native wildlife in contravention of section 97.

(2) If the day or days on which a person is alleged to have committed the offence cannot be established, the person may—

- (a) be charged with 1 offence of taking the resource or wildlife over, or at some unknown time during, a specified period; and
- (b) be convicted and punished accordingly.

Indictable and summary offences

164.(1) An offence against this Act for which the maximum penalty of imprisonment is 2 years or more is an indictable offence.

(2) Any other offence against this Act is a summary offence.

Proceedings for indictable offences

165.(1) A proceeding for an indictable offence against this Act may be taken, at the election of the prosecution—

- (a) by way of summary proceedings under the *Justices Act 1886*; or
- (b) on indictment.

(2) A magistrate must not hear an indictable offence summarily if—

- (a) the defendant asks at the start of the hearing that the charge be prosecuted on indictment; or
- (b) the magistrate considers that the charge should be prosecuted on indictment.

(3) If subsection (2) applies—

- (a) the magistrate must proceed by way of an examination of witnesses for an indictable offence; and
- (b) a plea of the person charged at the start of the proceeding must be disregarded; and
- (c) evidence brought in the proceeding before the magistrate decided to act under subsection (2) is taken to be evidence in the proceeding for the committal of the person for trial or sentence; and
- (d) before committing the person for trial or sentence, the magistrate must make a statement to the person as required by section 104(2)(b) of the *Justices Act 1886*.

(4) The maximum penalty that may be summarily imposed for an indictable offence is 165 penalty units or 1 year's imprisonment.

Limitation on who may summarily hear indictable offence proceedings

166.(1) A proceeding must be before a magistrate if it is a proceeding—

- (a) for the summary conviction of a person on a charge for an indictable offence; or
- (b) for an examination of witnesses for a charge for an indictable offence.

(2) However, if a proceeding for an indictable offence is brought before a justice who is not a magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.

Limitation on time for starting summary proceedings

167.(1) A proceeding for an offence against this Act by way of summary proceeding under the *Justices Act 1886* must start—

- (a) within 1 year after—
 - (i) the commission of the offence; or
 - (ii) the offence comes to the complainant's knowledge, but not later than 2 years after the commission of the offence;

whichever is the later; or

- (b) if section 163 (Offence committed over a period) applies to the offence—within 1 year after—
 - (i) the end of the relevant period; or
 - (ii) the offence comes to the complainant's knowledge, but not later than 2 years after the end of the relevant period;

whichever is the later.

Court may order costs of rehabilitation or restoration

168. On a conviction of a person for an offence against this Act, the court may order the person to pay to the State such amount as it considers appropriate for, or towards, the cost of rehabilitation or restoration of a critical habitat, cultural or natural resource or protected area.

Additional penalty—conservation value of protected wildlife

169. A person who is convicted of an offence of taking—

- (a) a natural resource that is protected wildlife in contravention of section 62; or
- (b) protected wildlife in contravention of section 88 or 89;

is liable to an additional penalty of not more than twice the conservation value of the protected wildlife in relation to which the offence is committed.

Disposal of cultural or natural resources and protected wildlife owned by State

171.(1) This section applies to a cultural or natural resource or protected wildlife that—

- (a) is the property of the State; and
- (b) has been seized under this Act in relation to an offence against this Act.

(2) Despite any other provision of this Act, if the chief executive is satisfied that it is necessary to do so—

- (a) in the interests of the welfare of the resource or wildlife; or
- (b) for the protection of the resource or wildlife;

the chief executive may direct that the resource or wildlife be disposed of in such a way as the chief executive considers appropriate.

(3) Subsection (2) applies even though a proceeding has not been taken for, or a person convicted of, the offence.

Disposal of wildlife etc. not owned by State

172.(1) If a person is convicted of an offence against this Act, any wildlife in relation to which the offence was committed that is not already the property of the State—

- (a) is forfeited to the State; and
- (b) must be disposed of in such a way as the chief executive directs.

