



Land Protection (Pest and Stock Route Management) Act 2002

Reprinted as in force on 6 February 2006

Reprint No. 2C

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Also see endnotes for information about—

- **when provisions commenced**
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Queensland

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Land Protection (Pest and Stock Route Management) Act 2002

[as amended by all amendments that commenced on or before 6 February 2006]

An Act about the management of particular pests on land and the management of the stock route network, and for other purposes

Chapter 1 Preliminary

Part 1 Introduction

1 Short title

This Act may be cited as the *Land Protection (Pest and Stock Route Management) Act 2002*.

2 Commencement

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

Part 2 Purpose and application of Act

Division 1 Purpose

3 Main purpose of Act

The main purpose of this Act is to provide for—

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- (a) pest management for land; and
- (b) stock route network management.

4 How purpose is achieved

The purpose is to be achieved mainly by the following—

- (a) establishing principles of pest management for land and stock route network management;
- (b) providing for pest management planning and stock route network management planning;
- (c) declaring animals and plants to be declared pests;
- (d) restricting the introduction, keeping or sale of declared pests;
- (e) preventing the spread of declared pests in the State, including, for example, preventing their spread by human activity;
- (f) establishing responsibilities for pest and stock route network management;
- (g) building and maintaining fences to prevent declared pest animals moving from a part of the State to another part;
- (h) establishing the Land Protection (Pest and Stock Route Management) Council to give advice and make recommendations to the Minister about managing pests and the stock route network;
- (i) providing for the establishment of pest operational boards;
- (j) constructing and maintaining travelling stock facilities on the stock route network;
- (k) monitoring, surveying and controlling pests and the movement of travelling stock.

Division 2 Application

5 Act binds all persons

This Act binds all persons, including the State, and, so far as the legislative power of the Parliament permits, the Commonwealth and the other States.

6 Relationship with particular Acts

- (1) Subject to subsection (2), this Act does not affect the application of the *Nature Conservation Act 1992*, the *Fisheries Act 1994* or the *Forestry Act 1959*.
- (2) A person who lawfully does an act authorised under this Act that would, but for this subsection, constitute an offence under the *Nature Conservation Act 1992*, the *Fisheries Act 1994* or the *Forestry Act 1959* is taken not to commit the offence only because of doing the act.

7 Relationship with Dividing Fences Act

The *Dividing Fences Act 1953* does not apply to a declared pest fence.

Part 3 Interpretation

8 Definitions

The dictionary in schedule 3 defines particular words used in this Act.

Chapter 2 Pest management

Part 1 Principles of pest management

9 Principles

The principles of pest management for land are as follows—

- **Integration**

Pest management is an integral part of managing natural resources and agricultural systems.

- **Public awareness**

Public awareness and knowledge of pests must be raised to increase the capacity and willingness of individuals to manage pests.

- **Commitment**

Effective pest management requires a long-term commitment to pest management by the community, industry groups and government entities.

- **Consultation and partnership**

Consultation and partnership arrangements between local communities, industry groups, State government agencies and local governments must be established to achieve a collaborative approach to pest management.

- **Planning**

Pest management planning must be consistent at local, regional, State and national levels to ensure resources target priorities for pest management identified at each level.

- **Prevention**

Preventative pest management is achieved by—

- (a) preventing the spread of pests, and viable parts of pests, especially by human activity; and
- (b) early detection and intervention to control pests.

- **Best practice**

Pest management must be based on ecologically and socially responsible pest management practices that protect the environment and the productive capacity of natural resources.

- **Improvement**

Research about pests, and regular monitoring and evaluation of pest control activities, is necessary to improve pest management practices.

Part 2 State pest management strategies and guidelines for managing pests

Division 1 State pest management strategies

10 State pest management strategies

- (1) The chief executive must, as soon as practicable after the commencement of this part, have separate State pest management strategies for animals and plants to direct and coordinate pest management activities in the State.
- (2) A State pest management strategy may include provision for the following—
 - (a) establishing priorities for managing declared pests;
 - (b) preventing declared pests entering the State;
 - (c) restricting the spread of declared pests in the State;
 - (d) detecting and eradicating pest occurrences at an early stage;
 - (e) managing declared pests on a regional or site basis;

- (f) monitoring declared pests and assessing other animals and plants that may have an adverse economic, environmental or social impact in the State;
- (g) researching improved pest management practices, including, for example, biological control methods for pests;
- (h) facilitating pest management planning;
- (i) educating the community about pest management;
- (j) establishing consistency among local government, State and national pest management strategies.

11 Preparing strategies

In preparing a State pest management strategy, the chief executive must have regard to the principles of pest management.

12 Duration of strategies

- (1) A State pest management strategy has effect for the period, of no more than 5 years, stated in it.
- (2) However, if the chief executive renews the strategy before the end of the stated period, the strategy ceases to have effect immediately before the renewed strategy commences.

13 Implementing strategies

The chief executive must, as far as practicable, direct and coordinate implementation of each State pest management strategy.

14 Reviewing and renewing strategies

- (1) The chief executive may review, or renew, a State pest management strategy when the chief executive considers it appropriate.
- (2) However, the chief executive must review the effectiveness of a strategy at least 6 months before it ceases to have effect.

Division 2 Guidelines for managing pests

15 Chief executive may prepare guidelines

- (1) The chief executive may prepare guidelines about managing a declared pest.
- (2) The guidelines may include provision about the following—
 - (a) preventing the introduction or spread of the pest;
 - (b) reducing the numbers or distribution of the pest;
 - (c) managing adverse impacts of the pest;
 - (d) integrating management of the pest with other natural resource management activities;
 - (e) other matters the chief executive considers are relevant to management of the pest.
- (3) The chief executive may review, or renew, a guideline when the chief executive considers it appropriate.

Division 3 Inspecting strategies and guidelines

16 Strategies and guidelines to be available for inspection

- (1) The chief executive must keep a copy of the strategies and guidelines available for inspection, free of charge, by members of the public at—
 - (a) the department's head office; and
 - (b) other places the chief executive considers appropriate.
- (2) The strategies and guidelines may be made available in written or electronic form.

Part 3 **Plans for managing pests on State-controlled land, and pest management committee**

Division 1 **Plans**

17 **Plan for managing pests on State-controlled land**

- (1) Each of the following departments must, as soon as practicable after the commencement of this part, have a plan for managing declared pests on State-controlled land managed by it—
 - (a) the department;
 - (b) the department in which the *Timber Utilisation and Marketing Act 1987* is administered;
 - (c) the department in which the *Nature Conservation Act 1992* is administered;
 - (d) the department responsible for managing State-controlled roads.
- (2) The plan must include provision for the following—
 - (a) achievable objectives under the plan;
 - (b) activities and responsibilities for achieving the objectives;
 - (c) strategies to inform the local community about the content of the plan and achievement of its objectives;
 - (d) developing strategies for managing declared pests;
 - (e) monitoring and evaluating the effectiveness of the plan;
 - (f) participating in local government pest management planning processes.

18 **Requirements of plan**

A plan must be consistent with the following—

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- (a) the principles of pest management;
- (b) the State pest management strategies;
- (c) the guidelines for pest management.

19 Duration of plan

- (1) A plan has effect for the period, of no more than 5 years, stated in it.
- (2) The plan ceases to have effect at the end of the stated period.

20 Plan to be available for inspection

- (1) Each department mentioned in section 17(1) must keep a copy of its plan available for inspection, free of charge, by members of the public at—
 - (a) its head office; and
 - (b) other places the chief executive of the department considers appropriate.
- (2) The plans may be made available in written or electronic form.

Division 2 Pest management committee

21 Establishment of pest management committee

The chief executive must establish a pest management committee (the *committee*) for State-controlled land.

22 Functions of committee

The functions of the committee are—

- (a) to improve the management of pests on State-controlled land; and
- (b) to coordinate, and achieve consistency in, pest management activities on State-controlled land; and

- (c) to oversee the implementation of plans for managing declared pests on State-controlled land; and
- (d) to integrate plans for managing declared pests on State-controlled land with broader natural resource management strategies and planning processes, including, for example, a local government's pest management plan.

23 Membership

The committee must consist of at least 1 representative of each department mentioned in section 17(1).

24 Conduct of business

- (1) Subject to subsection (2), the committee may conduct its business, including its meetings, in the way it considers appropriate.
- (2) The committee must meet at least once a year to consider the implementation and effectiveness of the plans for managing declared pests on State-controlled land.

Part 4 Pest management plans for local government areas

25 Local governments to have pest management plan

- (1) A local government must, within 2 years after this part commences, have a pest management plan for declared pests in its area.
- (2) The plan may include provision for the following—
 - (a) achievable objectives under the plan;
 - (b) strategies, activities and responsibilities for achieving the objectives;

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- (c) strategies to inform the local community about the content of the plan and achievement of its objectives;
- (d) monitoring implementation of the plan and evaluating its effectiveness;
- (e) other matters the local government considers appropriate for management of declared pests in its area.

26 Requirements of plan

A local government's pest management plan must be consistent with the following—

- (a) the principles of pest management;
- (b) the State pest management strategies;
- (c) the guidelines for pest management.

27 Preparing draft plan

- (1) A local government must establish a working group to advise the local government about preparing its draft pest management plan.
- (2) The working group may include a representative of each department mentioned in section 17(1) the local government considers appropriate for preparing the plan.
- (3) If asked by the local government, the chief executive of the department must nominate an individual as its representative on the working group.
- (4) The individual must have the qualifications or experience to advise the local government about preparing its draft pest management plan.
- (5) In preparing the draft pest management plan, the local government must have regard to the following—
 - (a) the principles of pest management;
 - (b) the State pest management strategies;
 - (c) the guidelines for pest management;

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- (d) the plans for managing declared pests on State-controlled land in its area;
- (e) the interests of its local community, including, for example, the interests of land-holders, Aboriginal and Torres Strait Islander peoples, industry groups and members of the public.

28 Notice of draft plan and consideration of public submissions

- (1) The local government must give public notice when its draft pest management plan has been prepared.
- (2) The notice must—
 - (a) be published in a newspaper circulating generally in the local government's area; and
 - (b) state the draft plan is available for inspection, free of charge, at the local government's public office; and
 - (c) invite the public to inspect the draft plan and make written submissions about it to the local government within 28 days after the notice is published (the *submission period*).
- (3) The local government must—
 - (a) make the draft plan available for public inspection in written form, free of charge, in the submission period; and
 - (b) consider any written submissions properly made to it.

29 Minister to consider draft plan

- (1) The local government must give its draft pest management plan to the Minister—
 - (a) within 60 days after the submission period ends; and
 - (b) at least 3 months before the local government's existing pest management plan, if any, ceases to have effect.
- (2) The Minister must consider whether the plan—

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- (a) complies with section 26; and
 - (b) provides for the management of declared pests in the local government's area.
- (3) If the Minister is not satisfied of the matters mentioned in subsection (2), the Minister must advise the local government about how the plan may be amended.

30 Adopting plan

- (1) If the Minister is satisfied of the matters mentioned in section 29(2), the Minister must advise the local government that it may, by resolution, adopt the plan.
- (2) The local government must then adopt the plan.

31 Duration of plan

- (1) The local government's pest management plan has effect for the period, of no more than 4 years, stated in it.
- (2) However, if the local government renews the plan before the end of the stated period, the plan ceases to have effect immediately before the renewed plan commences.

32 Implementing plan

The local government must, as far as practicable, implement its pest management plan.

33 Reviewing and renewing plan

- (1) The local government may review, or renew, its pest management plan when the chief executive officer of the local government considers it appropriate.
- (2) However, the local government must review the effectiveness of its pest management plan at least 3 months before the start of each financial year.
- (3) Also, if a State pest management strategy is amended, the local government must review its pest management plan and,

if necessary, amend the plan to ensure it is consistent with the amended strategy.

34 Amending plan

- (1) This section applies if a local government decides to amend its pest management plan.
- (2) The local government must give a copy of the amended plan to the Minister.
- (3) The Minister must consider whether the amended plan—
 - (a) complies with section 26; and
 - (b) provides for the management of declared pests in the local government's area.
- (4) After considering the amended plan, the Minister must advise the local government—
 - (a) if the Minister is not satisfied of the matters mentioned in subsection (3)—about how the plan may be amended; or
 - (b) otherwise—that the local government may, by resolution, adopt the amended plan.

35 Plan to be available for inspection

- (1) Each local government must keep a copy of its pest management plan available for inspection, free of charge, by members of the public at the local government's public office.
- (2) The plan may be made available in written or electronic form.

Part 5 **Declared pests**

Division 1 **Declaration of declared pests**

36 **Declaring declared pests by regulation**

A regulation may declare an animal or plant to be a declared pest—

- (a) for the State or a part of the State; and
- (b) of a category under the regulation.

37 **Declaring declared pests by emergency pest notice**

- (1) This section applies if the chief executive is satisfied urgent action is needed to protect a part of the State from an adverse economic, environmental or social impact caused, or likely to be caused, by an animal or plant.
- (2) The chief executive may, by notice (an *emergency pest notice*), make a declaration under this section for the animal or plant.
- (3) The notice must—
 - (a) state it is an emergency pest notice; and
 - (b) state the nature of the emergency; and
 - (c) state the part of the State in which the notice applies; and
 - (d) if the animal or plant is not a declared pest—declare it to be a declared pest of a stated category; and
 - (e) if the animal or plant is a declared pest but the circumstances require its category to be changed—declare its new category and state its former category.
- (4) The notice is subordinate legislation.
- (5) If, under the notice, a declared pest's category is changed, the declaration of the pest's former category ceases to have effect

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in the part of the State in which the notice applies while it is in force.

- (6) The chief executive must repeal the notice as soon as possible after the chief executive is satisfied the emergency no longer exists.
- (7) Unless it is earlier repealed, the notice expires 3 months after it commences.

38 Declared pest categories

- (1) The following are the categories of declared pests—
 - (a) class 1 pest;
 - (b) class 2 pest;
 - (c) class 3 pest.
- (2) An animal or plant may be declared to be—
 - (a) a class 1 pest if the Governor in Council or chief executive is satisfied it—
 - (i) is not commonly present or established in the State; and
 - (ii) has the potential to cause an adverse economic, environmental or social impact in the State, another State or a part of the State or another State; or
 - (b) a class 2 or class 3 pest if the Governor in Council or chief executive is satisfied it—
 - (i) is established in the State; and
 - (ii) is causing, or has the potential to cause, an adverse economic, environmental or social impact in the State, another State or a part of the State or another State.
- (3) In deciding whether to declare an animal or plant to be a class 2 or class 3 pest, the Governor in Council or chief executive must have regard to the following—
 - (a) the significance of the animal's or plant's impact or potential impact;

- (b) the area affected, or likely to be affected, by the impact;
- (c) the extent to which the animal or plant has spread or is likely to spread.

Division 2 Offences about declared pests

39 Introducing declared pest

A person must not, without reasonable excuse, introduce a declared pest other than under a declared pest permit.

Maximum penalty—

- (a) for a class 1 pest—800 penalty units; or
- (b) for a class 2 pest—400 penalty units; or
- (c) for a class 3 pest—200 penalty units.

40 Feeding declared pest animal

- (1) A person must not, without reasonable excuse, feed a declared pest animal other than under a declared pest permit.

Maximum penalty—40 penalty units.

- (2) A person does not commit an offence against subsection (1) if the person feeds the animal—
 - (a) as part of a baiting or trapping campaign to control its numbers; or
 - (b) after it is seized under section 266 or 267.¹

41 Keeping declared pest

- (1) A person must not, without reasonable excuse, keep a class 1 or class 2 pest other than under a declared pest permit.

Maximum penalty—

¹ Section 266 (Power to seize evidence—entry without consent or warrant) or 267 (Power to seize evidence—entry with consent or warrant)

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- (a) for a class 1 pest—800 penalty units; or
 - (b) for a class 2 pest—400 penalty units.
- (2) A person does not commit an offence against subsection (1) if the person keeps the declared pest for identification by—
- (a) for a declared pest that is an animal—Queensland Museum; or
 - (b) for a declared pest that is a plant—Queensland Herbarium.

41A Amnesty for keeping particular declared pests

- (1) This section applies if the chief executive becomes aware that many persons are keeping animals of a particular type that is a declared pest (a *particular declared pest*) other than under declared pest permits.
- (2) The chief executive may, with the approval of the Minister, declare an amnesty (an *amnesty declaration*) for the particular declared pest.
- (3) A person who keeps a particular declared pest other than under a declared pest permit does not commit an offence against section 41 in relation to the particular declared pest if the person surrenders the pest—
- (a) during the amnesty period for the particular declared pest; and
 - (b) in the way stated in the amnesty declaration.
- (4) The chief executive may destroy or dispose of, in a reasonable way decided by the chief executive, a particular declared pest surrendered under subsection (3).
- (5) Compensation is not payable for the destruction or disposal of a declared pest under an amnesty declaration.
- (6) In this section—

amnesty period, for a particular declared pest mentioned in an amnesty declaration, means the period stated in the amnesty declaration as the period for surrendering the particular declared pest.

42 Releasing declared pest

- (1) A person must not, without reasonable excuse, release a declared pest other than under a declared pest permit.

Maximum penalty—

- (a) for a class 1 pest—800 penalty units; or
 - (b) for a class 2 pest—400 penalty units; or
 - (c) for a class 3 pest—200 penalty units.
- (2) A person does not commit an offence against subsection (1) if the person releases the declared pest to control its numbers or eradicate it.

Example for subsection (2)—

Releasing an animal as part of a biological control program.

- (3) In this section—

release, for a declared pest, means to set the pest free or spread the pest in the State.

43 Taking declared pest plant for commercial use

- (1) A person must not take a plant that is a class 2 pest, or a part of the plant, for commercial use other than under a declared pest permit.

Maximum penalty—400 penalty units.

- (2) In this section—

take includes the following—

- (a) fell;
- (b) lop;
- (c) remove.

44 Supplying declared pest

- (1) A person must not supply a declared pest other than under a declared pest permit.

Maximum penalty—

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- (a) for a class 1 pest—800 penalty units; or
 - (b) for a class 2 pest—400 penalty units; or
 - (c) for a class 3 pest—200 penalty units.
- (2) A person does not commit an offence against subsection (1) if the person supplies the declared pest for identification to—
- (a) for a declared pest that is an animal—Queensland Museum; or
 - (b) for a declared pest that is a plant—Queensland Herbarium.

45 Supplying things containing reproductive material of particular declared pest plants

- (1) A person (a *supplier*) must not supply any thing containing reproductive material of a plant that is—
- (a) a class 1 pest; or
 - (b) a class 2 pest prescribed under a regulation for this section.

Examples of thing—

fodder, grain, gravel, machinery, mulch, packing material, sand, soil, stock, vehicles or water

Maximum penalty—

- (a) for a class 1 pest—800 penalty units; or
 - (b) for a class 2 pest—400 penalty units.
- (2) A supplier does not commit an offence against subsection (1)(b) if, before supplying the thing, the supplier gives the person to whom it is supplied a written notice stating the following—
- (a) the supplier's name and address;
 - (b) the thing may contain the reproductive material of a class 2 pest;
 - (c) the name of the class 2 pest.

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- (3) Both the supplier and the person to whom the thing is supplied must keep a copy of the written notice given under subsection (2) for 5 years after the notice is given.

Maximum penalty for subsection (3)—10 penalty units.

- (4) In this section—

thing does not include a declared pest.

46 Moving or transporting vehicles and other things on roads

- (1) This section applies to a person who moves or transports a vehicle or other thing on a road if the person knows, or ought reasonably to know, soil or other organic material in or on the vehicle or thing is likely to contain the reproductive material of a declared pest plant.

- (2) The person must not, without reasonable excuse, move or transport the vehicle or thing unless the person has taken reasonable steps—

- (a) to restrict the release of the reproductive material when the vehicle or thing is moved or transported; or
(b) to ensure the vehicle or thing is free of the reproductive material.

Maximum penalty—200 penalty units.

Part 6 Declared pest fences

Division 1 Fixing building line and building declared pest fences

47 Fixing building line and declaring pest animal for declared pest fence

- (1) A regulation may fix the building line for a fence (a *declared pest fence*), for any land, to prevent the movement, from 1 side of the fence to the other, of a declared pest animal.
- (2) The regulation must state a declared pest animal for the fence (the *relevant pest animal*).