(2) If—

- (a) a person is convicted of an offence against this Act; and
- (b) a direction is not given under section 171 for the disposal of any cultural or natural resource in relation to which the offence was committed;

the court may make such order, as it considers appropriate, for the disposal of the cultural or natural resource.

(3) Forfeiture of wildlife under subsection (1)(a) does not confer a right to compensation on any person.

(4) Subject to subsection (5), if a person is convicted of an offence against this Act, the court may order that anything in relation to which the offence was committed that has been seized be forfeited to the State.

(5) If the court is satisfied that—

- (a) the thing is another person's property and the other person has exercised due diligence to prevent a contravention of this Act; and
- (b) the offence has been committed without the person's knowledge, consent or help;

the court may order that the thing be given to the person on such conditions

as the court considers appropriate.

(6) A person who contravenes a condition of a court order made under subsection (5) commits an offence against this Act.

Maximum penalty for subsection (6)—50 penalty units.

Penalties payable to consolidated fund

173. All penalties ordered to be paid in relation to offences against this Act must be paid into the consolidated fund.

PART 11—MISCELLANEOUS

Application of Statutory Instruments Act

174.(1) The *Statutory Instruments Act 1992*, sections 49 and 50⁹ do not apply to a regulation mentioned in the following provisions of this Act—

- section 30 (Revocation of State forests and timber reserves)
- section 32(2) (Revocation of protected areas)
- section 56 (Revocation of world heritage management area).

(2) Subsection (1) has effect despite the *Statutory Instruments Act 1992*, section 52.¹⁰

Regulations

175.(1) The Governor in Council may make regulations under this Act.

(2) A regulation may be made with respect to any of the following matters—

⁹ Section 49 (Subordinate legislation must be tabled)
Section 50 (Disallowance)

¹⁰ Section 52 (Other notification, gazettal, tabling or disallowance provisions of no effect)

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- (a) access to protected areas by persons or animals;
- (b) the use of land, and activities, in protected areas;
- (c) the removal from protected areas of—
 - (i) trespassers; or
 - (ii) persons who are believed on reasonable grounds to have contravened this Act;
- (d) the presence and use of vehicles and boats in, and the flight of aircraft over, protected areas;
- (e) the seizure of vehicles, boats, aircraft or property—
 - (i) found in a protected area in contravention of a regulation; or
 - (ii) found abandoned in a protected area;
- (f) the seizure for the protection of native wildlife of vehicles, boats, aircraft and appliances—
 - (i) found on land without the land-holder's consent; or
 - (ii) found abandoned on land;
- (g) the removal and disposal of seized vehicles, boats, aircraft property and appliances;
- (h) the taking of animals or plants into, or out of, protected areas, and the impounding, removal, destruction or disposal of animals found straying in protected areas;
- (i) giving effect to, and enforcing compliance with, management and conservation plans;
- (j) the taking or keeping of wildlife, the moving of wildlife into, in and out of the State and the dealing with, use or release of wildlife into the wild;
- (k) the records to be kept and returns to be lodged by the holders of licences, permits and other authorities and requirements as to the inspection of the records;
- (l) the disqualification of persons from holding a licence, permit or other authority;
- (m) the matters in respect of which fees, costs and charges are payable

under this Act, the amounts of the fees, costs and charges, the persons who are liable to pay the fees, costs and charges, when the fees, costs and charges are payable, and the recovery of any amount of the fees, costs and charges not paid;

- (n) the institution and conduct of appeals against decisions under a regulation;
- (o) exemption from compliance with provisions of a regulation or a conservation plan;
- (p) prescribing offences for contraventions of a regulation, and fixing a maximum penalty of a fine of not more than 165 penalty units for such a contravention.

PART 12—SAVINGS AND TRANSITIONAL

Transitional regulations

178. The Governor in Council may make regulations with respect to any matter for which—

- (a) it is necessary or convenient to facilitate the transition from the operation of the Acts repealed by this Act to the operation of this Act; and
- (b) this Part does not make provision or sufficient provision.