48 Building declared pest fence

- (1) The declared pest fence may be built, on or as near as practicable to the building line, by any of the following (a *building authority*)—
 - (a) the chief executive;
 - (b) a pest operational board established to manage the relevant pest animal;
 - (c) a local government prescribed under a regulation for this section.
- (2) However, a local government mentioned in subsection (1)(c) may build the fence only on, or as near as practicable to, the part of the building line that is in, or along the boundary of, its area.
- (3) In building the fence, the building authority must incorporate existing fencing the authority considers suitable or capable of being made suitable for the fence.

Division 2 General provisions about declared pest fences

49 Building gates and grids in declared pest fence

- (1) This section applies if the building authority builds a declared pest fence that—
 - (a) intersects an owner's land; and
 - (b) unreasonably hinders movement by the landowner or the owner's stock from a part of the land to another part.
- (2) The building authority must, when building the fence, build and pay for a gate or grid in the fence to allow the movement.

50 Maintaining declared pest fence

- (1) Subject to section 52, the building authority must ensure a declared pest fence built by it is kept in a condition that stops the movement of the relevant pest animal from 1 side of the fence to the other.
- (2) To comply with subsection (1), the building authority may—
 - (a) clear the fence line of vegetation or other obstruction to a distance of no more than 20m either side of the fence; and
 - (b) enter onto another person's land to clear the fence line or inspect or maintain the fence.

51 Power to enter land

- (1) This section applies if the building authority needs to enter land to—
 - (a) build, inspect or maintain a declared pest fence, including a gate or grid in it; or
 - (b) clear the fence line.
- (2) Before entering the land, the building authority must—
 - (a) obtain the owner's consent to the entry; or

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- (b) give the owner written notice of—
 - (i) the intended entry; and
 - (ii) the purpose of the entry; and
 - (iii) the likely dates and times of entry.
- (3) If the building authority is satisfied it is impracticable to give the notice under subsection (2)(b), it is sufficient compliance with the subsection if the building authority—
 - (a) publishes the notice in a newspaper circulating generally in the area in which the land is situated; or
 - (b) places the notice in a conspicuous place on the land.
- (4) Notice under this section must be given at least 7 days before the intended entry.
- (5) However, if the building authority needs to enter the land in urgent circumstances, the building authority need only give the owner the notice that is reasonably practicable in the circumstances.

52 Agreement to make opening in declared pest fence

- (1) The building authority may enter into an agreement with another person about making an opening in the fence for a particular purpose and period.

Examples of purpose—

- 1 to build a road or lay a gas pipeline through the fence
 - 2 to pass through the fence to gain access to land for mineral exploration
- (2) The agreement must be subject to conditions that, as far as reasonably practicable, ensure the movement of the relevant pest animal from 1 side of the fence to the other is prevented while the fence is opened.

53 Directing restoration of declared pest fence

- (1) This section applies if the building authority reasonably believes a person has committed an offence against section 55.

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- (2) The building authority may, by written notice given to the person, require the person, by the reasonable date stated in the notice, to restore the declared pest fence to the condition it was in before the fence was damaged or opened.
- (3) The notice must be accompanied by, or include, an information notice about the building authority's decision to make the requirement.
- (4) If the person does not comply with the notice, the building authority may carry out the restoration.²

54 Notice of damage

- (1) In exercising a power under division 1 or this division, the building authority must take all reasonable steps to cause as little inconvenience, and do as little damage, as is practicable in the circumstances.
- (2) If the building authority damages any thing in the exercise, or purported exercise, of the power, the building authority must promptly give written notice of the particulars of the damage to the person who appears to the building authority to be the owner or person in possession of the thing.
- (3) If for any reason it is not practicable to comply with subsection (2), the building authority must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.
- (4) If the building authority believes the damage was caused by a latent defect in the thing or other circumstances beyond the building authority's control, the building authority may state the belief in the notice.
- (5) This section does not apply to—
 - (a) damage the building authority reasonably believes is trivial; or
 - (b) damage to vegetation cleared under section 50(2).

² Also, see section 295 (Recovering costs of taking action because of an offence).

Division 3 Offences about declared pest fences

55 Damaging, or making openings in, a declared pest fence

A person must not, without reasonable excuse—

- (a) damage a declared pest fence; or
- (b) make an opening in a declared pest fence, other than under an agreement mentioned in section 52.

Maximum penalty—50 penalty units.

56 Obstructing building, inspection or maintenance of a declared pest fence

- (1) A person must not, without reasonable excuse, build a structure, excavate land or carry out another activity near a declared pest fence if the structure, excavation or carrying out of the activity is likely to obstruct the building, inspection or maintenance of the fence.

Maximum penalty—50 penalty units.

- (2) A person must not, without reasonable excuse, obstruct another person who is—
 - (a) building, inspecting or maintaining, or attempting to build, inspect or maintain, a declared pest fence, including a gate or grid in it; or
 - (b) clearing, or attempting to clear, a declared pest fence line.

Maximum penalty—50 penalty units.

57 Closing gates

A person must close a gate in a declared pest fence immediately after using the gate, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

Part 7 Declared pest permits

Division 1 Obtaining or renewing declared pest permits

58 Application for, or to renew, permit

- (1) A person may apply to the chief executive for, or to renew, a declared pest permit.
- (2) The application must be—
 - (a) in the approved form; and
 - (b) accompanied by—
 - (i) the application and permit fee prescribed under a regulation; and
 - (ii) for an application to renew a permit—the permit.
- (3) An application to renew a permit must be made at least 30 days before the permit ends.

59 Additional information for application

- (1) The chief executive may, by written notice, ask the applicant to give the chief executive further reasonable information or documents about the application by the reasonable date stated in the notice.
- (2) The chief executive may refuse the application if the applicant does not, without reasonable excuse, give the chief executive the information or documents by the stated day.

60 Deciding application

- (1) The chief executive must consider and decide whether to grant or refuse the application.
- (2) The chief executive may grant the application only if—
 - (a) for an application to introduce or keep a declared pest—

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- (i) the introduction or keeping is for a purpose prescribed under a regulation; and
- (ii) the pest is prescribed under a regulation as a pest that may be kept for the purpose; and
- (iii) the chief executive is satisfied—
 - (A) the pest is to be kept by an entity, if any, prescribed under a regulation as an entity that may keep the pest for the purpose; and
 - (B) if a development approval is required under the *Integrated Planning Act 1997* for keeping the pest—the entity has the approval; and
 - (C) the pest is not likely to endanger public safety; and
 - (D) the introduction or keeping is not likely to lead to the spread of the pest in the State; and
- (b) for another application—the chief executive is satisfied the purpose for which the permit is issued is not likely to lead to the spread of the pest in the State.

61 Issuing and renewing permit

- (1) If the chief executive decides to grant the application, the chief executive must, as soon as practicable—
 - (a) if the application is for a declared pest permit—give the applicant the permit in the approved form; and
 - (b) if the application is to renew a declared pest permit—
 - (i) note the renewal on the permit; and
 - (ii) give the applicant the renewed permit; and
 - (c) if the chief executive decides to impose conditions on the permit or renewal—give an information notice about the decision.
- (2) A permit takes effect from—
 - (a) the day of its issue; or
 - (b) if a later day is stated in it—the later day.

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- (3) The permit remains in force, unless sooner cancelled or suspended, for the period, of no more than 2 years, stated in it.
- (4) A renewal—
 - (a) takes effect from the day after the permit ends; and
 - (b) unless sooner cancelled or suspended, continues in force for the period, of no more than 2 years, stated in the renewed permit.

62 Conditions of permit

- (1) The chief executive may impose on the declared pest permit, or the renewal, the reasonable conditions the chief executive decides.
- (2) Without limiting subsection (1), a condition may be about any of the following—
 - (a) security enclosures for stopping the escape of a declared pest animal;
 - (b) keeping records about a declared pest;
 - (c) restricting breeding, sale or movement of a declared pest;
 - (d) stopping the spread of a declared pest;
 - (e) providing appropriate shelter and care for a declared pest animal;
 - (f) using a tag or other device to identify a declared pest;
 - (g) maintaining adequate public liability insurance in relation to keeping a declared pest.

63 Refusing application

If the chief executive decides to refuse the application, the chief executive must, within 7 days after making the decision—

- (a) give the applicant an information notice about the decision; and
- (b) refund the permit fee.

pest offence or an offence against another Act relating to the care or protection of animals.

66 Suspension or cancellation—procedure

- (1) If the chief executive proposes to suspend or cancel a declared pest permit, the chief executive must give the permit holder a written notice stating each of the following—
 - (a) the action (the *proposed action*) the chief executive proposes taking under this section;
 - (b) the grounds for the proposed action;
 - (c) the facts and circumstances that are the basis for the grounds;
 - (d) if the proposed action is suspension of the permit—the suspension period;
 - (e) that the holder may make, within a stated period, written representations to show why the proposed action should not be taken.
- (2) The stated period must end at least 28 days after the holder is given the notice.
- (3) If, after considering all representations made within the stated period, the chief executive still believes a ground exists to take the proposed action, the chief executive may—
 - (a) if the proposed action is to suspend the permit for a stated period—suspend the permit for no longer than the proposed suspension period; and
 - (b) if the proposed action is to cancel the permit—cancel the permit or suspend it for a period.

67 Immediate suspension

- (1) The chief executive may, by written notice given to the permit holder, immediately suspend a declared pest permit if the chief executive reasonably believes—
 - (a) a ground exists to suspend or cancel the permit; and

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- (b) the circumstances are so extraordinary that it is imperative to immediately suspend the permit to prevent or control—
 - (i) an adverse economic, environmental or social impact in the State or a part of the State; or
 - (ii) a danger to the public.
- (2) The notice must state the following—
 - (a) that the permit is suspended;
 - (b) the grounds for the suspension;
 - (c) the facts and circumstances that are the basis for the grounds;
 - (d) the suspension period;
 - (e) that the holder may make, within a stated period, written representations to show why the permit should not be suspended.
- (3) The stated period must end at least 28 days after the holder is given the notice.
- (4) The suspension—
 - (a) may be for the period the chief executive decides; and
 - (b) has effect immediately the notice is given.
- (5) Subject to section 68(4), the permit is ineffective during the period of suspension.

68 Direction to rectify

- (1) This section applies if, after considering a declared pest permit holder's representations made under section 66(1)(e) or 67(2)(e), the chief executive—
 - (a) still believes a ground exists to suspend or cancel the permit; but
 - (b) considers a matter relating to the ground for suspension or cancellation is capable of being rectified and it is appropriate to give the holder an opportunity to rectify the matter.

- (2) The chief executive may, by written notice (a ***rectification notice***) given to the holder, direct the holder to rectify the matter within the period (the ***rectification period***) stated in the notice.
- (3) The rectification period must be reasonable, having regard to the nature of the matter to be rectified.
- (4) If the holder was given a notice under section 67(1), the suspension is stayed pending the holder's rectification of the matter in the rectification period.

69 Failure to rectify

- (1) This section applies if a declared pest permit holder fails to comply with a direction to rectify a matter within the rectification period stated in a rectification notice.
- (2) The chief executive may—
 - (a) if the proposed action was to suspend the permit for a stated period—suspend the permit for no longer than the proposed suspension period; or
 - (b) if the proposed action was to cancel the permit—cancel the permit or suspend it for a period.
- (3) If the permit was suspended under section 67(1), the suspension continues for the period of the suspension.

70 Notice and effect of suspension or cancellation

- (1) If the chief executive suspends or cancels a declared pest permit under section 66(3) or 69(2), written notice and particulars of the suspension or cancellation must be given to the permit holder.
- (2) The notice must be accompanied by, or include, an information notice about the decision.
- (3) If the chief executive suspends the permit, it is ineffective during the period of suspension.
- (4) The suspension—
 - (a) may be for the period the chief executive decides; and

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- (b) has effect from—
 - (i) the day the notice is given; or
 - (ii) if a later day is stated in the notice—the later day.
- (5) However, if the permit is suspended or cancelled because of the holder's conviction for an offence, the suspension or cancellation—
 - (a) does not take effect until the end of the time to appeal against the conviction or, if an appeal is made against the conviction, the appeal is finally decided; and
 - (b) has no effect if the conviction is quashed on appeal.

71 Return of suspended or cancelled permit

- (1) If a declared pest permit is suspended or cancelled, the holder of the permit must return it to the chief executive within 7 days after the suspension or cancellation takes effect, unless the person has a reasonable excuse.
Maximum penalty—10 penalty units.
- (2) If a suspended permit is returned to the chief executive, the chief executive must return the permit to the holder at the end of the suspension period.

Division 3 Disposing of declared pests when permit is cancelled

72 Direction to dispose of declared pest

- (1) This section applies if—
 - (a) the chief executive cancels a declared pest permit; and
 - (b) the holder of the permit is in possession of a declared pest to which the permit relates.
- (2) The chief executive may, by written notice given to the holder, direct the holder to dispose of the pest in the way and by the reasonable date stated in the notice.

- (3) The holder must comply with the notice unless the holder has a reasonable excuse.
Maximum penalty—50 penalty units.
- (4) Compensation is not payable for the disposal.

Division 4 Replacement and surrender of permits

73 Replacing permit

- (1) The holder of a declared pest permit that has been lost, damaged or destroyed may ask the chief executive for a replacement permit.
- (2) The chief executive may replace the permit if satisfied it has been lost, damaged or destroyed.

74 Surrendering permit

- (1) The holder of a declared pest permit may surrender it by written notice given to the chief executive.
- (2) The surrender takes effect on the day the notice is given to the chief executive or, if a later day of effect is stated in the notice, the later day.
- (3) The permit must accompany the notice.

Division 5 Register of permits

75 Register

- (1) The chief executive must keep a register of declared pest permits.
- (2) The register must contain each of the following particulars about each permit—
 - (a) the holder's name and address;
 - (b) the species of declared pest to which it relates;

- (c) the number of declared pests allowed to be kept under it and the address where the pests are kept;
- (d) its conditions;
- (e) the date it ends;
- (f) if it is renewed—
 - (i) the date, and the conditions, of renewal; and
 - (ii) the date the renewed permit ends;
- (g) other information prescribed under a regulation.

Division 6 Offence about declared pest permits

76 Noncompliance with permit conditions

The holder of a declared pest permit must not, without reasonable excuse, contravene a condition of the permit.

Maximum penalty—

- (a) for a class 1 pest—800 penalty units; or
- (b) for a class 2 pest—400 penalty units; or
- (c) for a class 3 pest—200 penalty units.

Part 8 Pest control for land

Division 1 Obligation to keep land free of pests

77 Obligation of landowners

- (1) A landowner must take reasonable steps to keep the following land free of class 1 and class 2 pests, unless the owner holds a declared pest permit allowing the pests to be kept on the land—

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- (a) the owner's land;
 - (b) unfenced land comprising part of a road or stock route that adjoins or is within the owner's land;
 - (c) other land that is fenced in with the owner's land;
 - (d) the bed, banks and water of a watercourse on the owner's land;
 - (e) the bed, banks and water to the centre-line of a watercourse forming a boundary, or part of a boundary, of the owner's land.
- (2) For this part, land mentioned in subsection (1)(b) to (e) is taken to form part of the owner's land.

Division 2 Controlling pests

78 Pest control notice

- (1) This section applies if—
- (a) a landowner does not comply with the owner's obligation under section 77; or
 - (b) the issuing entity reasonably believes a class 3 pest on the owner's land is causing, or has the potential to cause, an adverse economic, environmental or social impact on—
 - (i) the owner's land that is, or is in or adjacent to, an environmentally significant area; or
 - (ii) an environmentally significant area adjacent to the owner's land.
- (2) The issuing entity may give the owner a written notice (a ***pest control notice***) stating each of the following—
- (a) the land and the declared pest to which the notice relates;
 - (b) if the notice relates to land that is, or is in or adjacent to, an environmentally significant area—the type of environmentally significant area;

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- (c) the reasonable action the owner must take against the pest within a stated reasonable period (the ***compliance period***);
 - (d) the owner may, within 14 days after receiving the notice, ask the issuing entity—
 - (i) to extend the compliance period under section 79; or
 - (ii) to change the required action stated in the notice;
 - (e) an authorised person may, to ensure or monitor compliance with the notice and without further notice, enter the land at any reasonable time and exercise an authorised person's powers under chapter 7, part 3.
- (3) Also, the notice may require the owner to take, within the compliance period, stated reasonable action against an animal or plant that is not a declared pest if—
- (a) the land for which the notice is given is, or is in or adjacent to, an environmentally significant area; and
 - (b) the issuing entity is satisfied the animal or plant—
 - (i) is threatening, or is likely to threaten, the survival of native wildlife in the area; or
 - (ii) is affecting, or is likely to affect, the area's capacity to sustain natural processes.
- (4) If it is not reasonably practicable for the issuing entity to give the owner a pest control notice, the issuing entity may give the notice by publishing it in a newspaper circulating generally in the area in which the land is situated.
- (5) The notice must be accompanied by, or include, an information notice about the entity's decision to give the notice.
- (6) The owner must comply with the pest control notice unless the owner has a reasonable excuse.
- Maximum penalty—800 penalty units.
- (7) In this section—

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environmentally significant area means any of the following—

- (a) a protected area;
- (b) land dedicated as a reserve for environmental purposes under the Land Act, section 31;
- (c) a world heritage area listed under the World Heritage Convention;
- (d) an area supporting a critically endangered or endangered ecological community in the list established under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth), section 181;³
- (e) a declared Ramsar wetland under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth);
- (f) an area of high nature conservation value under the *Vegetation Management Act 1999*;
- (g) an area, other than State-controlled land, identified in a local government's pest management plan as an area that has special environmental significance for native wildlife;
- (h) a wild river area.

owner does not include the State.

79 Extending compliance period

- (1) A landowner who is given a pest control notice may, within 14 days after receiving the notice, ask the issuing entity to extend the compliance period.
- (2) The request must—
 - (a) be in writing; and
 - (b) state the reason for the request; and
 - (c) state the period of extension requested.

³ *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth), section 181 (Listing of threatened ecological communities)

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- (3) After considering the request, the entity must, by written notice given to the landowner—
 - (a) extend the period to a date stated in the notice if the entity is satisfied—
 - (i) it is not reasonably practicable for the person to comply with the notice in the period; or
 - (ii) it is otherwise reasonable in the circumstances to extend it; or
 - (b) refuse to extend the period.
- (4) If the entity decides to refuse to extend the period, or to extend the period other than as requested under subsection (2)(c), the entity must give the landowner an information notice about the decision.

80 Noncompliance with pest control notice

- (1) If a landowner does not comply with a pest control notice, the issuing entity for the notice may give the owner a written notice (an *entry notice*) stating—
 - (a) the issuing entity has authorised a pest controller to—
 - (i) at a reasonable time, enter the owner's land on a date stated in the notice, at least 7 days after the owner receives the notice, or as soon as practicable after the stated date; and
 - (ii) take stated reasonable action against the pest; and
 - (iii) take onto the land the persons, equipment and materials the pest controller reasonably requires to take the action; and
 - (b) the owner will be liable, or if there are 2 or more owners, each owner will be liable jointly and severally, for—
 - (i) the amount of the costs incurred in taking, or attempting to take, the action; and
 - (ii) if the owner does not pay the amount when it is payable—interest on the overdue amount at the

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rate, and calculated in the way, prescribed under a regulation.

Examples of why it may not be practicable to enter on the stated date for subsection (1)(a)(i)—

- 1 weather conditions
 - 2 availability of persons or equipment
- (2) The entry notice must also state the period, of not more than 2 months, that the notice remains in force.
 - (3) The issuing entity may give the landowner a further entry notice if the entity reasonably believes it is necessary for a pest controller to enter the land to check the effectiveness of action taken under an entry notice or take further action.

81 Entry to land by pest controller

- (1) The issuing entity may authorise a pest controller to—
 - (a) at a reasonable time, enter the owner's land on the date stated in an entry notice or as soon as practicable after the stated date; and
 - (b) take the action stated in the notice; and
 - (c) take onto the land the persons, equipment and materials the pest controller reasonably requires to take the action.
- (2) The pest controller may—
 - (a) at a reasonable time, enter the land on the date stated in the entry notice or as soon as practicable after the date; and
 - (b) take the stated action; and
 - (c) take onto the land the persons, equipment and materials the pest controller reasonably requires to take the action.
- (3) A person must not obstruct the pest controller exercising a power under this section unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

82 Duration of entry notice

- (1) An entry notice remains in force until whichever of the following events first happens—
 - (a) the period, of no more than 2 months, stated in the notice ends;
 - (b) the pest controller takes the action stated in the notice;
 - (c) the notice is cancelled by the issuing entity.
- (2) While the notice is in force, it is binding on a successor in title to the owner's land.

Division 3 Recovering costs

83 Amounts payable by landowner

- (1) This section applies to a landowner who does not comply with a pest control notice.
- (2) The landowner is liable to pay to the issuing entity for the notice the amount of the entity's costs incurred in taking, or attempting to take, the action stated in the entry notice relating to the pest control notice.
- (3) If there are 2 or more owners for the land, each owner is liable jointly and severally.
- (4) If the owner does not pay the amount when it is payable, interest is payable on the overdue amount at the rate, and calculated in the way, prescribed under a regulation.

84 Unpaid amounts are a charge on land

- (1) This section applies if a landowner does not pay to an issuing entity an amount payable under section 83.
- (2) If the entity is a local government, the unpaid amount is a charge on the land as if it were an unpaid amount under the *Local Government Act 1993*, section 1068.⁴

⁴ *Local Government Act 1993*, section 1068 (Cost of work a charge over land)

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- (3) If the entity is the chief executive or a pest operational board, the unpaid amount is a charge on the land under this section.
- (4) If the land in relation to which the unpaid amount was incurred is part only of a parcel of land owned by the owner, the amount is a charge on the parcel of land.
- (5) This section is in addition to any other remedy the entity has for recovery of the unpaid amount.

85 Registering charge on land under this Act

- (1) This section applies only to a charge on land under section 84(3).
- (2) The issuing entity may ask the person responsible for registering title to the land and dealings affecting the land to register the charge.
- (3) The request must be accompanied by a certificate signed by the issuing entity stating there is a charge on the land under the section.
- (4) Immediately after the amount secured by the charge is paid to the issuing entity—
 - (a) the charge ceases to have effect; and
 - (b) the issuing entity must take the action necessary to release the charge.

Division 4 Register of notices

86 Issuing entity's register

- (1) An issuing entity must keep a register of pest control and entry notices issued by the entity.
- (2) The register must contain the following particulars for each pest control and entry notice—
 - (a) the property description of the land to which the notice relates;
 - (b) the local government area in which the land is situated;

- (c) the landowner's name;
 - (d) the date the notice was issued;
 - (e) the declared pest to which the notice relates;
 - (f) the required action stated in the notice to be taken against the pest;
 - (g) the compliance period;
 - (h) other information prescribed under a regulation.
- (3) A person may, on payment of the fee prescribed under a regulation, inspect the register at the issuing entity's principal place of business when the place is open to the public.⁵

Part 9 Emergency control of declared pests

Division 1 Emergency control of declared pests by pest controllers

87 Application of div 1

This division applies if the chief executive reasonably believes—

- (a) a declared pest is present in an area; and
- (b) urgent action is needed to prevent the pest from causing a significant economic, environmental or social impact in the area or the State.

⁵ The chief executive's principal place of business is at level 17, 41 George Street, Brisbane.

The principal place of business for the chief executive officer of a local government is at the local government's public office.

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Example of urgent action—

Aerial spraying a swarm of locusts or spraying juvenile locusts on the ground.

88 Pest controller's authorisation to enter land

- (1) The chief executive may, by written notice given to a pest controller, authorise the pest controller to enter land in the area at any reasonable time and take reasonable action to eradicate the declared pest from, or monitor or control the pest on, the land.
- (2) However, the pest controller may exercise a power under subsection (1) without the owner's consent only if the chief executive has given the owner reasonable notice of the proposed exercise of the power by publishing the notice—
 - (a) in a newspaper circulating generally in the area; or
 - (b) by a radio or television broadcast.
- (3) Before exercising a power under subsection (1), the pest controller must make a reasonable attempt to obtain the consent of the landowner.
- (4) As soon as practicable after exercising a power under subsection (1) without the owner's consent, the pest controller must give the owner written notice stating the action taken in exercising the power.
- (5) If the power is exercised in relation to a number of properties and it is not reasonably practicable for the pest controller to give each owner an individual notice, the chief executive may give the notice by publishing it in a newspaper circulating generally in the area.

Division 2 Emergency quarantine notices

89 Application of div 2

This division applies if the chief executive or chief executive officer of a local government reasonably believes—

- (a) a class 1 or class 2 pest is present in an area; and

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- (b) urgent action is needed to prevent the pest from causing a significant economic, environmental or social impact in the area or the State.

90 Emergency quarantine notice

- (1) The chief executive or the chief executive officer of the local government for the area may give written notice (an *emergency quarantine notice*) to a landowner in the area.
- (2) The notice must state the following—
 - (a) it is an emergency quarantine notice;
 - (b) details of the land to which it relates;
 - (c) the nature of the emergency;
 - (d) an authorised person may, to ensure or monitor compliance with the notice and without further notice, enter the land at any reasonable time and exercise an authorised person's powers under chapter 7, part 3.
- (3) The notice may require the owner to take reasonable action to manage, control or eradicate a class 1 or class 2 pest on the owner's land.
- (4) Without limiting subsection (3), the notice may—
 - (a) regulate the taking or removal of fodder, grain, gravel, soil, stock, machinery, vehicles or any other thing onto or from the land; or
 - (b) regulate what a person may, or may not, do on the land; or
 - (c) regulate how anything infected with or containing the pest must be treated or dealt with when found by an authorised person or anyone else; or
 - (d) require the owner to destroy anything infected with or containing, or suspected of being infected with or containing, the pest; or
 - (e) require the owner to test or treat anything on the land.
- (5) The notice must state the powers of an authorised person for this section.

- (6) In addition to an authorised person's powers under chapter 7, part 3, an authorised person may give reasonable directions to ensure the proper management, control or eradication of the pest on the land.
- (7) The chief executive or local government must cancel the notice as soon as possible after the chief executive or chief executive officer of the local government is satisfied the emergency no longer exists.
- (8) Unless it is sooner repealed, the notice expires 3 months after it is given to the owner.
- (9) Subsection (1) does not allow the chief executive officer of the local government to give an emergency quarantine notice in relation to State land in the area.
- (10) In this section—
regulate includes prohibit.

91 Directing authorised persons to take action under emergency quarantine notice

- (1) This section applies if the chief executive or chief executive officer of the local government reasonably believes a person has not taken the action the person is required to take under the emergency quarantine notice.
- (2) The chief executive or chief executive officer may direct an authorised person to take the action.
- (3) The authorised person must take the action.

Division 3 Offences about emergency control of declared pests

92 Contravening emergency quarantine notice

A person must comply with an emergency quarantine notice unless the person has a reasonable excuse.

Maximum penalty—

- (a) for a class 1 pest—800 penalty units; or
- (b) for a class 2 pest—400 penalty units.

93 Contravening authorised person's direction

A person must comply with a reasonable direction given by an authorised person under an emergency quarantine notice unless the person has a reasonable excuse.

Maximum penalty—

- (a) for a class 1 pest—800 penalty units; or
- (b) for a class 2 pest—400 penalty units.

Part 10 Control of dogs

94 Definitions for pt 10

In this part—

owner, of land, includes a person in charge of stock on the land.

urban district means a part of the State constituted as an urban district under the *Fire and Rescue Service Act 1990*, section 106.

95 Destruction of particular dogs

- (1) This section applies if an owner of land that is not in an urban district, or an authorised person, reasonably believes a dog on the land—
 - (a) is not under someone's control; and
 - (b) is attacking, or is about to attack, stock on the land.
- (2) The authorised person or owner may destroy the dog.
- (3) Compensation is not payable for the destruction.

96 Maps to be available for inspection

The chief executive officer of a local government must keep a copy of maps showing the urban districts in the local government's area available for inspection, free of charge, by members of the public at the local government's public office.

Chapter 3 Stock route network management

Part 1 Principles of stock route network management

97 Principles

The principles of stock route network management are as follows—

- **Public awareness**

Public awareness and knowledge of the network's multiple uses, environmental values and cultural values must be raised to increase the capacity and willingness of individuals to protect the network.

- **Commitment**

Effective management of the stock route network requires a long-term commitment by the community to management of the network.

- **Consultation and partnership**

Consultation and partnership arrangements between local communities, industry groups, State government agencies and local governments must be established to achieve a collaborative approach to stock route network management.

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- (b) preserving land corridor connections to ensure the integrity and viability of the network;
- (c) managing natural resources on the network in a sustainable way;
- (d) maintaining and improving travelling stock facilities on the network;
- (e) resolving competing and conflicting interests in relation to the network's use;
- (f) seeking community input into the network's management.

Examples of uses for subsection (2)(a)—

- 1 public infrastructure and utilities, including roads, pipelines and telecommunication facilities
- 2 recreation, tourism or cultural use
- 3 other non-pastoral industries, including bee keeping, forestry, fossicking, mineral exploration and quarrying

99 Preparing strategy

In preparing a State stock route network management strategy, the chief executive must have regard to the principles of stock route network management.

100 Duration of strategy

- (1) A State stock route network management strategy has effect for the period, of no more than 5 years, stated in it.
- (2) However, if the chief executive renews the strategy before the end of the stated period, the strategy ceases to have effect immediately before the renewed strategy commences.

101 Implementing strategy

The chief executive must, as far as practicable, implement the State stock route network management strategy.

102 Reviewing and renewing strategy

- (1) The chief executive may review, or renew, a State stock route network management strategy when the chief executive considers it appropriate.
- (2) However, the chief executive must review the effectiveness of the strategy at least 6 months before it ceases to have effect.

103 Strategy to be available for inspection

- (1) The chief executive must keep a copy of the State stock route network management strategy available for inspection, free of charge, by members of the public at—
 - (a) the department's head office; and
 - (b) other places the chief executive considers appropriate.
- (2) The strategy may be made available in written or electronic form.

Part 3 Stock route network management plans

104 Application of pt 3

This part applies only to a local government prescribed under a regulation for this section.

105 Local governments to have stock route network management plan

- (1) A local government must, within 2 years after this part commences, have a stock route network management plan for managing stock routes in its area.
- (2) The plan may include provision for the following—
 - (a) identifying the part of the stock route network in the local government's area;

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- (b) achievable objectives under the plan;
- (c) strategies, activities and responsibilities for achieving the objectives;
- (d) strategies to inform the local community about the content of the plan and achievement of the plan's objectives;
- (e) monitoring implementation of the plan and evaluating its effectiveness;
- (f) other matters the local government considers appropriate for management of the stock route network in its area.

106 Preparing draft plan

- (1) The local government must establish a working group to advise the local government about preparing its draft stock route network management plan.
- (2) The working group may include a representative of each of the following government entities the local government considers appropriate—
 - (a) the department;
 - (b) the department in which the *Stock Act 1915* is administered;
 - (c) the department in which the *Nature Conservation Act 1992* is administered;
 - (d) the department responsible for managing State-controlled roads.
- (3) If asked by the local government, the entity must nominate an individual as its representative on the working group.
- (4) In preparing the plan, the local government must have regard to the following—
 - (a) the State stock route network management strategy;
 - (b) the principles of stock route network management;

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- (c) the maintenance of travelling stock facilities and pasture for the needs of travelling stock on the stock route network;
- (d) the environmental and cultural values, and multiple uses, of the stock route network in the local government's area;
- (e) whether the stock route network, or part of the network, in the area needs management for controlled burning or grazing, declared pest treatment, erosion rehabilitation or pasture regeneration;
- (f) how the stock route network's integrity can be maintained so the network is not fragmented;
- (g) how the impact of other uses of the stock route network may affect its use for travelling stock;
- (h) the interests of the local community in its area, including, for example, the interests of land-holders, Aboriginal communities, industry groups and members of the public.

107 Requirements of plan

The local government's stock route network management plan must be consistent with—

- (a) the principles of stock route network management; and
- (b) the State stock route network management strategy.

108 Notice of draft plan and consideration of public submissions

- (1) The local government must give public notice when its draft stock route network management plan has been prepared.
- (2) The notice must—
 - (a) be published in a newspaper circulating generally in the local government's area; and
 - (b) state the draft plan is available to be inspected, free of charge, at the local government's public office; and

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- (c) invite the public to inspect the draft plan and make written submissions about it to the local government within 28 days after the notice is published (the *submission period*).
- (3) The local government must—
 - (a) make the draft plan available for public inspection in written form, free of charge, in the submission period; and
 - (b) consider any written submissions properly made to it.

109 Minister to consider draft plan

- (1) The local government must give its draft stock route network management plan to the Minister—
 - (a) within 60 days after the submission period ends; and
 - (b) at least 3 months before the local government's existing stock route network management plan, if any, expires.
- (2) The Minister must consider whether the plan—
 - (a) complies with section 107; and
 - (b) provides for the management of the stock route network in the local government's area.
- (3) If the Minister is not satisfied of the matters mentioned in subsection (2), the Minister must advise the local government about how the plan may be amended.

110 Adopting plan

If the Minister is satisfied of the matters mentioned in section 109(2), the Minister must advise the local government that it may, by resolution, adopt the plan.

111 Duration of plan

- (1) A local government's stock route network management plan has effect for the period, of no more than 4 years, stated in it.

- (2) However, if the local government renews the plan before the end of the stated period, the plan ceases to have effect immediately before the renewed plan commences.

112 Implementing plan

A local government must, as far as practicable, implement its stock route network management plan.

113 Reviewing and renewing plan

- (1) The local government may review, or renew, its stock route network management plan when the chief executive officer of the local government considers it appropriate.
- (2) However, the local government must review the effectiveness of its stock route network management plan at least 3 months before the start of each financial year.
- (3) Also, if the State stock route network management strategy is amended, the local government must review its stock route network management plan and, if necessary, amend the plan to ensure it is consistent with the amended strategy.

114 Amending plan

- (1) This section applies if a local government decides to amend its stock route network management plan.
- (2) The local government must give a copy of the amended plan to the Minister.
- (3) The Minister must consider whether the amended plan—
 - (a) complies with section 107; and
 - (b) provides for the management of the stock route network in the local government's area.
- (4) After considering the amended plan, the Minister must advise the local government—
 - (a) if the Minister is not satisfied of the matters mentioned in subsection (3)—about how the plan may be amended; or

- (b) otherwise—that the local government may, by resolution, adopt the amended plan.

115 Plan to be available for inspection

- (1) Each local government must keep a copy of its stock route network management plan available for inspection, free of charge, by members of the public at the local government's public office.
- (2) The plan may be made available in written or electronic form.

Part 4 Stock route agistment permits

Division 1 Obtaining permits

116 Application for permit

- (1) A person may apply to a local government (the *issuing entity*) for a stock route agistment permit for relevant land⁶ in the local government's area.
- (2) However, a person may apply only if—
 - (a) the person is a landowner and the owner's land is adversely affected by drought, fire or flood; or
 - (b) the person is travelling stock under a stock route travel permit and the stock require agistment for—
 - (i) branding, crutching, dipping, drenching, jetting, shearing or trucking; or
 - (ii) spelling to comply with the owner's obligations under an Act relating to the care or protection of the stock; or
 - (c) both of the following apply—

⁶ See the definition of *relevant land* in schedule 3 (Dictionary).

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- (i) the permit is for either—
 - (A) if the issuing entity is a local government prescribed for section 104—relevant land identified in the issuing entity’s stock route network management plan as land containing more pasture and water than is needed for the use of travelling stock; or
 - (B) otherwise—relevant land the issuing entity is satisfied contains more pasture and water than is needed for the use of travelling stock;
 - (ii) the issuing entity has given notice that a person may apply for a permit for the land.
- (3) A notice mentioned in subsection (2)(c) must—
 - (a) be published in a newspaper circulating generally in the area in which the land is situated; and
 - (b) identify the land; and
 - (c) invite persons to apply for a permit within 7 days after the notice is given.
 - (4) An application may be in written or electronic form or may be made orally.
 - (5) If the permit is issued, the applicant must pay to the issuing entity the permit fee prescribed under a regulation.

117 Additional information for application

- (1) The issuing entity may, by written notice, ask the applicant to give the entity further reasonable information or documents about the application by the reasonable date stated in the notice.
- (2) The issuing entity may refuse the application if the applicant does not give the entity the information or documents by the stated day, without reasonable excuse.

118 Deciding application

- (1) The issuing entity must consider and decide whether to grant or refuse the application.
- (2) The issuing entity may grant the application only if—
 - (a) if the issuing entity has a stock route network management plan—the use of the land for agistment is consistent with the plan; and
 - (b) the issuing entity is satisfied—
 - (i) the applicant has not held a stock route agistment permit for the land in the 3 months immediately before the date of the application; and
 - (ii) there is more pasture and water available on the land than is needed for the use of travelling stock; and
 - (iii) the land is not subject to a lease or permit under the Land Act; and
 - (iv) the stock's agistment is not likely to—
 - (A) introduce a declared pest onto land in the entity's area; or
 - (B) spread a declared pest on the land; or
 - (C) degrade the land; or
 - (D) adversely affect road safety; and
 - (v) the stock to be agisted are not affected by a notifiable disease.
- (3) Also, if the land is a State-controlled road, the issuing entity may grant the application only if the use of the land for agistment is approved, with or without conditions, by the chief executive of the department responsible for managing State-controlled roads.
- (4) A condition of an approval mentioned in subsection (3) may only be about—

- (a) protecting road transport infrastructure under the *Transport Infrastructure Act 1994*; or
- (b) road safety.

119 Issuing permit

- (1) If the issuing entity decides to grant the application, the entity must give the applicant—
 - (a) the stock route agistment permit in the approved form; and
 - (b) if the issuing entity decides to impose conditions on the permit—a review notice about the decision.
- (2) The permit takes effect from—
 - (a) the day of its issue; or
 - (b) if a later day is stated in it—the later day.
- (3) The issuing entity must give the chief executive a copy of each permit it issues.

120 Duration of permit

Subject to section 122(3), a stock route agistment permit remains in force, unless it is sooner cancelled, for the term (the *agistment period*), of no more than the following number of days, stated in it—

- (a) if the permit is issued for a purpose mentioned in section 116(2)(b)—7 days;
- (b) otherwise—28 days.

121 Refusing application

If the issuing entity decides to refuse the application, the entity must immediately—

- (a) give the applicant a review notice about the decision; and
- (b) refund the permit fee, if any, paid by the applicant.

Division 2 Renewing permits

122 Application for renewal

- (1) The holder of a stock route agistment permit, other than a permit issued for a purpose mentioned in section 116(2)(b), may apply to the issuing entity to renew the permit.
- (2) The application—
 - (a) must be made before the permit expires; and
 - (b) may be in written or electronic form or may be made orally.
- (3) The permit remains in force until the applicant has been notified of the issuing entity's decision on the application.
- (4) If the permit is renewed, the applicant must pay to the issuing entity the permit fee prescribed under a regulation.

123 Deciding application

- (1) The issuing entity must consider and decide whether to grant or refuse the application.
- (2) However, the issuing entity may renew a permit once only for not more than 28 days if satisfied there is enough pasture and water available on the land for the continued agistment and the use of travelling stock.

124 Issuing renewed permit

- (1) If the issuing entity decides to grant the application, the entity must give the applicant—
 - (a) a stock route agistment permit in the approved form; and
 - (b) if the issuing entity decides to impose conditions on the permit—a review notice about the decision.
- (2) The renewal takes effect from the day stated in the renewed permit.
- (3) The issuing entity must give the chief executive a copy of the renewed permit.

125 Refusing application

If the issuing entity decides to refuse the application, the entity must immediately—

- (a) give the applicant a review notice about the decision; and
- (b) refund the permit fee, if any, paid by the applicant.

Division 3 Conditions of permits

126 Conditions that may and must be imposed

- (1) An issuing entity may impose on a stock route agistment permit the reasonable conditions it decides.
- (2) Without limiting subsection (1), a condition may be about the following—
 - (a) keeping stock enclosed, supervised or off formed road surfaces;
 - (b) erecting signs to show stock are grazing on road verges;
 - (c) requiring the applicant to have public liability insurance the entity considers is reasonable having regard to the nature of the activity conducted under the permit.
- (3) If the permit is for land that is a State-controlled road, an issuing entity must impose on the permit the conditions of an approval for the land mentioned in section 118(3).