Division 4—Updating of references

References to repealed Acts

181. In an Act or document, a reference to any of the following Acts may, if the context permits, be taken to be a reference to this Act—

- *Fauna Conservation Act 1952*
- *Fauna Conservation Act 1974*

- *National Parks and Wildlife Act 1975*
- *Native Plants Protection Act 1930.*

References to Crown land under Act

182. In an Act or document, a reference to Crown land under this Act may, if the context permits, be taken to be a reference to State land under this Act.

ENDNOTES**1 Index to endnotes**

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 4 July 2000. Future amendments of the Nature Conservation Act 1992 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
amdt	=	amendment	prov	=	provision
ch	=	chapter	pt	=	part
def	=	definition	pubd	=	published
div	=	division	R[X]	=	Reprint No.[X]
exp	=	expires/expired	RA	=	Reprints Act 1992
gaz	=	gazette	reloc	=	relocated
hdg	=	heading	renum	=	renumbered
ins	=	inserted	rep	=	repealed
lap	=	lapsed	s	=	section
notfd	=	notified	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
om	=	omitted	SIA	=	Statutory Instruments Act 1992
orig	=	original	SIR	=	Statutory Instruments Regulation 1992
p	=	page	SL	=	subordinate legislation
para	=	paragraph	sub	=	substituted
prec	=	preceding	unnum	=	unnumbered
pres	=	present			
prev	=	previous			

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 81 of 1994	23 December 1994
2	to Act No. 57 of 1995	21 December 1995
2A	to Act No. 80 of 1997	17 December 1997
2B	to Act No. 13 of 1998	9 July 1998
2C	to Act No. 15 of 1999	19 August 1999

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	2
Changed names and titles	1
Corrected minor errors	1
Obsolete and redundant provisions	1
Renumbered provisions	1

6 List of legislation

Nature Conservation Act 1992 No. 20

date of assent 22 May 1992

pts 1–3, pt 4 div 1, pt 5 div 1, ss 111, 113–119 and 132 commenced on date of assent

pt 4 divs 4, 7–8 and s 134 commenced 12 February 1993 (1993 SL No. 26)

pt 5 div 2 commenced 2 September 1994 (1994 SL No. 326)

prev s 159 sch 2 (amendments of the Acts Interpretation Act 1954) commenced 1 July 1992 (1992 SL No. 159)

pts 6, 9 and 11, ss 127, 130–131, 133, 136, 140–142, 160–168, prev s 159 sch 2 (amendments 24 of the Land Act 1962) commenced 14 May 1994 (1994 SL No. 151)

s 164A commenced 14 October 1994 (1994 SL No. 362)

s 93 not yet proclaimed into force

remaining provisions commenced 19 December 1994 (1994 SL No. 472)

as amended by—

Wet Tropics World Heritage Protection and Management Act 1993 No. 50 **ss 1–2, 86 Sch 3**

date of assent 30 September 1993

ss 1–2 commenced on date of assent

remaining provisions commenced 1 November 1993 (1993 SL No. 396)

Fisheries Act 1994 No. 37 s 244 sch 2

date of assent 8 September 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 27 January 1995 (1994 SL No. 9)

Nature Conservation Amendment Act 1994 No. 42

date of assent 14 September 1994

commenced on date of assent

Land Act 1994 No. 81 ss 1–2, 527 sch 5

date of assent 1 December 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1995 (1995 SL No. 185)

Environmental Legislation Amendment Act 1995 No. 40 pts 1, 4

date of assent 27 October 1995
 commenced on date of assent

Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1

date of assent 28 November 1995
 commenced on date of assent

Nature Conservation Amendment Act 1997 No. 8

date of assent 15 May 1997
 ss 1–2 commenced on date of assent
 remaining provisions commenced 12 December 1997 (1997 SL No. 433)

Environmental and Other Legislation Amendment Act 1997 No. 80 pts 1, 4

date of assent 5 December 1997
 ss 1–2 commenced on date of assent
 remaining provisions commenced 12 December 1997 (1997 SL No. 432)

Building and Integrated Planning Amendment Act 1998 No. 13 ss 1, 2(3), 191 sch

date of assent 23 March 1998
 ss 1–2 commenced on date of assent
 remaining amdts commenced 30 March 1998 (1998 SL No. 55)