127 Amending conditions

- (1) The holder of a stock route agistment permit may ask the issuing entity to amend the permit conditions.
- (2) The request must be written and state—
 - (a) the proposed amendment; and
 - (b) the reasons for it.
- (3) The issuing entity must consider and decide whether to grant or refuse the application.

- (4) If the issuing entity decides to amend the conditions as requested, the entity must give the holder written notice of the amended conditions.
- (5) If the issuing entity refuses to amend the conditions, the entity must give the holder a review notice about the decision.

Division 4 Cancellation of permits

128 Cancellation—grounds and procedure

- (1) The issuing entity may cancel a stock route agistment permit if satisfied—
 - (a) the permit was issued because of a materially false or misleading representation or document, made either orally or in writing; or
 - (b) the permit holder has not complied with a condition of the permit; or
 - (c) the relevant land under the permit can no longer provide enough pasture or water for the continued agistment and the use of travelling stock.
- (2) If the issuing entity decides to cancel a stock route agistment permit, the entity must—
 - (a) give the permit holder a written notice stating the following—
 - (i) that the permit is cancelled;
 - (ii) the grounds for the cancellation;
 - (iii) the facts and circumstances that are the basis for the grounds;
 - (iv) that the permit holder may ask the chief executive to review the decision;
 - (v) how to ask for a review; and

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- (b) refund to the holder the amount of the permit fee less the amount that would have been payable for the term of the permit before it was cancelled.
- (3) The cancellation has effect immediately the notice is given.

Division 5 Reviewing decisions about permits

129 Review by chief executive

- (1) This section applies if the chief executive is asked to review an issuing entity's decision to—
 - (a) refuse to issue a stock route agistment permit; or
 - (b) impose conditions on a stock route agistment permit; or
 - (c) refuse to amend conditions on a stock route agistment permit as requested by the permit holder; or
 - (d) cancel a stock route agistment permit.
- (2) The chief executive must, by written notice—
 - (a) confirm the decision; or
 - (b) revoke the decision and direct the issuing entity—
 - (i) for a decision mentioned in subsection (1)(a)—to issue the permit subject to the reasonable conditions, if any, the chief executive decides; or
 - (ii) for a decision mentioned in subsection (1)(b)—to remove the conditions or amend them in the way decided by the chief executive and stated in the notice; or
 - (iii) for a decision mentioned in subsection (1)(c)—to amend the conditions in the way requested by the applicant or in the way decided by the chief executive and stated in the notice; or
 - (iv) for a decision mentioned in subsection (1)(d)—to re-issue the permit subject to the reasonable conditions, if any, the chief executive decides.

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- (3) The chief executive must, within 14 days after being asked to review the decision, give to the permit holder and the issuing entity—
 - (a) the notice; and
 - (b) if the chief executive decides to confirm the decision or change the conditions other than in the way asked by the permit holder—an information notice about the chief executive's decision.
- (4) The issuing entity must comply with the notice.
- (5) A request to review a decision under this section does not stay the operation of the decision.

Division 6 Replacing permits

130 Issuing replacement permits after change of conditions or review of decision

- (1) An issuing entity may, by written notice, require the holder of a stock route agistment permit to return the permit to the entity, within a stated reasonable period, for amendment under a decision made under section 127(4) or 129(2)(b)(ii) to (iv).
- (2) The holder must comply with the notice unless the holder has a reasonable excuse.
Maximum penalty—50 penalty units.
- (3) On receiving the permit, the issuing entity must issue a replacement permit, incorporating the amendments, to the holder.
- (4) The issuing entity must give the chief executive a copy of each replacement permit it issues.
- (5) The amendment of the permit does not depend on it being replaced under this section.

Part 5 Stock route travel permits

Division 1 Preliminary

131 Application of pt 5

This part applies only to stock driven on foot on relevant land.⁷

132 Stock movements requiring a stock route travel permit

Subject to section 133, a person must not drive stock on foot on relevant land in a local government's area unless a local government has issued a permit (a *stock route travel permit*) for the stock movement.

Maximum penalty—50 penalty units.

133 Stock movements not requiring a stock route travel permit

A person may drive stock on foot on relevant land in a local government's area without a stock route travel permit if the stock are driven on foot—

- (a) for not more than 1 day; and
- (b) in clear daylight hours; and
- (c) for animal husbandry or property management purposes; and
- (d) between parcels of land having common ownership or worked as a single unit.⁸

⁷ See the definition of *relevant land* in schedule 3 (Dictionary).

⁸ See the *Transport Infrastructure Act 1994*, section 50, for requirements under that Act about stock movements on State-controlled roads.

Division 2 Obtaining permits

134 Application for permit

- (1) The owner of stock, or a person acting on the owner's behalf, may apply to a local government (the *issuing entity*) for a stock route travel permit.
- (2) The application may be in written or electronic form or may be made orally.
- (3) If the permit is issued, the applicant must pay to the issuing entity the permit fee prescribed under a regulation.

135 Additional information for application

- (1) The issuing entity may, by written notice, ask the applicant to give the entity further reasonable information or documents about the application by the reasonable date stated in the notice.
- (2) The issuing entity may refuse the application if the applicant does not give the entity the information or documents by the stated day, without reasonable excuse.

136 Deciding application

- (1) The issuing entity must consider and decide whether to grant or refuse the application.
- (2) The issuing entity may grant the application only if satisfied—
 - (a) the relevant land on which the stock are to travel contains enough pasture and water for the stock; and
 - (b) the stocks' travel is not likely to spread—
 - (i) a declared pest on land in the entity's area; or
 - (ii) a notifiable disease; and
 - (c) the stocks' rate of travel will be at least the rate stated for the stock under the permit, having regard to the condition of the stock; and

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- (d) the stocks' travel is not likely to have an adverse effect on road safety.
- (3) Also, if the application is for travelling stock on land in another local government's area, the issuing entity may grant the application only if the other local government has given the issuing entity written consent.
- (4) In addition, if the relevant land is a State-controlled road, the issuing entity may grant the application only if the use of the land to travel stock is approved, with or without conditions, by the chief executive of the department responsible for managing State-controlled roads.
- (5) A condition of an approval mentioned in subsection (4) may only be about—
 - (a) protecting road transport infrastructure under the *Transport Infrastructure Act 1994*; or
 - (b) road safety.

137 Issuing permit

- (1) If the issuing entity decides to grant the application, the entity must give the applicant—
 - (a) the permit in the approved form; and
 - (b) if the entity decides to impose conditions on the permit—a review notice about the decision.
- (2) The permit takes effect from—
 - (a) the day of its issue; or
 - (b) if a later day is stated in it—the later day.
- (3) The issuing entity must give the chief executive a copy of each permit it issues.

138 Duration of permit

A stock route travel permit remains in force for the term stated in it.

139 Refusing application

If the issuing entity decides to refuse the application, the entity must immediately—

- (a) give the applicant a review notice about the decision; and
- (b) refund the permit fee, if any, paid by the applicant.

Division 3 Notice of correct particulars

140 Permit holder to give notice of correct particulars

- (1) This section applies if, because of a change in circumstances, any of the following particulars contained in a stock route travel permit is no longer correct—
 - (a) the permit holder's name and contact address or telephone number;
 - (b) the name of the person in charge of the stock during the travel;
 - (c) the number, type and age of the stock;
 - (d) the stock's brands and earmarks registered under the *Brands Act 1915* and other marks identifying ownership;
 - (e) the proposed destination of the stock;
 - (f) the proposed route for the travel;
 - (g) the estimated period of the travel;
 - (h) the number of persons engaged to control the stock during the travel;
 - (i) other information prescribed under a regulation.
- (2) The permit holder must, as soon as practicable after the change happens, give notice of the correct particular to the issuing entity for the permit.

Maximum penalty—50 penalty units.

141 Issuing replacement permit on notice of correct particulars

- (1) If a stock route travel permit holder gives the issuing entity a notice under section 140(2), the entity may, by written notice, require the holder to return the permit to the entity.
- (2) The holder must comply with the notice to return the permit unless the holder has a reasonable excuse.
Maximum penalty—50 penalty units.
- (3) On receiving the permit, the issuing entity must issue a replacement permit, showing the correct particulars, to the holder.
- (4) The issuing entity must give the chief executive a copy of each replacement permit it issues.

Division 4 Conditions of permits

142 Conditions that may and must be imposed

- (1) An issuing entity may impose on a stock route travel permit the reasonable conditions it decides.
- (2) Without limiting subsection (1), a condition may be about the following—
 - (a) the hours of the day during which stock may be travelled;
 - (b) the movement of stock at stated locations on the stock route network;
 - (c) keeping stock enclosed or supervised;
 - (d) erecting signs to show stock are travelling or grazing near roads;
 - (e) requiring the applicant to have public liability insurance the entity considers is reasonable having regard to the nature of the activity to be conducted under the permit.
- (3) If the permit is for relevant land that is a State-controlled road, an issuing entity must impose on the permit the conditions of an approval for the land mentioned in section 136(4).

143 Amending conditions

- (1) The holder of a stock route travel permit may ask the issuing entity to amend the permit conditions.
- (2) The request must be written and state—
 - (a) the proposed amendment; and
 - (b) the reasons for it.
- (3) The issuing entity must consider and decide whether to grant or refuse the application.
- (4) If the issuing entity decides to amend the conditions as requested, the entity must give the holder written notice of the amended conditions.
- (5) If the issuing entity refuses to amend the conditions, the entity must give the holder a review notice about the decision.

Division 5 Cancellation of permits

144 Cancellation—grounds and procedure

- (1) The issuing entity may cancel a stock route travel permit if satisfied—
 - (a) the permit was issued because of a materially false or misleading representation or document, made either orally or in writing; or
 - (b) the permit holder has not complied with a condition of the permit; or
 - (c) the relevant land can no longer provide enough pasture or water for travelling stock.
- (2) If the issuing entity decides to cancel a stock route travel permit, the entity must—
 - (a) give the permit holder a written notice stating the following—
 - (i) that the permit is cancelled;
 - (ii) the grounds for the cancellation;

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- (iii) the facts and circumstances that are the basis for the grounds;
 - (iv) that the permit holder may ask the chief executive to review the decision;
 - (v) how to ask for a review; and
- (b) for a permit to travel stock for more than 100km—refund to the holder the amount of the permit fee less the amount that would have been payable for the distance travelled by the stock before the permit was cancelled.
- (3) The cancellation has effect immediately the notice is given.

Division 6 Reviewing decisions about permits

145 Review by chief executive

- (1) This section applies if the chief executive is asked to review an issuing entity's decision to—
- (a) refuse to issue a stock route travel permit; or
 - (b) impose conditions on a stock route travel permit; or
 - (c) refuse to amend conditions on a stock route travel permit as requested by the permit holder; or
 - (d) cancel a stock route travel permit.
- (2) The chief executive must, by written notice—
- (a) confirm the decision; or
 - (b) revoke the decision and direct the issuing entity—
 - (i) for a decision mentioned in subsection (1)(a)—to issue the permit subject to the reasonable conditions, if any, the chief executive decides; or
 - (ii) for a decision mentioned in subsection (1)(b)—to remove the conditions or amend them in the way decided by the chief executive and stated in the notice; or

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- (iii) for a decision mentioned in subsection (1)(c)—to amend the conditions in the way requested by the applicant or in the way decided by the chief executive and stated in the notice; or
 - (iv) for a decision mentioned in subsection (1)(d)—to re-issue the permit subject to the reasonable conditions, if any, the chief executive decides.
- (3) The chief executive must, within 7 days after being asked to review the decision, give to the permit holder and the issuing entity—
 - (a) the notice; and
 - (b) if the chief executive decides to confirm the decision or change the conditions other than in the way asked by the permit holder—an information notice about the chief executive’s decision.
- (4) The issuing entity must comply with the notice.
- (5) A request to review a decision under this section does not stay the operation of the decision.

Division 7 Miscellaneous provisions

146 Issuing replacement permit after change of conditions or review of decision

- (1) An issuing entity may, by written notice, require the holder of a stock route travel permit to return the permit to the entity within a stated reasonable period for amendment under a decision made under section 143(4) or 145(2)(b)(ii) to (iv).
- (2) The holder must comply with the notice unless the holder has a reasonable excuse.

Maximum penalty—50 penalty units.
- (3) On receiving the permit, the issuing entity must issue a replacement permit, incorporating the amendments, to the holder.

- (4) The issuing entity must give the chief executive a copy of each replacement permit it issues.
- (5) The amendment of the permit does not depend on it being replaced under this section.

147 Rate of travel of stock

- (1) The person in charge of stock being driven on foot under a stock route travel permit must, unless the permit states otherwise, ensure the stock travel towards their destination at a rate not less than 10km a day.

Maximum penalty—50 penalty units.

- (2) The rate of travel of stock is calculated between inspections authorised by the local government for the area in which the stock are travelling.
- (3) Inspections must be at least 24 hours apart.
- (4) In calculating the rate of travel of stock the following periods are not included—
 - (a) a period when the stock are prevented from travelling by rain, flood or other unavoidable cause;
 - (b) a period when the stock are lawfully detained or depastured elsewhere.

Part 6 Fencing stock routes

148 Application of pt 6

- (1) This part applies if, to protect or improve the stock route network in its area, a local government considers it necessary to build a stock-proof fence on the boundary of land adjoining the network.
- (2) In subsection (1)—

land does not include State-controlled land.

149 Fencing notice

- (1) The local government may, by written notice (a *fencing notice*) given to the landowner, require the owner to build a stock-proof fence on the boundary of the land to prevent stock on the land entering a part of the network.
- (2) The fencing notice must—
 - (a) state the reasonable period in which the owner must build the fence; and
 - (b) be accompanied by or include an information notice about the local government's decision to give the notice.

150 Obligation to build fence

The landowner must build the fence within the reasonable period stated in the notice unless the owner has a reasonable excuse.

Maximum penalty—400 penalty units.

151 Obligation to maintain fence

The landowner must maintain the fence in a stock-proof condition unless the owner has a reasonable excuse.

Maximum penalty—400 penalty units.

152 Noncompliance with fencing notice or obligation to maintain fence

- (1) This section applies if the landowner does not—
 - (a) comply with the fencing notice; or
 - (b) maintain the fence in a stock-proof condition.
- (2) The chief executive officer of the local government may enter the owner's land at any reasonable time to build or complete the building of the fence, or do anything necessary to make the fence stock-proof.

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- (3) Before entering the owner's land, the chief executive officer must give the owner at least 7 days written notice stating the following—
- (a) that the chief executive officer intends to enter the land;
 - (b) the purpose of the intended entry;
 - (c) the date of the intended entry;
 - (d) the intended stay.

153 Amounts payable by landowner

- (1) If the chief executive officer takes action under section 152(2), the amount of the costs reasonably incurred in taking the action are a debt payable to the local government—
- (a) by the landowner; or
 - (b) if there are 2 or more owners for the land, jointly and severally by each owner.
- (2) If the owner does not pay the amount when it is payable, interest is payable on the overdue amount at the rate, and calculated in the way, prescribed under a regulation.

154 Unpaid amounts are a charge on land

- (1) If the owner does not pay to the local government an amount payable under section 153, the unpaid amount is a charge on the land as if it were an unpaid amount under the *Local Government Act 1993*, section 1068.⁹
- (2) If the land in relation to which the unpaid amount was incurred is part only of a parcel of land owned by the owner, the amount is a charge on the parcel of land.
- (3) This section is in addition to any other remedy the local government has for recovery of the unpaid amount.

⁹ *Local Government Act 1993*, section 1068 (Cost of work a charge over land)

- (2) However, if the land is subject to a lease under the Land Act, the chief executive officer of the local government may enter the land only if—
 - (a) the landowner consents to the entry; or
 - (b) the chief executive officer of the local government has given the landowner at least 24 hours written notice of the intended entry.
- (3) The notice must state the purpose and date of the intended entry.

159 Amounts payable by permit holder

- (1) If the chief executive officer takes action under section 158, the amount of the costs reasonably incurred in taking the action are a debt payable to the local government by the holder.
- (2) If the holder does not pay the amount when it is payable, interest is payable on the overdue amount at the rate, and calculated in the way, prescribed under a regulation.

Division 2 Pasture on the stock route network

160 Managing and conserving pasture

A local government must manage and conserve pasture on the stock route network in its area to ensure, as far as practicable, an adequate supply of pasture for travelling stock.

161 Overgrazing on stock route network

- (1) This section applies if the chief executive officer of a local government reasonably believes, because of the number of stock on land within which a part of the network in the local government's area is fenced or otherwise enclosed, sufficient pasture will not be available for travelling stock on the network.

- (2) The local government may, by written notice given to the landowner, require the owner to reduce the number of stock on the land.
- (3) The notice must state the reasonable number to which the stock are to be reduced and the reasonable period in which the reduction must be made.
- (4) The owner must comply with the notice unless the owner has a reasonable excuse.
Maximum penalty—400 penalty units.
- (5) This section does not limit the chief executive officer's powers under section 149.¹⁰

Division 3 Travelling stock facilities and water facility agreements

162 Travelling stock facilities

- (1) Subject to section 163(1)(d), a local government must maintain in good condition the travelling stock facilities on the stock route network in its area.
- (2) Also, if required by the Minister, the local government must supply the following on the network in its area—
 - (a) travelling stock facilities;
 - (b) water for travelling stock.

163 Water facility agreements

- (1) The chief executive, a local government and a landowner may enter into an agreement (a *water facility agreement*) about any of the following—
 - (a) supplying water to the land from a water facility under the local government's control;

¹⁰ Section 149 (Fencing notice)

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- (b) supplying water to the stock route network from a water facility owned by the landowner;
 - (c) watering travelling stock at the owner's water facilities;
 - (d) maintaining water facilities under the local government's control;
 - (e) constructing or maintaining water facilities on the network or on the owner's land;
 - (f) allowing access to the owner's land for any purpose mentioned in paragraphs (a) to (e).
- (2) The water facility agreement must—
- (a) state who owns the water facility and who is responsible for its control, maintenance and management; and
 - (b) state the fee, if any, payable under the agreement; and
 - (c) provide for termination by a party to the agreement giving the other parties a stated period of written notice of termination.

164 Register of agreements

- (1) A local government must keep a register of water facility agreements entered into by it.
- (2) The register must state the following particulars for each agreement—
 - (a) the landowner's name and address;
 - (b) the fee, if any, payable under the agreement;
 - (c) who is responsible for the control, maintenance and management of the water facility under the agreement;
 - (d) a description of the land to which, or from which, the water is supplied;
 - (e) the amount of any minimum guaranteed water supply under the agreement;
 - (f) other information prescribed under a regulation.
- (3) A person may—

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- (a) on payment of the fee prescribed under a regulation, inspect the register at the local government's public office when the office is open to the public; and
- (b) on payment of the fee that is reasonable but not more than the actual cost, take extracts from, or obtain a copy of details in, the register.

165 Registration of particular agreements

- (1) This section applies to a water facility agreement for construction of a water facility on freehold land or land leased from the State if the construction of the facility is paid for in whole or in part by the State.
- (2) As soon as practicable after the agreement is entered, the chief executive must give the land registrar written notice of the agreement.
- (3) The land registrar must keep records showing that the land specified in the notice is the subject of a water facility agreement.
- (4) The land registrar must keep the records in a way that allows a search of the register kept by the registrar under any Act relating to title to the land to show the existence of the agreement.
- (5) As soon as practicable after the agreement is terminated, the chief executive must give the land registrar written notice of the termination.
- (6) As soon as practicable after receiving a notice under subsection (5), the land registrar must remove the particulars of the agreement from the registrar's records.
- (7) While the agreement is in force, the landowner's obligations under the agreement attach to the land and bind the owner and the owner's successors in title to the land.
- (8) In this section—
land registrar means—
 - (a) for freehold land—the registrar of titles; and
 - (b) for land leased from the State—the chief executive.

Division 4 Stray stock

166 Offence to allow stock to stray

A person must not, without reasonable excuse, allow stock to stray onto the stock route network.

Maximum penalty—

- (a) for not more than 10 head of stock—100 penalty units;
or
- (b) for more than 10 head of stock—400 penalty units.

167 Stray stock may be seized

If the chief executive officer of a local government reasonably suspects stock found on the stock route network in the local government's area are stray stock, the chief executive officer may seize the stock.

168 Notice of seizure

- (1) The chief executive officer must give the owner of the seized stock written notice of the seizure.
- (2) If the owner's name is not known, the notice may be given to the owner by publishing the notice in a newspaper circulating generally in the area in which the stock were found.
- (3) The notice must state that the stock—
 - (a) must be claimed within 3 days after the notice is given;
and
 - (b) if not claimed within the 3 days—may be sold or disposed of.

169 Releasing seized stock

If a person claims the seized stock, the chief executive officer may release the stock to the person only if the person—

- (a) satisfies the chief executive officer the person is entitled to possession of the stock; and

- (b) pays the chief executive officer's reasonable costs of—
 - (i) seizing, removing and holding the stock; and
 - (ii) giving the notice.

170 Dealing with seized stock

- (1) This section applies if the owner of the seized stock does not claim the stock within 3 days after the owner is given the notice.
- (2) If the chief executive officer of the local government reasonably believes the stock have a market value of more than the amount prescribed under a regulation, the chief executive officer must sell the stock by public auction or tender.
- (3) If the chief executive officer reasonably believes the stock have a market value of the prescribed amount or less, the chief executive officer may dispose of the stock in a way the chief executive officer considers appropriate.
- (4) Compensation is not payable for a sale or disposal under this section.
- (5) For subsection (2), the amount prescribed must not be less than \$1000.

171 Application of proceeds of sale

If the chief executive officer of the local government sells the seized stock, the proceeds of the sale must be applied in the following order—

- (a) in payment of the chief executive officer's reasonable expenses incurred in the sale;
- (b) in payment of the reasonable costs of—
 - (i) seizing, removing and holding the stock; and
 - (ii) giving the notice;
- (c) in payment of any balance to the owner.

172 Destroying other stray stock

- (1) This section applies if the chief executive officer of a local government reasonably believes—
 - (a) stock found on the stock route network in the local government's area are stray stock; and
 - (b) it is not practicable to seize the stock under section 167; and
 - (c) it is necessary to destroy the stock in the interests of public safety.
- (2) The chief executive officer of the local government may destroy the stock in the way the chief executive officer considers appropriate.
- (3) Compensation is not payable for stock destroyed under this section.

Part 8 Other offences about the stock route network

173 Offences about stock route agistment and travel permits

- (1) A person must not, without reasonable excuse, contravene a condition of a stock route agistment permit that applies to the person.
Maximum penalty—50 penalty units.
- (2) A person must not, without reasonable excuse, contravene a condition of a stock route travel permit that applies to the person.
Maximum penalty—50 penalty units.
- (3) The drover of stock moved under a stock route travel permit must, unless the drover has a reasonable excuse, immediately produce the permit, or a copy of it, to an authorised person for

inspection if the authorised person asks for it to be produced for inspection.

Maximum penalty—10 penalty units.

174 Grazing stock without permit

A person must not, without reasonable excuse, graze stock on relevant land¹¹ unless the person holds—

- (a) a stock route agistment permit or stock route travel permit for the land; or
- (b) a permission given under another Act allowing the stock to be grazed on the land.

Maximum penalty—50 penalty units.

175 Damaging travelling stock facility

- (1) A person must not, without reasonable excuse, damage a travelling stock facility on the stock route network.

Maximum penalty—50 penalty units.

- (2) In subsection (1)—

damage includes hinder the usual operation of the facility.

176 Wasting or polluting water

A person must not, without reasonable excuse—

- (a) waste water from a water facility on the stock route network; or
- (b) pollute water in a water facility on the stock route network.

Maximum penalty—50 penalty units.

¹¹ See the definition of *relevant land* in schedule 3 (Dictionary).

177 Taking water

A person must not, without reasonable excuse, take water from a water facility on the stock route network other than under a water facility agreement or a permit.

Maximum penalty—50 penalty units.

178 Camping

A person must not, without a reasonable excuse, camp within 300m of a water facility on the stock route network.

Maximum penalty—50 penalty units.

179 Obstructing movement of stock

A person must not, without reasonable excuse, obstruct the movement of travelling stock on the stock route network.

Examples of obstructing the movement of travelling stock—

- 1 Building a fence, locking a gate or using vehicles or animals to prevent stock movement.
- 2 Making noise to alarm stock.

Maximum penalty—50 penalty units.

180 Burning or removing pasture

- (1) A person must not, without reasonable excuse, burn pasture on the stock route network without the consent of the local government for the area in which the pasture is situated.

Maximum penalty—50 penalty units.

- (2) A person must not, without reasonable excuse, remove pasture on the stock route network without the consent of the local government for the area in which the pasture is situated.

Example of removing pasture—

cutting and baling pasture for hay

Maximum penalty—50 penalty units.

181 Placing things on the stock route network

- (1) A person must not, without reasonable excuse, place any thing on the stock route network if the thing is likely to harm stock travelling on the network.

Examples of thing—

an animal carcass or part of the carcass, a car body, old fencing, wire or rope

Maximum penalty—50 penalty units.

- (2) In subsection (1)—

harm includes obstruct or otherwise interfere with.

182 Offences about using reserves for travelling stock

- (1) This section applies to a person in charge of travelling stock if the person travels the stock—

- (a) on a reserve for travelling stock for which there is an owner; or
(b) on a part of the stock route network fenced in with land for which there is an owner.

- (2) At least 48 hours before entering the reserve or part of the network, the person must give notice of the intended entry to the owner.

Maximum penalty—50 penalty units.

- (3) The owner must, unless the owner has a reasonable excuse—

- (a) allow the travelling stock to travel through or otherwise use the reserve or part of the network; and
(b) ensure the owner's stock do not interfere with the travelling stock's travel through, or other use of, the reserve or part of the network.

Maximum penalty—50 penalty units.

Chapter 4 Matters relating to local governments

183 Functions of local governments

- (1) The functions of each local government under this Act are—
 - (a) to ensure declared pests are managed within its area in accordance with this Act and the principles of pest management; and
 - (b) to manage the part of the stock route network in its area in accordance with this Act and the principles of stock route network management; and
 - (c) to control the movement of travelling stock on the part of the stock route network in its area.
- (2) Subsection (1)(a) does not apply to a declared pest in the operational area of a pest operational board.

184 Minister may direct local government to perform function or obligation

- (1) This section applies if the Minister reasonably believes a local government is not performing any of its functions or obligations under this Act.

Examples of a local government not performing its functions or obligations—

- 1 A local government does not prepare, implement or review a pest management plan or stock route network management plan under this Act.
 - 2 A local government does not take reasonable steps to keep land in its area free of declared pests.
- (2) The Minister may, by written notice given to the local government, direct it to perform the function or obligation.
 - (3) However, before giving a notice under subsection (2), the Minister must consult with the local government and consider the local government's views about the performance of the function or obligation.
 - (4) The notice must state the following—

- (a) the function or obligation the Minister believes the local government is not performing;
 - (b) what action the Minister requires the local government to take to perform the function or obligation;
 - (c) the date by which the stated action must be taken.
- (5) The local government must comply with the direction.

185 Chief executive may be directed to perform local government's functions

- (1) If a local government does not comply with a notice given by the Minister under section 184(2), a regulation may—
- (a) state the function or obligation the local government has not complied with; and
 - (b) declare that, for a stated period, the function or obligation is given to the chief executive; and
 - (c) direct the chief executive to perform the function or obligation or take stated action within the period mentioned in paragraph (b).
- (2) The chief executive, in performing the function or obligation or taking the action, has the powers of the local government before the regulation was made in relation to the function, obligation or action.

186 Local government to pay chief executive's costs

The costs reasonably incurred by the chief executive in performing or taking action for a function or obligation of a local government are a debt payable by the local government to the State.

187 Minister may require local government to make annual payment

- (1) The Minister may, by written notice, for a financial year, require a local government to pay an amount to the chief executive for services provided or to be provided by the chief

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executive for pest or stock route network management in the local government's area.

- (2) The amount must not be more than the maximum amount fixed under a regulation for the local government.
- (3) In recommending the maximum amount, the Minister must have regard to the nature and extent of the services provided or to be provided by the chief executive in the local government's area, including, for example, whether—
 - (a) a declared pest fence benefits land by protecting agricultural production in the area; or
 - (b) part or all of the area is in the operational area for rabbits; or
 - (c) land in the area may benefit from pest control programs undertaken by the State including, for example, emergency control action.
- (4) The notice must state the period in which the amount required under the notice must be paid.
- (5) The local government must pay the amount to the chief executive in the stated period.

188 Minister may ask for particular information from local government

- (1) The Minister may, by written notice, ask a local government—
 - (a) to give the Minister details of an amount payable by the local government under this Act; or
 - (b) to give the Minister a written report about any function or power performed or exercised, or required to be performed or exercised, by the local government under this Act.
- (2) The local government must comply with the request.

Chapter 5 Land protection council and Land Protection Fund

Part 1 Land Protection (Pest and Stock Route Management) Council

Division 1 Establishment

189 Establishment

The Land Protection (Pest and Stock Route Management) Council is established.

Division 2 Functions

190 Functions

The land protection council's functions are—

- (a) to give advice of a strategic nature to the Minister about the management of pests and the stock route network; and
- (b) to make recommendations to the Minister about the following—
 - (i) major control and management programs for declared pests;
 - (ii) research into the management of pests and the stock route network;
 - (iii) developing, implementing and reviewing management plans for pests and the stock route network;
 - (iv) educational programs about pests and the stock route network;

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- (v) policies about pests and the management of the stock route network;
 - (vi) preparing guidelines for pest management;
 - (vii) declaring animals or plants to be declared pests;
 - (viii) major funding initiatives for pest and stock route network management;
 - (ix) other matters the Minister directs; and
- (c) to perform other functions given to the land protection council under this or another Act; and
- (d) to perform a function incidental to a function mentioned in paragraphs (a) to (c).

191 Basis on which functions may be performed

- (1) The land protection council may perform its functions either at the request of the Minister or on its own initiative.
- (2) Subsection (1) does not apply to making a recommendation to the Minister under the Minister's direction.

192 Minister to consider recommendations

The Minister must consider a recommendation made under section 190(b) and give the land protection council written advice about the Minister's response to the recommendation.

Division 3 Membership

193 Membership of land protection council

- (1) The land protection council consists of the following members—
 - (a) a chairperson;
 - (b) 1 person who the Minister considers represents community interests;
 - (c) 1 person nominated by the chief executive;

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- (d) 1 person nominated by the chief executive of the department in which the *Nature Conservation Act 1992* is administered;
 - (e) 1 person nominated by the chief executive of the department in which the *Plant Protection Act 1989* is administered;
 - (f) 3 persons nominated by the Local Government Association of Queensland (Incorporated);
 - (g) 6 persons nominated by entities that represent the interests of persons engaged in agricultural production and are prescribed under a regulation;
 - (h) 1 person nominated by an entity who the Minister considers represents conservation interests.
- (2) The members are to be appointed by the Minister.
- (3) The chairperson must be a person whom the Minister is satisfied will act independently in the performance of the chairperson's functions.

194 Failure of nominating entity to nominate person

- (1) This section applies if a nominating entity does not nominate a person for appointment as a member of the land protection council.
- (2) The Minister may appoint a person as a member of the land protection council in place of a nominee of the nominating entity.
- (3) A person appointed under subsection (2) is taken to have been nominated for appointment by the nominating entity.
- (4) In this section—

nominating entity means an entity mentioned in section 193(1)(f), (g) or (h).

195 Qualifications for appointment

- (1) A person is not qualified to be or to continue as a member if the person—

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- (a) is affected by bankruptcy; or
 - (b) is convicted of an indictable offence, whether on indictment or summarily; or
 - (c) becomes incapable of performing the member's duties because of physical or mental incapacity.
- (2) For subsection (1)(a), a person is affected by bankruptcy action if the person—
- (a) is bankrupt; or
 - (b) has compounded with creditors; or
 - (c) as a debtor, has otherwise taken, or applied to take, advantage of any law about bankruptcy.

195A Investigations about eligibility for appointment

- (1) The chief executive may make investigations about a person to decide whether the person is eligible for appointment as a member.
- (2) Without limiting subsection (1), the chief executive may ask the commissioner of the police service for a written report about the criminal history of the person.
- (3) The commissioner must give the report to the chief executive.
- (4) However, the report is required to contain only criminal history in the commissioner's possession or to which the commissioner has access.

195B Criminal history is confidential document

- (1) An officer, employee or agent of the department must not, directly or indirectly, disclose to anyone else a report, or information contained in a report, given under section 195A.
Maximum penalty—100 penalty units.
- (2) However, the officer, employee or agent does not commit an offence against subsection (1) if—
 - (a) disclosure of the report or information to someone else is authorised by the chief executive; or

- (b) the disclosure is otherwise required or permitted by law.
- (3) The chief executive may authorise disclosure under subsection (2)(a) only to the extent necessary to perform a function under or in relation to this Act.
- (4) The chief executive must destroy the report as soon as practicable after considering the person's eligibility.

196 Appointment terms generally

A member holds office on the terms not provided for by this Act that are decided by the Minister.

197 Remuneration and allowances

- (1) This section applies to a member of the land protection council who is not a public service officer.
- (2) The member is entitled to be paid the remuneration and allowances decided by the Minister.

198 Term of appointment

A member is to be appointed for the term, of no more than 3 years, stated in the member's instrument of appointment.

199 Vacation of office

A member's office becomes vacant if the member—

- (a) dies; or
- (b) resigns by signed notice of resignation given to the Minister; or
- (c) ceases to be qualified to be a member.

Division 4 Proceedings

200 Conduct of business

Subject to this division, the land protection council may conduct its business, including its meetings, in the way it considers appropriate.

201 Time and place of meetings

- (1) The land protection council may hold its meetings when and where it decides.
- (2) However, it must meet at least 3 times each year.
- (3) The chairperson—
 - (a) may call a meeting at any time; and
 - (b) must call a meeting if asked by the Minister.

202 Quorum

- (1) At a land protection council meeting, 8 members form a quorum.
- (2) However, if, because of section 206(3), (4) or (5), a member is not present at a meeting for consideration of a matter, but there would be a quorum if the member were present, the remaining members present are a quorum for the council's consideration of, or decision about, the matter.

203 Presiding at meetings

- (1) The land protection council's chairperson must preside at all meetings at which the chairperson is present.
- (2) If the chairperson is absent, the member chosen by the members present must preside.

204 Conduct of meetings

- (1) A question at a land protection council meeting is decided by a majority of the votes of the members present.

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- (2) Each member present at the meeting has a vote on each question to be decided and, if the votes are equal, the member presiding also has a casting vote.
- (3) A member present at the meeting may abstain from voting.
- (4) The land protection council may hold meetings, or allow members to take part in its meetings, by using any technology allowing reasonably contemporaneous and continuous communication between members taking part in the meeting.

Example of technology allowing reasonably contemporaneous and continuous communication—

teleconferencing

- (5) A member who takes part in a meeting of the land protection council under subsection (4) is taken to be present at the meeting.

205 Resolutions of council

A resolution is a valid resolution of the land protection council, even though it is not passed at a meeting of the council, if—

- (a) at least 8 members give written agreement to the resolution; and
- (b) notice of the resolution is given under procedures approved by the council.

206 Disclosure of interests by land protection council members

- (1) This section applies to a member of the land protection council if—
 - (a) the member has an interest in a matter being considered, or about to be considered, by the council; and
 - (b) the interest could conflict with the proper performance of the member's duties about the consideration of the matter.

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- (2) As soon as practicable after the relevant facts come to the member's knowledge, the member must disclose the nature of the interest to a meeting of the land protection council.

Maximum penalty—20 penalty units.

- (3) Unless the council otherwise directs, the member must not—
- (a) be present when the council considers the matter; or
 - (b) take part in a decision of the council about the matter.

Maximum penalty—20 penalty units.

- (4) The member must not be present when the council is considering whether to give a direction under subsection (3).

Maximum penalty—20 penalty units.

- (5) If there is another member who must, under subsection (2), also disclose an interest in the matter, the other member must not—

- (a) be present when the council is considering whether to give a direction under subsection (3); or
- (b) take part in making the decision about giving the direction.

Maximum penalty—20 penalty units.

- (6) A disclosure under subsection (2) must be recorded in the land protection council's minutes.

- (7) In this section—

interest, for a land protection council member mentioned in section 193(1)(f), (g) or (h), does not include an interest the member has in common with members of the entity represented by the member.

207 Minutes

The land protection council must keep minutes of its proceedings.

Division 5 Annual report

208 Annual report

- (1) As soon as practicable after the end of each financial year, the chairperson must prepare and give to the Minister a written report about the land protection council's activities during the year.
- (2) As soon as practicable after receiving the report, the Minister must table a copy of it in the Legislative Assembly.

Part 2 Land Protection Fund

209 Establishment of fund

The Land Protection Fund (the *fund*) is established.

210 Purpose and administration of fund

- (1) The purpose of the fund is to record amounts received for, and paid from, the fund to achieve the purposes of this Act.
- (2) Accounts for the fund must be kept as part of the departmental accounts of the department.
- (3) However, amounts received for the fund may be deposited in a departmental financial-institution account of the department with other moneys of the department.
- (4) Amounts received for the fund include the following—
 - (a) amounts made available by the chief executive for the fund;
 - (b) amounts given to the chief executive by another entity for this Act;
 - (c) amounts payable into the fund under section 212(2)(a);

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- (d) the proceeds of the sale or hire of any buildings, equipment or machinery acquired by the Minister or chief executive under this Act;
 - (e) the amount of any costs incurred and recovered by the chief executive under section 295;¹²
 - (f) the amount of any payment required by the Minister under section 187;¹³
 - (g) other amounts received under this Act and prescribed under a regulation.
- (5) In this section—

departmental accounts, of the department, means the accounts of the department under the *Financial Administration and Audit Act 1977*, section 12.

departmental financial-institution account, of the department, means an account of the department kept under the *Financial Administration and Audit Act 1977*, section 18.

other moneys, of the department, means all moneys of the department other than amounts received for the fund.

211 Payments from fund

Amounts are payable from the fund only for paying the following—

- (a) expenses incurred by the chief executive and pest operational boards under this Act;
- (b) an amount authorised by the chief executive under this Act as payable from the fund;
- (c) other amounts required or permitted by this Act to be paid out of the fund.

12 Section 295 (Recovering costs of taking action because of an offence)

13 Section 187 (Minister may require local government to make annual payment)

212 Local government's payment of amounts into fund

- (1) This section applies to a following amount received by a local government under chapter 3¹⁴—
 - (a) an amount received as a permit fee for a stock route agistment permit or stock route travel permit;
 - (b) an amount received under a water facility agreement.
- (2) The local government must—
 - (a) pay one-half of the amount into the fund; and
 - (b) use the balance for the administration, maintenance or improvement of the stock route network in its area.
- (3) Payments under subsection (2)(a) must be made at regular intervals, of not more than 3 months, decided by the local government.

Chapter 6 Pest operational boards

Part 1 General

213 Establishment of pest operational boards

- (1) A regulation may establish a pest operational board to carry out pest management activities for a particular area (the *operational area*) identified in the regulation.
- (2) The regulation must—
 - (a) name the board; and
 - (b) state the declared pest to be managed by the board; and
 - (c) identify the board's operational area; and
 - (d) state the number of directors of the board.

14 Chapter 3 (Stock route network management)

214 Legal status

A pest operational board—

- (a) is a body corporate; and
- (b) has a seal; and
- (c) may sue and be sued in its corporate name.

215 Pest operational boards represent State

- (1) A pest operational board represents the State.
- (2) Without limiting subsection (1), a pest operational board has all the privileges and immunities of the State.