Explosives Act 1999 No. 15 ss 1–2 137 sch 1

date of assent 22 April 1999
 ss 1–2 commenced on date of assent
 remaining provisions commenced 11 June 1999 (1999 SL No. 108)

Police Powers and Responsibilities Act 2000 No. 5 ss 1–2, 373 sch 3

date of assent 23 March 2000
 ss 1–2, 373 commenced on date of assent (see s 2(2))
 remaining provisions commenced 1 July 2000 (see s 2(1), (3) and 2000 SL No. 174)

7 List of annotations

This reprint has been renumbered—see table of renumbered provisions in endnote 8.

Commencement

s 2 om R2 (see RA s 37)

How object is to be achieved

s 5 amd 1994 No. 42 ss 3, 2 sch

Community participation in administration of Act

s 6 amd 1994 No. 42 s 2 sch

Definitions

s 7 def “**Aboriginal people**” om 1994 No. 42 s 4(1)
 def “**Aboriginal tradition**” om 1994 No. 42 s 4(1)

def “**Aborigine**” om 1994 No. 42 s 4(1)
 def “**appliance**” ins 1994 No. 42 s 4(2)
 amd 1999 No. 15 s 137 sch 1
 def “**chief executive**” om 1994 No. 42 s 4(1)
 def “**conservation plan**” sub 1994 No. 42 s 4(1)–(2)
 def “**conviction**” ins 1994 No. 42 s 4(2)
 def “**Crown land**” om 1995 No. 57 s 4 sch 1
 def “**fee**” ins 1994 No. 42 s 4(2)
 def “**in the wild**” amd 1997 No. 80 s 44
 def “**indigenous to Australia**” amd 1994 No. 42 s 4(3)
 def “**indigenous to Queensland**” amd 1994 No. 42 s 4(4)
 def “**Island custom**” om 1994 No. 42 s 4(1)
 def “**landholder**” sub 1995 No. 57 s 4 sch 1
 def “**management plan**” sub 1994 No. 42 s 4(1)–(2)
 def “**native wildlife**” sub 1994 No. 42 s 4(1)–(2)
 def “**natural resources**” amd 1994 No. 42 s 2 sch
 def “**official name**” ins 1994 No. 42 s 4(2)
 def “**planning scheme**” amd 1998 No. 13 s 191 sch
 def “**procaryote**” ins 1994 No. 42 s 4(2)
 def “**protected animal**” amd 1994 No. 42 s 2 sch
 def “**protected plant**” amd 1994 No. 42 s 2 sch
 def “**protista**” ins 1994 No. 42 s 4(2)
 def “**State land**” ins 1995 No. 57 s 4 sch 1
 def “**Torres Strait Islander**” om 1994 No. 42 s 4(1)
 def “**wild by nature**” sub 1994 No. 42 s 4(1)–(2)
 def “**wildlife**” sub 1994 No. 42 s 4(1)–(2)

Management of protected areas

s 15 amd 1994 No. 42 s 2 sch

Management principles of national parks (scientific)

s 16 sub 1994 No. 42 s 5

Management principles of national parks

s 17 sub 1994 No. 42 s 5

Management principles of conservation parks

s 20 amd 1994 No. 42 s 2 sch

Dedication of protected areas

s 29 amd 1994 No. 42 s 2 sch

Revocation of State forests and timber reserves

s 30 amd 1994 No. 42 s 2 sch

Trustees of protected areas

s 31 amd 1994 No. 42 ss 6, 2 sch; 1995 No. 57 s 4 sch 1

Revocation of protected areas

s 32 amd 1994 No. 42 s 2 sch

Amalgamation etc. of protected areas

s 33 amd 1994 No. 42 s 2 sch

Leases etc. over protected areas

s 34 sub 1994 No. 42 s 7

Chief executive's powers about permitted uses in national parkss 35 ins 1994 No. 42 s 7
amd 1995 No. 40 s 13**Chief executive's powers to grant authorities for new national parks**s 36 ins 1994 No. 42 s 7
amd 1994 No. 81 s 527 sch 5**Chief executive's powers to renew existing authorities for national parks**s 37 ins 1994 No. 42 s 7
amd 1995 No. 40 s 14**Leases may be granted under Land Act 1994**prov hdg amd 1994 No. 81 s 527 sch 5
s 38 amd 1994 No. 42 s 8; 1994 No. 81 s 527 sch 5**Creation of interests in protected areas**