216 Application of particular Acts to pest operational boards

- (1) A pest operational board is a statutory body under the *Financial Administration and Audit Act 1977* and *Statutory Bodies Financial Arrangements Act 1982*.
- (2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B¹⁵ states the way in which the board's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

Part 2 Function and powers

217 Function

- (1) A pest operational board's function is to take reasonable steps to ensure the board's operational area is kept free from declared pests managed by the board.
- (2) The function is to be achieved mainly by—

¹⁵ *Statutory Bodies Financial Arrangements Act 1982*, part 2B (Powers under this Act and relationship with other Acts)

- (a) taking control measures to destroy the pests in the board's operational area; and
- (b) developing and implementing works programs to maintain, as far as practicable, the board's operational area in a pest-free condition.

218 General powers

- (1) A pest operational board has all the powers of an individual and may, for example, do the following—
 - (a) enter into contracts;
 - (b) acquire, hold, deal with and dispose of, property;
 - (c) appoint and act through agents and attorneys;
 - (d) charge, and fix terms, for goods, services and information it supplies;
 - (e) employ staff and engage consultants;
 - (f) do anything else necessary or convenient to be done for, or in connection with, the performance of its function.
- (2) Without limiting subsection (1), a pest operational board has the powers given to it under this Act.

219 Ministerial directions

- (1) The Minister may give a pest operational board a written direction about the performance of the board's function or the exercise of its powers if satisfied it is necessary to give the direction in the public interest.
- (2) The board must ensure the direction is complied with.
- (3) However, before giving the direction, the Minister must consult with the board.
- (4) The Minister must gazette a copy of the direction within 21 days after the direction is given.

Part 3 Board of directors

Division 1 Establishment and role

220 Board of directors

A pest operational board must have a board of directors.

221 Role of board of directors

- (1) The board of directors is responsible for the way the pest operational board performs its function and exercises its powers.
- (2) Without limiting subsection (1), it is the role of the board of directors to ensure the pest operational board performs its function in an appropriate, effective and efficient way.

Division 2 Provisions about directors

222 Appointment

The directors must be appointed by the Minister.

223 Chairperson

- (1) The chairperson of the board of directors is the director chosen as chairperson by the directors.
- (2) If the chairperson is not chosen within 1 month after the date appointed for the first meeting of the board of directors, the chairperson is the director chosen by the chief executive.
- (3) The chairperson holds office until the annual meeting of the board of directors next following the director's selection as chairperson.

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224 Qualifications for appointment

- (1) A person is not qualified to be, or to continue, as a director if the person—
 - (a) is affected by bankruptcy action; or
 - (b) is, or has been, convicted of—
 - (i) an indictable offence, whether on indictment or summarily; or
 - (ii) an offence against this Act.
- (2) For subsection (1)(a), a person is affected by bankruptcy action if the person—
 - (a) is bankrupt; or
 - (b) has compounded with creditors; or
 - (c) as a debtor, has otherwise taken, or applied to take, advantage of any law about bankruptcy.
- (3) Also, a regulation establishing a pest operational board may prescribe residential or land ownership or occupation requirements as qualifications for appointment as a director.

224A Investigations about eligibility for appointment

- (1) The chief executive may make investigations about a person to decide whether the person is eligible for appointment as a director.
- (2) Without limiting subsection (1), the chief executive may ask the commissioner of the police service for a written report about the criminal history of the person.
- (3) The commissioner must give the report to the chief executive.
- (4) However, the report is required to contain only criminal history in the commissioner's possession or to which the commissioner has access.

224B Criminal history is confidential document

- (1) An officer, employee or agent of the department must not, directly or indirectly, disclose to anyone else a report, or information contained in a report, given under section 224A.

Maximum penalty—100 penalty units.

- (2) However, the officer, employee or agent does not commit an offence against subsection (1) if—
 - (a) disclosure of the report or information to someone else is authorised by the chief executive; or
 - (b) the disclosure is otherwise required or permitted by law.
- (3) The chief executive may authorise disclosure under subsection (2)(a) only to the extent necessary to perform a function under or in relation to this Act.
- (4) The chief executive must destroy the report as soon as practicable after considering the person's eligibility.

225 Term of appointment

- (1) Subject to subsections (2) and (3), a director is appointed for the term, of no more than 3 years, stated in the director's instrument of appointment.
- (2) The director continues holding office after the director's term of office ends until the director's successor is appointed.
- (3) If a person is appointed to fill a casual vacancy in the office of a director, the person is appointed only for the remainder of the director's term of office.

226 Termination of appointment

The Minister may remove a director from office if—

- (a) the director ceases to be qualified to be a director or is absent from 3 consecutive meetings of the board of directors without the board's leave and without reasonable excuse; or
- (b) the Minister is satisfied the director—

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- (i) is incapable of performing the duties of a director because of physical or mental incapacity; or
- (ii) performed the director's duties carelessly, incompetently or inefficiently; or
- (iii) commits misconduct of a kind that could justify dismissal from the public service if the director were a public service officer.

227 Vacation of office

A director's office becomes vacant if the director—

- (a) dies; or
- (b) resigns by signed notice of resignation given to the board; or
- (c) is removed from office under section 226.

Division 3 Directors' duties

228 Disclosure of interests

- (1) This section applies to a director if—
 - (a) the director has a direct or indirect financial or personal interest in a matter being considered, or about to be considered, by the board of directors; and
 - (b) the interest could conflict with the proper performance of the director's duties about the consideration of the matter.
- (2) As soon as practicable after the relevant facts come to the director's knowledge, the director must disclose the nature of the interest to a meeting of the board of directors.

Maximum penalty—20 penalty units.
- (3) The disclosure must be recorded in the board's minutes.
- (4) Unless the board of directors otherwise decides, the director must not—

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- (a) be present when the board considers the matter; or
- (b) take part in a decision of the board on the matter.

Maximum penalty—20 penalty units.

- (5) The director must not be present when the board of directors is considering its decision under subsection (4).

Maximum penalty—20 penalty units.

- (6) Another director who also has a direct or indirect financial or personal interest in the matter must not—

- (a) be present when the board of directors is considering its decision under subsection (4); or
- (b) take part in making the decision.

Maximum penalty—20 penalty units.

- (7) In this section—

financial or personal interest, for a person nominated by an entity for appointment as a director, does not include an interest the person has in common with members of the entity represented by the person.

229 Director to act in pest operational board's interest

A director, in exercising powers and performing functions must act in the best interests of the pest operational board.

Division 4 Business and meetings

230 Conduct of business

Subject to this division, the board may conduct its business, including its meetings, in the way it considers appropriate.

231 Times and places of meetings

- (1) The board must hold—
 - (a) its first meeting at the time and place decided by the chief executive; and

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- (b) at least 1 meeting a year.
- (2) The board chairperson—
 - (a) may call a board meeting at any time; and
 - (b) must call a meeting if asked by at least one-half of the directors comprising the board or, if the number is not a whole number, the next highest whole number of directors.

232 Quorum

A quorum for the board is the number of directors equal to one-half of the number of directors on the board plus 1 or, if the number is not a whole number, the next highest whole number.

233 Presiding at meetings

- (1) The board's chairperson must preside at all meetings at which the chairperson is present.
- (2) If the chairperson is absent, the director chosen by the directors present must preside.

234 Conduct of meetings

- (1) A question at a board meeting is decided by a majority of the votes of the directors present and voting.
- (2) Each director present has a vote on each question to be decided and, if the votes are equal, the chairperson has a casting vote.
- (3) A director present at the meeting who abstains from voting is taken to have voted for the negative.
- (4) The board may hold meetings, or allow directors to take part in its meetings, by using any technology using reasonably contemporaneous and continuous communication between directors taking part in the meeting.

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Example of technology allowing reasonably contemporaneous and continuous communication—

teleconferencing

- (5) A director who takes part in a board meeting under subsection (4) is taken to be present at the meeting.
- (6) A resolution is validly made by the board, even if it is not passed at a board meeting, if—
 - (a) a majority of the board's directors gives written agreement to the resolution; and
 - (b) notice of the resolution is given under procedures approved by the board.

235 Minutes

The board must keep—

- (a) minutes of its proceedings; and
- (b) a record of any resolutions made under section 234(6).

Division 5 Directors' fees and allowances

236 Fees and allowances

A director is entitled to be paid the fees and allowances approved by the Minister.

Part 4 Financial matters

237 Estimate of pest operational board's operational costs

- (1) A pest operational board must, for each financial year, prepare and give to the Minister a written estimate of its operational costs for the year.

- (2) The estimate must be given to the Minister 2 months before the start of the financial year to which the estimate relates.
- (3) The estimate must be accompanied by a written statement stating—
 - (a) details, including a works program, for the items to which the costs relate; and
 - (b) an amount for each item.

238 Approval for carrying out pest operational board's operations

- (1) A pest operational board may carry out a works program or do other things involving expenditure by it in a financial year only if the works or other things have been approved by the Minister for the financial year.

Example of other things—

acquisition of land, machinery, equipment or materials

- (2) In deciding whether to approve the works program or other things, the Minister must have regard to—
 - (a) the purpose of this Act; and
 - (b) the expenditure involved in carrying out the works program or doing the other things.

Part 5 Other provisions about pest operational boards

239 Delegation

- (1) A pest operational board may delegate its powers to an appropriately qualified person.
- (2) A pest operational board may subdelegate a power of the chief executive that is delegated to it only if the delegation permits the subdelegation.

240 Annual report

- (1) As soon as practicable after the end of each financial year, a pest operational board must prepare and give to the Minister a written report about the board's operation during the year.
- (2) As soon as practicable after receiving the report, the Minister must table a copy of it in the Legislative Assembly.

Chapter 7 Investigation and enforcement

Part 1 Pest survey programs

241 Approval of pest survey program

- (1) The chief executive or a pest operational board, or a local government by resolution, may approve a program (a *pest survey program*) under which authorised persons appointed by the chief executive, pest operational board or the chief executive officer of the local government may enter places to monitor compliance with this Act.

Examples of pest survey program—

- 1 A program for monitoring compliance with requirements about declared pests, including, for example, groundsel bush.
 - 2 A program to map the distribution of declared pests or monitor their populations.
- (2) A pest survey program approved by a pest operational board may relate only to places in the board's operational area.
 - (3) A pest survey program approved by a local government may relate only to places in the local government's area.
 - (4) A pest survey program must state each of the following—
 - (a) the purpose of the program;
 - (b) when the program starts;
 - (c) objective criteria for selecting places to be entered and inspected;

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- (d) a description of the area in which the places are situated;
- (e) if a particular type of place is to be entered and inspected—a description of the type;
- (f) the period, of no more than 3 months or another period prescribed under a regulation, over which the program is to be carried out.

242 Notice of proposed pest survey program

- (1) At least 14 days, but not more than 28 days, before a pest survey program starts, the chief executive, pest operational board or local government must give notice of the program.
- (2) The notice must—
 - (a) be published in a newspaper circulating generally in the area to which the program relates; or
 - (b) be given to each landowner in the area to which the program relates.
- (3) The notice must state each of the following—
 - (a) the purpose and scope of the program;
 - (b) when the program starts;
 - (c) the period over which the program is to be carried out;
 - (d) if the program is approved by the chief executive—
 - (i) that a copy of the program is available for inspection or purchase at the department's head office and regional offices, if any, in the area to which the program relates until the end of the program; and
 - (ii) the price of a copy of the program;
 - (e) if the program is approved by a pest operational board—
 - (i) that a copy of the program is available for inspection or purchase at the board's public office until the end of the program; and
 - (ii) the price of a copy of the program;
 - (f) if the program is approved by a local government—

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- (i) the name of the local government; and
 - (ii) that a copy of the program is available for inspection or purchase at the local government's public office until the end of the program; and
 - (iii) the price of a copy of the program.
- (4) The price of a copy of the program must be no more than the cost of having the copy available for purchase, and, if the copy is posted to the purchaser, the postage cost.

243 Access to program

From the start of a pest survey program until the end of the program, copies of the program must be available for inspection or purchase at—

- (a) if the program is approved by the chief executive—the department's head office and the department's regional offices, if any, in the area to which the program relates; and
- (b) if the program is approved by a pest operational board—the board's public office; and
- (c) if the program is approved by a local government—the local government's public office.

Part 2 Authorised persons

244 Appointment and qualifications

- (1) The chief executive, a pest operational board or chief executive officer of a local government (the *appointing authority*) may appoint an individual as an authorised person.
- (2) However, the appointing authority may appoint an individual as an authorised person only if the appointing authority is satisfied the individual has the necessary expertise or experience.

245 Appointment conditions and limit on powers

- (1) An authorised person holds office on any conditions stated in—
 - (a) the authorised person’s instrument of appointment; or
 - (b) a signed notice given to the authorised person; or
 - (c) a regulation.
- (2) The instrument of appointment, a signed notice given to the authorised person or a regulation may limit the authorised person’s powers under this Act.
- (3) Also, an authorised person appointed by a pest operational board may exercise the authorised person’s powers only—
 - (a) in relation to the board’s operational area; and
 - (b) to control the entry of a declared pest managed by the board into the operational area or an area adjoining the operational area.
- (4) In addition, an authorised person appointed by the chief executive officer of a local government may exercise the authorised person’s powers only in relation to the local government’s area.
- (5) In this section—

signed notice means a notice signed by the chief executive, the chairperson of the pest operational board or chief executive officer of a local government.

246 Issue of identity card

- (1) An appointing authority must issue an identity card to each authorised person appointed by it.
- (2) The identity card must—
 - (a) contain a recent photo of the authorised person; and
 - (b) contain a copy of the authorised person’s signature; and
 - (c) identify the person as an authorised person under this Act; and

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- (d) state whether the authorised person is appointed by the chief executive, pest operational board, or chief executive officer of a local government; and
 - (e) state an expiry date for the card.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

247 Production or display of identity card

- (1) In exercising a power under this Act in relation to another person, an authorised person must—
- (a) produce the authorised person’s identity card for the other person’s inspection before exercising the power; or
 - (b) have the identity card displayed so it is clearly visible to the other person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the authorised person must produce the identity card for the other person’s inspection at the first reasonable opportunity.
- (3) For subsection (1), an authorised person does not exercise a power in relation to the other person only because the authorised person has entered a place as mentioned in section 251(1)(b) or (2).

248 When authorised person ceases to hold office

- (1) An authorised person ceases to hold office if any of the following happens—
- (a) the term of office stated in a condition of office ends;
 - (b) under another condition of office, the authorised person ceases to hold office;
 - (c) the authorised person’s resignation under section 249 takes effect.
- (2) Subsection (1) does not limit the ways an authorised person may cease to hold office.

(3) In this section—

condition of office means a condition on which the authorised person holds office.

249 Resignation

- (1) An authorised person may resign by signed notice given to the appointing authority who appointed the person.
- (2) However, if holding office as an authorised person is a condition of the authorised person holding another office, the authorised person may not resign as an authorised person without resigning from the other office.

250 Return of identity card

An individual who ceases to be an authorised person must return the individual's identity card to the appointing authority within 21 days after ceasing to be an authorised person, unless the individual has a reasonable excuse.

Maximum penalty—10 penalty units.

Part 3 Powers of authorised persons

Division 1 Entry to places other than vehicles

251 Power of entry

- (1) An authorised person may enter a place, other than a vehicle, if—
 - (a) its occupier consents to the entry; or
 - (b) it is a public place and the entry is made when it is open to the public; or
 - (c) the entry is authorised by a warrant; or

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- (d) the authorised person reasonably believes entry is necessary for ensuring or monitoring compliance with a pest control notice or emergency quarantine notice given for the place; or
 - (e) the authorised person is directed, under section 91,¹⁶ to take action because of a landowner's failure to comply with an emergency quarantine notice given for the place; or
 - (f) it is a permit holder's place of business and is—
 - (i) open for carrying on the business; or
 - (ii) otherwise open for entry; or
 - (iii) required to be open for inspection under the permit; or
 - (g) the entry is under a pest survey program and the entry is made at a reasonable time of the day or night.
- (2) For the purpose of asking the occupier of a place for consent to enter, an authorised person may, without the occupier's consent or a warrant—
- (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
 - (b) enter part of the place the authorised person reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

252 Entry with consent

- (1) This section applies if an authorised person intends to ask an occupier of a place to consent to the authorised person or another authorised person entering the place under section 251(1)(a).
- (2) Before asking for the consent, the authorised person must tell the occupier—
 - (a) the purpose of the entry; and

¹⁶ Section 91 (Directing authorised persons to take action under emergency quarantine notice)

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- (b) that the occupier is not required to consent.
- (3) If the consent is given, the authorised person may ask the occupier to sign an acknowledgment of the consent.
- (4) The acknowledgment must state the following—
 - (a) the occupier has been told—
 - (i) the purpose of the entry; and
 - (ii) that the occupier is not required to consent;
 - (b) the purpose of the entry;
 - (c) the occupier gives the authorised person or another authorised person consent to enter the place and exercise powers under this part;
 - (d) the time and date the consent was given.
- (5) If the occupier signs the acknowledgment, the authorised person must promptly give a copy to the occupier.
- (6) If—
 - (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
 - (b) an acknowledgment mentioned in subsection (4) for the entry is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

253 Other entries without warrant

- (1) This section applies if—
 - (a) an authorised person is intending to enter a place under section 251(1)(d) to (g); and
 - (b) the occupier of the place is present at the place.
- (2) Before entering the place, the authorised person must do or make a reasonable attempt to do the following—
 - (a) comply with section 247(1);
 - (b) tell the occupier the purpose of the entry;

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- (c) tell the occupier the authorised person is permitted under this Act to enter the place without the occupier's consent or warrant.

254 Application for warrant

- (1) An authorised person may apply to a magistrate for a warrant for a place.
- (2) The application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the authorised person gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

255 Issue of warrant

- (1) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—
 - (a) there is a particular thing or activity (the *evidence*) that may provide evidence of an offence against this Act; and
 - (b) the evidence is at the place, or, within the next 7 days, may be at the place.
- (2) The warrant must state—
 - (a) that a stated authorised person may, with necessary and reasonable help and force—
 - (i) enter the place and any other place necessary for entry; and
 - (ii) exercise the authorised person's powers under this part; and
 - (b) the offence for which the warrant is sought; and
 - (c) the evidence that may be seized under the warrant; and

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- (d) the hours of the day or night when the place may be entered; and
- (e) the date, within 14 days after the warrant's issue, the warrant ends.

256 Special warrants

- (1) An authorised person may apply for a warrant (a *special warrant*) by phone, fax, radio or another form of communication if the authorised person considers it necessary because of—
 - (a) urgent circumstances; or
 - (b) other special circumstances, including, for example, the authorised person's remote location.
- (2) Before applying for the special warrant, the authorised person must prepare an application stating the grounds on which the warrant is sought.
- (3) The authorised person may apply for the special warrant before the application is sworn.
- (4) After issuing the special warrant, the magistrate must promptly fax a copy (a *facsimile warrant*) to the authorised person if it is reasonably practicable to fax the copy.
- (5) If it is not reasonably practicable to fax a copy to the authorised person—
 - (a) the magistrate must tell the authorised person—
 - (i) what the terms of the special warrant are; and
 - (ii) the date and time the special warrant was issued; and
 - (b) the authorised person must complete a form of warrant (a *warrant form*) and write on it—
 - (i) the magistrate's name; and
 - (ii) the date and time the magistrate issued the special warrant; and
 - (iii) the terms of the special warrant.

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- (6) The facsimile warrant, or the warrant form properly completed by the authorised person, authorises the entry and the exercise of the other powers stated in the special warrant issued.
- (7) The authorised person must, at the first reasonable opportunity, send to the magistrate—
 - (a) the sworn application; and
 - (b) if the authorised person completed a warrant form—the completed warrant form.
- (8) On receiving the documents, the magistrate must attach them to the special warrant.
- (9) If—
 - (a) an issue arises in a proceeding about whether an exercise of an authorised person's power stated in the special warrant was authorised by the warrant; and
 - (b) the warrant is not produced in evidence;the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove the authorised person obtained the warrant.

257 Warrants—procedure before entry

- (1) This section applies if an authorised person named in a warrant issued under this part for a place is intending to enter the place under the warrant.
- (2) Before entering the place, the authorised person must do or make a reasonable attempt to do the following things—
 - (a) comply with section 247(1);
 - (b) give the person a copy of the warrant or if the entry is authorised by a facsimile warrant or warrant form mentioned in section 256(6), a copy of the facsimile warrant or warrant form;
 - (c) tell the person the authorised person is permitted by the warrant to enter the place;

- (d) give the person an opportunity to allow the authorised person immediate entry to the place without using force.
- (3) However, the authorised person need not comply with subsection (2) if the authorised person believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

Division 2 Entry to vehicles

258 Power of entry

An authorised person may enter a vehicle if—

- (a) the person in control of the vehicle consents to the entry;
or
- (b) the authorised person reasonably suspects—
 - (i) the vehicle is being, or has been, used in the commission of a declared pest offence; or
 - (ii) the vehicle, or anything on or in the vehicle, may provide evidence of the commission of a declared pest offence.

259 Procedure for entry

- (1) This section applies if—
 - (a) an authorised person is intending to enter a vehicle under section 258(b) other than with the consent of the person in control of the vehicle; and
 - (b) a person who is a person in control, or an occupier, of the vehicle is present at the vehicle.
- (2) Before entering the vehicle, the authorised person must do or make a reasonable attempt to do the following—
 - (a) comply with section 247(1);
 - (b) tell the person the purpose of the entry;
 - (c) ask for the consent of the person to the entry;

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- (d) tell the person the authorised person is permitted under this Act to enter the vehicle without consent.
- (3) If the person in control of the vehicle is not present at the vehicle, the authorised person must take reasonable steps to advise the person or the owner of the vehicle of the authorised person's intention to enter the vehicle.
- (4) Subsection (3) does not require the authorised person to take a step the authorised person reasonably believes may frustrate or otherwise hinder the purpose of the intended entry.

260 Power to stop vehicles that may be entered

If a vehicle that an authorised person may enter under this part is moving or about to move, the authorised person may signal the person in control of the vehicle to stop, or not to move, the vehicle.

261 Failure to obey signal

- (1) A person must not, without reasonable excuse, disobey a signal given under section 260.
Maximum penalty—50 penalty units.
- (2) It is a reasonable excuse for the person to disobey the signal if—
 - (a) to immediately obey the signal would have endangered the person or someone else; or
 - (b) the person obeys the signal as soon as it is practicable to obey it.

262 Other powers relating to vehicles that may be entered

- (1) If an authorised person may enter a vehicle under this part, the authorised person may require the person in control of the vehicle—
 - (a) to give the authorised person reasonable help to enter the vehicle; or

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- (b) to bring the vehicle to a stated place and remain in control of the vehicle for a reasonable period to allow the authorised person to exercise a power under this part; or
 - (c) to wash or clean the vehicle or anything in or on the vehicle to remove any reproductive material of a declared pest plant.
- (2) When making a requirement under subsection (1), the authorised person must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.
- (3) A person must not, without reasonable excuse, fail to comply with the requirement.

Maximum penalty—50 penalty units.

Division 3 Powers for entry to all places

263 General powers after entering places

- (1) This section applies to an authorised person who, under this part, may enter or has entered a place.
- (2) However, if an authorised person enters a place to ask the occupier's consent to enter premises, this section applies to the authorised person only if the consent is given or the entry is otherwise authorised.
- (3) For monitoring or enforcing compliance with this Act, the authorised person may do any of the following—
- (a) search any part of the place;
 - (b) inspect, measure, test, photograph or film any part of the place or anything at the place;
 - (c) mark or seal a container or other thing at the place;
 - (d) open a container if the authorised person considers it is necessary for exercising a power under this part;
 - (e) take a thing, or a sample of or from a thing, at the place for analysis or testing;

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- (f) take extracts from, or make copies of, a document at the place;
 - (g) take into the place the equipment, persons or materials the authorised person reasonably requires for exercising a power under this part;
 - (h) require the occupier of the place, or a person at the place, to give the authorised person—
 - (i) reasonable help to exercise the authorised person's powers under paragraphs (a) to (g); or
 - (ii) information to help the authorised person ascertain whether the Act is being complied with.
- (4) When making a requirement mentioned in subsection (3)(h), the authorised person must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.

264 Failure to help authorised person

- (1) A person required to give reasonable help under section 263(3)(h)(i) must comply with the requirement unless the person has a reasonable excuse.
- Maximum penalty—40 penalty units.
- (2) A person has a reasonable excuse if complying with the requirement might tend to incriminate the person.

265 Failure to give information

- (1) A person required to give information under section 263(3)(h)(ii) must comply with the requirement unless the person has a reasonable excuse.
- Maximum penalty—40 penalty units.
- (2) A person has a reasonable excuse if complying with the requirement might tend to incriminate the person.

Division 4 Seizure

266 Power to seize evidence—entry without consent or warrant

An authorised person who enters a place under this part without consent and without a warrant may seize a thing at the place only if the authorised person reasonably believes—

- (a) the thing is evidence of an offence against this Act; and
- (b) the seizure is necessary to prevent the thing being—
 - (i) hidden, lost or destroyed; or
 - (ii) used to commit, continue or repeat an offence.

267 Power to seize evidence—entry with consent or warrant

- (1) This section applies if an authorised person enters a place under this part with the necessary consent of a person or with a warrant.
- (2) If the authorised person enters a place with the necessary consent, the authorised person may seize a thing at the place if—
 - (a) the authorised person reasonably believes the thing is evidence of an offence against this Act; and
 - (b) seizure of the thing is consistent with the purpose of entry as told to the person when asking for the person's consent.
- (3) If the authorised person enters a place with a warrant, the authorised person may seize the evidence for which the warrant was issued.
- (4) The authorised person may seize anything else at the place if the authorised person reasonably believes—
 - (a) the thing is evidence of an offence against this Act; and
 - (b) the seizure is necessary to prevent the thing being—
 - (i) hidden, lost or destroyed; or
 - (ii) used to commit, continue or repeat an offence.

- (5) Also, the authorised person may seize a thing at the place if the authorised person reasonably believes it has just been used in committing an offence against this Act.

268 Securing seized things

Having seized a thing, an authorised person may—

- (a) move the thing from the place where it was seized (the *place of seizure*); or
- (b) leave the thing at the place of seizure but take reasonable action to restrict access to it.

Examples of restricting access to a thing—

- 1 Sealing a thing in a container and marking the container to show access to the thing is restricted.
- 2 Sealing the entrance to a room where a thing is situated and marking the entrance to show access to the thing is restricted.

269 Offence to tamper with seized things

If an authorised person restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing, or something restricting access to the thing, without an authorised person's approval.

Maximum penalty—100 penalty units.

270 Powers to support seizure

- (1) To enable a thing to be seized, an authorised person may require the person in control of it—
 - (a) to take it to a stated reasonable place by a stated reasonable time; and
 - (b) if necessary, to remain in control of it at the stated place for a stated reasonable period.
- (2) The requirement—
 - (a) must be made by notice in the approved form; or

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- (b) if for any reason it is not practicable to give the notice, may be made orally and confirmed by notice in the approved form as soon as practicable.
- (3) A further requirement may be made under this section about the thing if it is necessary and reasonable to make the further requirement.
- (4) A person of whom a requirement is made under subsection (1) or (3) must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty for subsection (4)—100 penalty units.

271 Receipts for seized things

- (1) As soon as practicable after an authorised person seizes a thing, the authorised person must give a receipt for it to the person from whom it was seized.
- (2) However, if for any reason it is not practicable to comply with subsection (1), the authorised person must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.
- (3) The receipt must—
 - (a) describe generally each thing seized and its condition; and
 - (b) if it is a declared pest that is seized in relation to a declared pest offence, state—
 - (i) the time the pest was seized; and
 - (ii) that the pest's owner may produce to the authorised person, within 48 hours after the seizure, the declared pest permit for the pest; and
 - (iii) if the permit is not produced in the 48 hours, the authorised person may destroy or dispose of the pest.
- (4) This section does not apply to a thing if it is impracticable or would be unreasonable to give the receipt, given the thing's nature, condition and value.

272 Return of seized things

- (1) If a seized thing is not forfeited, or destroyed or disposed of under section 274(3), the authorised person must return it to its owner—
 - (a) at the end of 6 months; or
 - (b) if a proceeding for an offence involving the thing is started within 6 months—at the end of the proceeding and any appeal from the proceeding.
- (2) Despite subsection (1), unless the thing is forfeited, or destroyed or disposed of under section 274(3), the authorised person must immediately return a thing seized to its owner if the authorised person stops being satisfied—
 - (a) its continued retention as evidence is necessary; or
 - (b) its continued retention is necessary to prevent the thing being used to continue, or repeat, the offence.

273 Access to seized things

- (1) Until a seized thing is forfeited, destroyed or disposed of under section 274(3), or returned, an authorised person must allow its owner to inspect it and, if it is a document, to copy it.
- (2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

274 Destruction or disposal of seized things

- (1) This section applies if an authorised person—
 - (a) reasonably suspects a person has committed a declared pest offence; and
 - (b) seizes a declared pest in relation to the offence.
- (2) The authorised person must give the owner of the pest an opportunity to produce the declared pest permit for the pest within 48 hours after seizing it.
- (3) If the owner does not produce the permit to the authorised person within the 48 hours, the authorised person may destroy

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or dispose of the pest in a reasonable way decided by the authorised person.

- (4) However, the authorised person may immediately destroy or dispose of the pest if—
 - (a) the owner is given an opportunity under subsection (2) to produce a declared pest permit for the pest; and
 - (b) the owner immediately gives a written declaration to the authorised person, admitting that the owner does not hold a declared pest permit for the pest.
- (5) If the authorised person destroys or disposes of the pest, the authorised person must give the owner of the pest a notice stating—
 - (a) that the pest has been destroyed or disposed of; and
 - (b) the reason for the destruction or disposal.
- (6) Compensation is not payable for destruction or disposal of a declared pest under this section.

Division 5 Forfeiture

275 Forfeiture by authorised person

- (1) A thing that has been seized under division 4 is forfeited to the State if the authorised person who seized the thing—
 - (a) can not find its owner, after making reasonable inquiries; or
 - (b) can not return it to its owner, after making reasonable efforts.
- (2) For subsection (1), the authorised person is not required to—
 - (a) make inquiries if it would be unreasonable to make inquiries to find the owner; or
 - (b) make efforts if it would be unreasonable to make efforts to return the thing to its owner.

Example for subsection (2)(b)—

The owner of the thing has migrated to another country.

- (3) Regard must be had to a thing's nature, condition and value in deciding—
 - (a) whether it is reasonable to make inquiries or efforts; and
 - (b) if inquiries or efforts are made—what inquiries or efforts, including the period over which they are made, are reasonable.

276 Forfeiture on conviction

- (1) On conviction of a person for an offence against this Act, the court may order the forfeiture to the State of anything owned by the person and seized under division 4.
- (2) The court may make any order to enforce the forfeiture it considers appropriate.
- (3) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

277 Dealing with forfeited things

- (1) On forfeiture of a thing to the State, the thing becomes the State's property and may be dealt with by the chief executive as the chief executive considers appropriate.
- (2) Without limiting subsection (1), the chief executive may destroy or dispose of the thing.

Division 6 Other powers

278 Power to require name and address

- (1) This section applies if—
 - (a) an authorised person finds a person committing an offence against this Act; or
 - (b) an authorised person finds a person in circumstances that lead, or has information that leads, the authorised person to reasonably suspect the person has just committed an offence against this Act.

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- (2) The authorised person may require the person to state the person's name and residential address.
- (3) When making the requirement, the authorised person must warn the person it is an offence to fail to state the person's name or residential address unless the person has a reasonable excuse.
- (4) The authorised person may require the person to give evidence of the correctness of the stated name or residential address if the authorised person reasonably suspects the stated name or address is false.

279 Failure to give name or address

- (1) A person of whom a requirement is made under section 278(2) or (4) must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

- (2) A person does not commit an offence against subsection (1) if—
 - (a) the person was required to state the person's name and residential address by an authorised person who suspected the person had committed an offence against this Act; and
 - (b) the person is not proved to have committed the offence.

280 Power to require information

- (1) This section applies if an authorised person reasonably believes—
 - (a) an offence against this Act has been committed; and
 - (b) a person may be able to give information about the offence.
- (2) The authorised person may, by notice given to the person, require the person to give information about the offence to the authorised person at a stated reasonable place and at a stated reasonable time.

281 Failure to give information

- (1) A person of whom a requirement is made under section 280 must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

- (2) It is a reasonable excuse for a person not to give the information if giving the information might tend to incriminate the person.

282 Power to require production of documents

- (1) An authorised person may require a person to make available for inspection by an authorised person, or produce to the authorised person for inspection, at a reasonable time and place nominated by the authorised person—

- (a) a document issued to the person under this Act; or
(b) a document required to be kept by the person under this Act.

- (2) The authorised person may keep the document to copy it.
(3) The authorised person must return the document to the person as soon as practicable after copying it.

283 Failure to produce document

- (1) A person required to make available, or produce, for inspection a document under section 282(1) must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

- (2) A person has a reasonable excuse if complying with the requirement might tend to incriminate the person.

Part 4 Notice of damage

284 Application of pt 4

- (1) This part applies if—
 - (a) an authorised person damages something when exercising, or purporting to exercise a power, under part 3; or
 - (b) a person acting under the direction or authority of an authorised person damages something.
- (2) However, this part does not apply to damage the authorised person reasonably believes is trivial.

285 Requirement to give notice of damage

- (1) The authorised person must promptly give written notice of the damage to the person who appears to the authorised person to be the owner or person in possession of the thing.
- (2) If for any reason it is not practicable to comply with subsection (1), the authorised person must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.
- (3) The notice must state—
 - (a) the particulars of the damage; and
 - (b) that the person who suffered the damage may claim compensation under section 302.¹⁷
- (4) If the authorised person believes the damage was caused by a latent defect in the thing or other circumstances beyond the control of the authorised person, or person acting under the direction or authority of the authorised person, the authorised person may state the belief in the notice.

17 Section 302 (Compensation)

Part 5 **Other offences**

286 **False or misleading statements**

- (1) A person must not state anything to an authorised person that the person knows is false or misleading in a material particular.

Maximum penalty—40 penalty units.

- (2) In a proceeding for an offence against subsection (1), it is enough to state the statement made was ‘false or misleading’ to the person’s knowledge, without specifying which.

287 **False or misleading documents**

- (1) A person must not give an authorised person a document containing information the person knows to be false or misleading in a material particular.

Maximum penalty—40 penalty units.

- (2) In a proceeding for an offence against subsection (1), it is enough to state the document was ‘false or misleading’ to the person’s knowledge, without specifying which.

288 **Obstructing authorised person**

- (1) A person must not obstruct an authorised person, or someone helping an authorised person, exercising a power under this Act, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) If a person has obstructed an authorised person, or someone helping an authorised person, and the authorised person decides to proceed with the exercise of the power, the authorised person must warn the person that—

- (a) it is an offence to cause an obstruction unless the person has a reasonable excuse; and
- (b) the authorised person considers the person’s conduct an obstruction.

(3) In this section—

obstruct includes assault and threaten to obstruct.

289 Impersonation of authorised person

A person must not pretend to be an authorised person.

Maximum penalty—50 penalty units.

Chapter 8 Evidence and legal proceedings

Part 1 Evidence

290 Application of pt 1

This part applies to a proceeding under this Act.

291 Appointments

It is not necessary to prove the following—

- (a) the chief executive's appointment;
- (b) the appointment of the chief executive officer of a local government;
- (c) the appointment of the chairperson of the land protection council;
- (d) a director's appointment;
- (e) an authorised person's appointment.

292 Signatures

A signature purporting to be the signature of a person mentioned in section 291 is evidence of the signature it purports to be.

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293 Evidentiary aids

A certificate purporting to be signed by the chief executive, or the chief executive of a local government, stating any of the following matters is evidence of the matter—

- (a) a stated document is one of the following things made, given, issued or kept under this Act—
 - (i) an appointment, approval or decision;
 - (ii) a notice, direction or requirement;
 - (iii) a permit;
- (b) a stated document is another document kept under this Act;
- (c) a stated document is a copy of a thing mentioned in paragraph (a) or (b);
- (d) on a stated day, or during a stated period, a stated person was or was not the holder of a permit;
- (e) on a stated day, or during a stated period, a permit—
 - (i) was or was not in force; or
 - (ii) was or was not subject to a stated condition;
- (f) on a stated day a permit was suspended for a stated period, surrendered or cancelled;
- (g) on a stated day, or during a stated period, a stated appointment, including a person's appointment as an authorised person, or a stated approval was, or was not, in force for a stated person or thing;
- (h) on a stated day—
 - (i) a stated person was given a stated notice or direction under this Act; or
 - (ii) a stated requirement under this Act was made of a stated person;
- (i) a stated amount is payable under this Act by a stated person.

Chapter 9 Appeals

296 Appeals against appealable decisions

An aggrieved person for an appealable decision may appeal to a Magistrates Court against the decision.¹⁹

297 Starting appeal

- (1) An appeal is started by—
 - (a) filing notice of appeal with the clerk of the Magistrates Court; and
 - (b) giving a copy of the notice to the person who made the decision appealed against (the *decision maker*); and
 - (c) complying with rules of court applicable to the appeal.
- (2) The notice must be filed within 28 days after the appellant receives notice of the decision appealed against.
- (3) However, the court may at any time extend the period for filing the notice of appeal.
- (4) The notice of appeal must state fully the grounds of the appeal and the facts relied on.

298 Stay of operation of decisions

- (1) The Magistrates Court may stay a decision appealed against to secure the effectiveness of the appeal.
- (2) A stay—
 - (a) may be given on conditions the court considers appropriate; and
 - (b) has effect for the period fixed by the court; and
 - (c) may be amended or revoked by the court.
- (3) The period of a stay must not extend past the time when the court decides the appeal.

¹⁹ Aggrieved persons and appealable decisions are in schedule 1.

- (4) An appeal against a decision affects the decision, or the carrying out of the decision, only if the decision is stayed.

299 Hearing procedures

- (1) In deciding an appeal, the Magistrates Court—
- (a) is not bound by the rules of evidence; and
 - (b) must comply with natural justice; and
 - (c) may hear the appeal in court or in chambers.
- (2) An appeal is by way of rehearing, unaffected by the review decision.

300 Powers of court on appeal

- (1) In deciding an appeal, the Magistrates Court may—
- (a) confirm the decision appealed against; or
 - (b) vary the decision; or
 - (c) set aside the decision and substitute another decision; or
 - (d) set aside the decision and return the matter to the decision maker with directions the court considers appropriate.
- (2) The decision as varied may be any decision the decision maker may make.
- (3) If the court substitutes another decision, the substituted decision is, for the purposes of this Act, other than this chapter, taken to be the decision of the decision maker.
- (4) The court may make an order for costs it considers appropriate.

301 Appeal to district court

- (1) A party dissatisfied by the decision of the Magistrates Court may appeal to the District Court, but only on a question of law.

- (2) On hearing the appeal, the District Court may make an order for costs it considers appropriate.

Chapter 10 Miscellaneous provisions

302 Compensation

- (1) This section applies if a person incurs loss or damage because of the exercise or purported exercise of a power under this Act, other than section 72, 95, 170, 172 or 274.²⁰
- (2) The person is entitled to be paid the reasonable compensation because of the loss or damage that is agreed between the compensating entity and the person, or failing agreement, decided by a court.
- (3) Compensation may be claimed and ordered to be paid in a proceeding—
- (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or
 - (b) for an offence against this Act brought against the person claiming compensation.
- (4) A court may order compensation to be paid only if satisfied it is just to make the order in the circumstances of the particular case.
- (5) A regulation may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to make the order.
- (6) In this section—
- compensating entity*** means, for loss or damage incurred because of the exercise or purported exercise of a power by—

²⁰ Section 72 (Direction to dispose of declared pest), 95 (Destruction of particular dogs), 170 (Dealing with seized stock), 172 (Destroying other stray stock) or 274 (Destruction or disposal of seized things)

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- (a) the chief executive or an authorised person appointed by the chief executive—the chief executive; or
- (b) a pest operational board or an authorised person appointed by the board—the pest operational board; or
- (c) the chief executive officer of a local government or an authorised person appointed by the chief executive officer—the chief executive officer.

303 Advisory committees

- (1) The Minister may establish committees to advise the Minister.
- (2) The Minister may decide—
 - (a) the functions or terms of reference of a committee; and
 - (b) the membership of a committee; and
 - (c) how a committee is to operate.
- (3) A committee member is entitled to be paid the fees and allowances decided by the Governor in Council.