s 39 ins 1994 No. 42 s 9

Dedication of National Park as national park (Aboriginal land) or national park (Torres Strait Islander land)

s 40 amd 1994 No. 42 s 2 sch

Dedication of Aboriginal land as national park (Aboriginal land) or Torres Strait Islander land as national park (Torres Strait Islander land)

s 41 amd 1994 No. 42 s 2 sch

Dedication of leasehold land as national park (Aboriginal land) or national park (Torres Strait Islander land)

s 42 amd 1994 No. 42 s 2 sch

Conservation agreements

s 45 amd 1994 No. 42 s 2 sch

Declaration of protected area

s 46 amd 1994 No. 42 s 2 sch; 1995 No. 57 s 4 sch 1

Compulsory declaration of nature refuge

s 49 amd 1994 No. 42 s 2 sch

Revocation of protected area

s 50 amd 1994 No. 42 s 2 sch

Conservation agreements and covenants binding

s 51 amd 1994 No. 42 s 10

Liability of State

s 52 ins 1994 No. 42 s 11

Proposal to declare World Heritage management area

s 53 amd 1994 No. 42 s 2 sch

Preparation of management plan

prov hdg amd 1994 No. 42 s 2 sch
s 54 amd 1994 No. 42 s 2 sch

Declaration of World Heritage management area

s 55 amd 1994 No. 42 s 2 sch

Revocation of World Heritage management area

s 56 amd 1994 No. 42 s 2 sch

Proposal to declare international agreement area

s 57 amd 1994 No. 42 s 2 sch

Preparation of management plan

prov hdg amd 1994 No. 42 s 2 sch
s 58 amd 1994 No. 42 s 2 sch

Declaration of international agreement area

s 59 amd 1994 No. 42 s 2 sch

Revocation of international agreement area

s 60 amd 1995 No. 42 s 2 sch

Restriction on taking etc. of cultural and natural resources of protected areas

s 62 amd 1994 No. 42 s 12; 1997 No. 8 s 4

Naming of protected areas

s 64 amd 1994 No. 42 s 2 sch

Effect of change in class of protected area

s 65 amd 1994 No. 42 s 2 sch

Cancellation of licences etc.

s 66 amd 1994 No. 42 s 13

Compensation when protected area declared

s 67 sub 1994 No. 42 s 14

Preservation of landholders' interests

s 69 amd 1994 No. 42 s 2 sch

Unlawful use of certain words

s 70 sub 1994 No. 42 s 15

Property in protected animals

s 83 amd 1994 No. 42 s 2 sch

Property in protected plants

s 84 amd 1994 No. 42 s 2 sch

Property in newly protected animals

s 85 ins 1994 No. 42 s 16

Preservation of existing property rights

s 86 ins 1994 No. 42 s 16

Restriction on taking etc. protected animals

s 88 amd 1994 No. 42 s 17

Restriction on taking etc. protected plants

s 89 amd 1994 No. 42 s 18

Restriction on using threatened or rare plants

s 90 ins 1994 No. 42 s 19

Prohibition on breeding etc. hybrids of protected animals

s 92 amd 1994 No. 42 s 2 sch

Aborigines' and Torres Strait Islanders' rights to take etc. protected wildlife

s 93 amd 1994 No. 42 s 20

Definitions

s 101 sub 1993 No. 50 s 86 sch 3

Notice of order

s 104 amd 1994 No. 42 s 2 sch

Duration of order

s 105 amd 1994 No. 42 s 2 sch

Suspension of licences etc.

s 107 amd 1994 No. 42 s 2 sch

Compensation

s 108 amd 1994 No. 42 s 21

PART 7—MANAGEMENT AND CONSERVATION PLANS

pt hdg sub 1994 No. 42 s 2 sch

Meaning of "landholder" in parts 110 prev s 110 om 1994 No. 42 s 28
pres s 110 ins 1994 No. 42 s 22**Management plans**

prov hdg sub 1994 No. 42 s 23(1)

s 111 amd 1994 No. 42 ss 23(2)–(3), 2 sch

Conservation plans

prov hdg sub 1994 No. 42 s 24(1)

s 112 amd 1994 No. 42 s 24(2)–(6); 1995 No. 40 s 15

Notice of proposal to prepare draft plan

s 113 amd 1994 No. 42 s 2 sch

Preparation of draft plan

s 114 amd 1994 No. 42 s 2 sch

Notice of preparation of draft plan

s 115 amd 1994 No. 42 ss 25, 2 sch

Submissions to be considered when preparing final plans

s 116 sub 1994 No. 42 s 26

Final management plans

s 117 ins 1994 No. 42 s 26

Final conservation plans

s 118 ins 1994 No. 42 s 26

Approval of final plan

s 119 amd 1994 No. 42 s 27

Implementation of approved plan

s 120 amd 1994 No. 42 s 2 sch

Plan replaces interim or declared management intent

s 121 sub 1994 No. 42 s 29

Conservation plans and regulations prevail over planning schemes

s 122 sub 1994 No. 42 s 30

Local governments' decisions to be consistent with plans

s 123 ins 1994 No. 42 s 30
amd 1995 No. 40 s 16

Amendment of plans

s 124 amd 1994 No. 42 s 2 sch; 1995 No. 40 s 17

Review of plans

s 125 amd 1994 No. 42 s 31

Compensation

s 126 sub 1994 No. 42 s 32

Appointment of conservation officers

s 127 amd 1994 No. 42 s 33; 2000 No. 5 s 373 sch 3

Minister may inquire into suitability of proposed appointees

s 129 ins 1994 No. 42 s 34

Identity cards

s 130 amd 2000 No. 5 s 373 sch 3

Advisory committees

s 132 amd 1994 No. 42 s 2 sch

Chief executive to keep register

s 133 amd 1994 No. 42 s 2 sch

Records to be maintained by registrar

s 134 amd 1994 No. 42 s 35

Confidentiality of information

s 136 amd 1994 No. 42 s 36

Licences to be consistent with management principles, and management intent or plan

prov hdg sub 1994 No. 42 s 2 sch
s 137 amd 1994 No. 42 s 2 sch

Compensation not payable

s 138 ins 1994 No. 42 s 37

Delegation by chief executive

s 141 sub 1994 No. 42 s 38

Protection from liability

s 142 amd 1994 No. 42 s 2 sch

Immunity from prosecution

s 143 ins 1994 No. 42 s 39

Power to stop and search vehicles etc.

s 144 amd 1994 No. 42 s 40

Entry and search—evidence of offences

s 146 amd 1994 No. 42 s 2 sch

General powers of conservation officer in relation to places

s 147 amd 1994 No. 42 s 2 sch

Offence related warrants

s 149 prev s 149 om 1994 No. 42 s 2 sch

Conservation officer may require name and address

s 151 sub 1994 No. 42 s 41

Power to require information from certain persons

s 152 sub 1994 No. 42 s 42

Other powers of conservation officers

s 154 amd 2000 No. 5 s 373 sch 3

Court may order compensation

s 156 ins 1994 No. 42 s 43

Acts repealed

s 158 prev s 158 om R1 (see RA s 40)

Acts amended

s 159 prev s 159 om R1 (see RA s 40)

Evidentiary provisions

s 160 amd 1994 No. 42 s 2 sch

Meaning of “repealed Act” in Division

s 161 prev s 161 exp 19 December 1994 (see s 180(1))

Executive officers must ensure corporation complies with Acts 162 prev s 162 exp 19 December 1994 (see s 180(1))
pres s 162 ins 1994 No. 42 s 44**Honorary protectors**

s 163 prev s 163 exp 19 December 1994 (see s 180(1))

Indictable and summary offencess 164 prev s 164 exp 19 December 1994 (see s 180(1))
pres s 164 sub 1994 No. 42 s 45

Management plans may be prepared for existing National Parks

s 164A ins 1994 No. 42 s 48
exp 19 December 1994 (see s 180(1))

Proceedings for indictable offences

s 165 prev s 165 sub 1994 No. 42 s 49
exp 19 December 1994 (see s 180(1))
pres s 165 ins 1994 No. 42 s 45

Division 2—Protected wildlife

div hdg om R2 (see RA s 37)

Limitation on who may summarily hear indictable offence proceedings

s 166 prev s 166 exp 19 December 1994 (see s 180(1))
pres s 166 ins 1994 No. 42 s 45

Limitation on time for starting summary proceedings

s 167 prev s 167 om 1994 No. 42 s 2 sch
pres s 167 ins 1994 No. 42 s 45

Keeping of protected animals

s 168 prev s 168 exp 19 December 1994 (see s 180(1))

Licences etc. in relation to protected wildlife

s 169 prev s 169 exp 19 December 1994 (see s 180(1))

Newly prohibited animal

s 169A ins 1994 No. 42 s 51
exp 19 December 1994 (see s 180(1))

Division 3—General

div hdg exp 19 December 1995 (see s 180(1))

Photographs and fingerprints of offenders

prov hdg sub 1994 No. 42 s 2 sch
s 170 om 2000 No. 5 s 373 sch 3

Numbering and renumbering of Act

s 172 ins 1994 No. 42 s 52
om R1 (see RA s 37)

Application of Statutory Instruments Act

s 174 sub 1994 No. 42 s 46; 1995 No. 57 s 4 sch 1

Regulations

s 175 amd 1994 No. 42 s 47; 1995 No. 57 s 4 sch 1

PART 12—SAVINGS AND TRANSITIONAL

pt hdg prev pt 12 hdg om R1 (see RA s 39)

Division 1—Preliminary

div hdg exp 19 December 1995 (see s 180(2))

Meaning of “commencing day” in Part

s 176 exp 19 December 1995 (see s 180(2))

Division 2—National Parks and Wildlife Act 1975**div 2 hdg** prev div 2 hdg exp 19 December 1994 (see s 180(1))**Fauna refuges****s 177** ins 1994 No. 42 s 50
exp 19 December 1995 (see s 177(4))**References to conservation plans****s 179** ins 1994 No. 42 s 52
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exp 19 December 1995 (see s 180(2))**Division 4—Updating of references****div hdg** ins 1995 No. 57 s 4 sch 1**References to repealed Acts****s 181** amd 1995 No. 57 s 4 sch 1**References to Crown land under Act****s 182** ins 1995 No. 57 s 4 sch 1**SCHEDULE 1—ACTS REPEALED**

om R1 (see RA s 40)

SCHEDULE 2—ACTS AMENDEDamd 1994 No. 37 s 244 sch 2
om R1 (see RA s 40)**8 List of forms****Form FM497 Version 2FEB95—Licence Application**

pubd gaz 24 March 1995 p 1307

Form FM498 Version 2FEB95—Licence/Permit/Authority Renewal

pubd gaz 24 March 1995 p 1307

**Form FM499 Version 2FEB95—Macropod Commercial Wildlife and
Commercial Macropod Harvesting Licence Application**

pubd gaz 24 March 1995 p 1307

Form FM500 Version 2FEB95—Permit/Authority Application

pubd gaz 24 March 1995 p 1307

Form FM534 Version November 94—Stock permit application

pubd gaz 24 March 1995 p 1307

**Form FM535 Version November 94—Permit application for activities on
Protected Areas**

pubd gaz 24 March 1995 p 1307

Form FM536 Version November 94—Commercial activity permit application
pubd gaz 24 March 1995 p 1307

9 Table of renumbered provisions

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