304 Delegation by Minister

- (1) The Minister may delegate the Minister's powers under this Act to—
 - (a) a pest operational board; or
 - (b) an appropriately qualified public service officer.
- (2) However, the Minister may not delegate the Minister's power to—
 - (a) require a local government to pay an amount under section 187; or
 - (b) direct the land protection council to make a recommendation to the Minister under section 190(b)(ix); or
 - (c) request the land protection council to perform its functions under section 191(1); or

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- (d) ask the land protection council to call a meeting under section 201(3)(b); or
- (e) give a pest operational board directions about performing its functions under section 219(1); or
- (f) establish an advisory committee under section 303.

305 Delegation by chief executive

- (1) The chief executive may delegate the chief executive's powers under this Act to any of the following persons—
 - (a) the chief executive officer of a local government;
 - (b) a pest operational board;
 - (c) an officer of the department, or other person, the chief executive considers is appropriately qualified to exercise the power.
- (2) However, the chief executive may not delegate the chief executive's power to—
 - (a) make an emergency pest notice under section 37(2); or
 - (b) nominate a person to be a member of the land protection council under section 193(1)(b).²¹
- (3) The chief executive officer of a local government may subdelegate to an appropriately qualified person a power delegated to the chief executive officer under subsection (1).
- (4) A delegation of a power under subsection (1) to a pest operational board or an officer of the department may permit the subdelegation of the power to an appropriately qualified person.

²¹ Section 37 (Declaring declared pests by emergency pest notice) or 193 (Membership of land protection council)

306 Delegation by local government

A local government may delegate its powers under this Act as if this Act were a local government Act as defined under the *Local Government Act 1993*.²²

307 Protection from liability

- (1) This section applies to each of the following persons (a *relevant person*)—
 - (a) the Minister;
 - (b) the chief executive;
 - (c) an officer or employee of the department;
 - (d) the chief executive officer of a local government;
 - (e) an officer or employee of a local government;
 - (f) a director;
 - (g) an employee of a pest operational board;
 - (h) an authorised person;
 - (i) a person helping an authorised person at the authorised person's direction.
- (2) A relevant person is not civilly liable to someone for an act done, or an omission made, honestly and without negligence under this Act.
- (3) If subsection (1) prevents a civil liability attaching to a relevant person, the liability attaches instead to—
 - (a) for a relevant person mentioned in subsection (1)(a), (b) or (c), an authorised person appointed by the chief executive or a person helping the authorised person at the authorised person's direction—the State; or
 - (b) for a relevant person mentioned in subsection (1)(d) or (e), an authorised person appointed by the chief executive officer of a local government or a person

²² See the *Local Government Act 1993*, section 472 (Delegation by local government).

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- helping the authorised person at the authorised person's direction—the local government; or
- (c) for a relevant person mentioned in subsection (1)(f) or (g), an authorised person appointed by a pest operational board or a person helping the authorised person at the authorised person's direction—the pest operational board.
- (4) In this section—
- civil liability* includes liability for the payment of costs ordered to be paid in a proceeding for an offence against this Act.

308 Approved forms

The chief executive may approve forms for use under this Act.

309 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may—
- (a) be made about charges, costs or fees payable under this Act; and
- (b) declare a road or route to be a stock route.
- (3) A regulation may impose a penalty of no more than 20 penalty units for contravention of a regulation.

Chapter 11 Repeal, savings and transitional provisions

Part 1 Repeal

310 Act repealed

The *Rural Lands Protection Act 1985* is repealed.

Part 2 Savings and transitional provisions

Division 1 Preliminary

311 Definitions for pt 2

In this part—

commencement means the day section 310 commences.

former Act means the *Rural Lands Protection Act 1985*.

former authority means the Darling Downs–Moreton Rabbit Board established under the former Act.

former protection board means the Rural Lands Protection Board established under the former Act.

rabbit board means the pest operational board established under section 313.

Division 2 Savings and transitional provisions

312 Dissolution of former protection board

(1) On the commencement—

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- (a) the former protection board is dissolved; and
 - (b) the members of the board go out of office.
- (2) No compensation is payable to a member because of subsection (1).

313 Continuing Darling Downs–Moreton Rabbit Board

- (1) On or before the commencement, the Governor in Council must, by regulation, establish a pest operational board to carry out pest management activities for rabbits in the rabbit district under the former Act.
- (2) The pest operational board—
- (a) must have the same name as the former authority; and
 - (b) is the successor in law of the former authority that ceased to exist on the repeal of the former Act.
- (3) The regulation takes effect on the commencement.

314 Members of board of former authority

- (1) This section applies to a person who, immediately before the commencement, was a member of the board of the former authority.
- (2) On the commencement, the person—
- (a) is taken to be appointed, under section 222, as a director of the rabbit board; and
 - (b) holds office on the conditions not provided for by this Act that are decided by the Minister.
- (3) The term of the appointment ends when the first of the following happens—
- (a) the term of the member's appointment under the former Act ends;
 - (b) the office becomes vacant under section 227.

315 Employees of former authority

- (1) This section applies to a person who, immediately before the commencement, was an employee of the former authority.
- (2) On the commencement, the person becomes an employee of the rabbit board.
- (3) The person—
 - (a) must be employed on the person's existing or equivalent terms and conditions of employment; and
 - (b) remains entitled to all existing and accruing rights of employment.

316 Vesting of former authority's assets, rights and liabilities

- (1) On the commencement, the assets, rights and liabilities of the former authority vest in the rabbit board.
- (2) If, under another Act, a person is responsible for keeping a register about dealings with an asset mentioned in subsection (1), the rabbit board must do all acts and things necessary to record the vesting in the register.

317 Vesting of former authority's pending legal proceedings

- (1) This section applies to a legal proceeding that—
 - (a) was taken by or against a following entity before the commencement—
 - (i) the former authority;
 - (ii) a member of the board of the former authority in the person's capacity as a member of the former authority; and
 - (b) has not been finished before the commencement.
- (2) From the commencement, the proceeding may be continued and finished by or against the rabbit board.

318 Existing permission about animals or plants

- (1) This section applies to a permission—

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- (a) given by the Minister under the former Act allowing a person—
 - (i) to bring an animal or plant into the State; or
 - (ii) to keep or sell an animal or plant; and
 - (b) in force immediately before the commencement.
- (2) From the commencement, the permission continues in force, subject to this Act, as if it were a declared pest permit issued under this Act for a following purpose—
- (a) for a permission to bring an animal or plant into the State and keep it for educational purposes—public education;
 - (b) for a permission to bring an animal or plant into the State and keep it for entertainment purposes—circus;
 - (c) for a permission to bring an animal or plant into the State and keep it for exhibition purposes—wildlife park or zoo;
 - (d) for a permission to bring an animal or plant into the State and keep it for scientific purposes—scientific research;
 - (e) for another permission—commercial.

319 Existing permission about travelling or depasturing stock

- (1) This section applies to a permission given under the former Act, and in force immediately before the commencement, allowing a person to travel or depasture stock.
- (2) From the commencement, the permission continues in force, subject to this Act, as if it were a stock route travel permit or stock route agistment permit.

320 Application for permission to travel or depasture stock

- (1) This section applies to an application, under the former Act, for a permission to travel or depasture stock that is not finally decided before the commencement.

- (2) The application may be decided as if it were an application for a stock route travel permit or stock route agistment permit.

321 Application for permission about animals or plants

- (1) This section applies to an application, under the former Act, for a permission to bring an animal or plant into the State, or to keep or sell an animal or plant, that is not finally decided before the commencement.
- (2) The application may be decided as if it were an application for a declared pest permit for 1 of the following purposes—
- (a) for an application to bring an animal or plant into the State and keep it for educational purposes—public education;
 - (b) for an application to bring an animal or plant into the State and keep it for entertainment purposes—circus;
 - (c) for an application to bring an animal or plant into the State and keep it for exhibition purposes—wildlife park or zoo;
 - (d) for an application to bring an animal or plant into the State and keep it for scientific purposes—scientific research;
 - (e) for another application—commercial.

322 Barrier fences under former Act

- (1) This section applies to a fence established and maintained under the former Act, section 179(1), to restrict the movement of dingoes or rabbits.
- (2) From the commencement, the fence is taken to be—
- (a) for a fence restricting the movement of dingoes—a declared pest fence for dingoes; and
 - (b) for a fence restricting the movement of rabbits—a declared pest fence for rabbits.

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323 Existing notice to control declared animals or plants

- (1) This section applies to a notice given to a person under the former Act, section 81, and in force immediately before the commencement.
- (2) The notice continues in force and any contravention of it may be prosecuted under the former Act, section 82.

324 Existing endorsement on register kept under the Land Act or Land Title Act

- (1) This section applies to an endorsement made—
 - (a) in a register kept under the Land Act or Land Title Act; and
 - (b) under the former Act, section 113(1), 176(1), 185(1) or 204(1).
- (2) The chief executive for lands who made the endorsement must remove the endorsement from the register.

325 Existing agreement about water facilities

- (1) This section applies to an agreement between a local government and an owner of land about a matter mentioned in section 163(1) if the agreement was—
 - (a) entered into under another Act; and
 - (b) in force immediately before the commencement.
- (2) From the commencement, the agreement is taken to be a water facility agreement entered into under this Act.
- (3) Subject to subsection (4), the agreement's conditions continue to apply.
- (4) Unless the agreement is sooner terminated, it expires 4 years after the commencement or, if the agreement provides for an earlier expiration day, on the earlier expiration day.
- (5) The chief executive for lands who made, under the former Act, section 60, an endorsement about the agreement on a register kept under the Land Act or Land Title Act must—
 - (a) remove the endorsement; and

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- (b) make a record of the application of this section for the effective and efficient operation of the register.

326 References to former Act

In an Act or document, a reference to the former Act may, if the context permits, be taken to be a reference to this Act.

327 References to former protection board and former authority

In an Act or document, if the context permits—

- (a) a reference to the former protection board may be taken to be a reference to the land protection council; and
- (b) a reference to the former authority may be taken to be a reference to the rabbit board.

328 References to former fund

- (1) In an Act or document, a reference to the former fund may, if the context permits, be taken to be a reference to the Land Protection Fund.
- (2) In subsection (1)—
former fund means the Rural Lands Protection Fund established under the former Act.

Schedule 1 Appealable decisions and aggravated persons

section 296 and schedule 3, definitions *aggravated person* and
appealable decision

Appealable decision	Aggravated person
Requiring a person to restore a declared pest fence (section 53(2))	The person given the notice
Imposing conditions on a declared pest permit (section 61(1))	The permit holder
Refusing to issue a declared pest permit (section 63)	The applicant
Suspending or cancelling a declared pest permit (sections 66(3) and 69(2))	The permit holder
Giving a landowner a pest control notice (section 78(2))	The landowner
Refusing to extend compliance period for pest control notice (section 79(3)(b))	The landowner given the notice
Confirming issuing entity's decision about a stock route agistment permit or amending the permit conditions other than in the way asked by the permit holder (section 129(2))	The applicant or permit holder
Confirming issuing entity's decision about a stock route travel permit or amending the permit conditions other than in the way asked by the permit holder (section 145(2))	The applicant or permit holder

Schedule 1 (continued)

Appealable decision	Aggrieved person
Giving a landowner a fencing notice (section 149(1))	The landowner
Giving a permit holder a mustering notice (section 156(1))	The permit holder
Requiring a landowner to reduce the number of stock on the owner's land (section 161(2))	The landowner

Schedule 3 Dictionary

section 8

aggrieved person, for an appealable decision, means a person stated opposite the decision in schedule 1.

agistment period see section 120.

animal means a member of the animal kingdom, other than a human or protected animal under the *Nature Conservation Act 1992*, and includes the whole or any part of the progeny, larvae, pupae, eggs or genetic or reproductive material of the animal.

appealable decision means a decision stated in schedule 1.

appointing authority, for an authorised person, means the chief executive, pest operational board or the chief executive officer of a local government appointing the authorised person.

appropriately qualified, to exercise a power, includes having the qualifications, experience or standing appropriate to exercise the power.

Example of standing—

a person's classification level in the public service

approved form means a form approved under section 308.

authorised person means a person appointed as an authorised person under section 244.

building authority see section 48(1).

building line, for a declared pest fence, means the building line fixed under section 47(1) for the fence.

category, of a declared pest, means the following—

- (a) class 1 pest;
- (b) class 2 pest;
- (c) class 3 pest.

Schedule 3 (continued)

chairperson means—

- (a) for chapter 5—the chairperson of the land protection council; or
- (b) for chapter 6—the chairperson of a pest operational board’s board of directors.

chief executive for lands means—

- (a) for leasehold land—the chief executive under the Land Act; or
- (b) for freehold land—the registrar of titles under the Land Title Act.

class 1 pest means a declared pest declared to be a class 1 pest under section 36 or 37(2).

class 2 pest means a declared pest declared to be a class 2 pest under section 36 or 37(2).

class 3 pest means a declared pest declared to be a class 3 pest under section 36 or 37(2).

compliance period, for a pest control notice, see section 78(2)(c).

convicted means found guilty or having a plea of guilty accepted by a court, whether or not a conviction is recorded.

criminal history, of a person, has the meaning given by the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 3, but does not include convictions for which the rehabilitation period has expired, and has not been revived, under that Act.

decision maker, for chapter 9, see section 297(1)(b).

declared pest means a live animal or plant declared to be a declared pest under section 36 or 37(2), and includes reproductive material of the animal or plant.

declared pest animal means an animal that is a declared pest.

declared pest fence see section 47(1).

Schedule 3 (continued)

declared pest offence means an offence against chapter 2, part 5, division 2.

declared pest permit means a permit issued under chapter 2, part 7, division 1.

declared pest plant means a plant that is a declared pest.

director means a director of the board of directors of a pest operational board.

emergency pest notice see section 37(2).

emergency quarantine notice see section 90(1).

entry notice see section 80(1).

fee includes a tax.

fencing notice see section 149.

fund see section 209.

guidelines for pest management means the guidelines about managing declared pests prepared under section 15.

holder, of a permit, means the person to whom it is issued.

information notice, for a decision of the chief executive, chief executive officer of a local government or a pest operational board, means a written notice stating—

- (a) the decision; and
- (b) the reasons for the decision; and
- (c) that the person to whom the notice is given may appeal against the decision to a Magistrates Court within 28 days after the person receives the notice; and
- (d) how to appeal.

introduce means to introduce, or cause to introduce, into the State.

issuing entity, for—

- (a) a pest control notice, means—

Schedule 3 (continued)

- (i) for a declared pest the subject of a pest control campaign directed and managed by the chief executive to control or eradicate the declared pest—the chief executive; or
 - (ii) for a declared pest on land in the operational area of a pest operational board—the pest operational board; or
 - (iii) otherwise—the local government for the local government area in which the land to which the notice relates is situated; or
- (b) a stock route agistment permit—see section 116(1); or
 - (c) a stock route travel permit—see section 134(1).

keep, in relation to a declared pest, includes have in possession, or under control, in any place.

land means land above high water mark, and includes—

- (a) the airspace above the land; and
- (b) Queensland waters on the land.

Land Act means the *Land Act 1994*.

land protection council means the Land Protection (Pest and Stock Route Management) Council established under section 189.

Land Title Act means the *Land Title Act 1994*.

mustering notice see section 156.

native wildlife means any taxon or species of animal or plant indigenous to Australia.

notifiable disease means a notifiable disease as defined under the *Stock Act 1915*, schedule 2.

obstruct includes hinder, resist and attempt to obstruct.

operational area see section 213(1).

owner—

- (a) of land, means—

Schedule 3 (continued)

- (i) for freehold land—the registered proprietor; or
 - (ii) for land that is held from the State for an estate or interest less than fee simple and for which the interest is recorded in a register mentioned in the Land Act, section 276—the person recorded in the register as the registered holder of the interest; or
 - (iii) for a mining claim or lease under the *Mineral Resources Act 1989*—the holder of the claim or lessee; or
 - (iv) for land subject to a lease under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*—the lessee; or
 - (v) for a road, stock route or other land under a local government's control—the local government; or
 - (vi) for a conservation park under the *Nature Conservation Act 1992* for which there are trustees—the trustees; or
 - (vii) for State-controlled land—the State; and
- (b) for a thing that has been seized under chapter 7, part 3, includes a person who would be entitled to possession of the thing had it not been seized.

permit means a permit issued under this Act.

pest controller means—

- (a) for an entry notice—
 - (i) an authorised person; or
 - (ii) another person the issuing entity for the notice considers has the necessary experience or expertise to take action under the notice against a declared pest; or
- (b) for section 88—
 - (i) an authorised person; or

Schedule 3 (continued)

- (ii) another person the chief executive considers has the necessary experience or expertise to take action, under section 88, to eradicate, monitor or control a declared pest.

pest control notice see section 78(2).

pest management plan means a pest management plan under chapter 2, part 4.

pest operational board means a pest operational board established under section 213.

pest survey program see section 241(1).

place—

- (a) generally, includes land, premises and a vehicle; and
(b) for chapter 7, part 1, does not include a place where a person resides.

place of seizure see section 268.

plant means a member of the plant kingdom, other than a protected plant under the *Nature Conservation Act 1992*, and includes all or any part of the flowers, seeds or genetic or reproductive material of the plant.

premises includes a building or structure, or part of a building or structure, of any type.

principles of pest management means the principles stated in section 9.

principles of stock route network management means the principles stated in section 97.

proposed action see section 66(1).

protected area means—

- (a) a protected area as defined under the *Nature Conservation Act 1992*; or
(b) an area identified under a conservation plan under that Act as a critical habitat or area of major interest.

Schedule 3 (continued)

reasonably believes means believes on grounds that are reasonable in the circumstances.

reasonably suspects means suspects on grounds that are reasonable in the circumstances.

rectification notice see section 68(2).

rectification period see section 68(2).

relevant land means—

- (a) for chapter 3, part 4—
 - (i) a stock route; or
 - (ii) a reserve for travelling stock; or
 - (iii) a road under local government control; or
- (b) otherwise—
 - (i) a stock route; or
 - (ii) a reserve for travelling stock; or
 - (iii) a road or other land under local government control; or
 - (iv) unallocated State land adjoining land mentioned in subparagraph (i), (ii) or (iii).

relevant pest animal see section 47(2).

reproductive material, of an animal or plant, means any part of the animal or plant that is capable of asexual or sexual reproduction.

Examples of reproductive material of an animal—

semen, egg, or part of an egg

Examples of reproductive material of a plant—

- 1 seed or part of a seed
- 2 bulb, rhizome, stolon, tuber or part of a bulb, rhizome, stolon or tuber
- 3 stem or leaf cutting

Schedule 3 (continued)

reserve for travelling stock means land that is a reserve under the Land Act and may be used for travelling stock.

review notice, for a decision of a local government under chapter 3, part 4 or 5, means a written notice stating—

- (a) the decision and reasons for it; and
- (b) that the applicant may ask the chief executive to review the decision; and
- (c) how to ask for a review.

road includes an area—

- (a) dedicated to public use as a road; or
- (b) open to or used by the public and is developed for, or has as 1 of its main uses, the driving or riding of motor vehicles.

sell includes the following—

- (a) barter or exchange;
- (b) invite to treat or expose for sale.

State-controlled land means the following—

- (a) unallocated State land;
- (b) a reserve under the Land Act for which there is no trustee;
- (c) a national park, national park (Aboriginal land), national park (recovery), national park (scientific), national park (Torres Strait Islander land) or resources reserve under the *Nature Conservation Act 1992*;
- (d) a conservation park under the *Nature Conservation Act 1992*, that, under that Act, is not placed under the management of trustees;
- (e) a State forest or timber reserve under the *Forestry Act 1959*;
- (f) a State-controlled road.

Schedule 3 (continued)

State-controlled road means a road or land, or part of a road or land, declared to be a State-controlled road under the *Transport Infrastructure Act 1994*, section 23.²³

State pest management strategy means a State pest management strategy prepared by the chief executive under section 10.

State stock route network management strategy means the State stock route network management strategy prepared by the chief executive under section 98.

stock means alpacas, asses, buffaloes, camels, cattle, deer, donkeys, goats, horses, llamas, mules, sheep or vicunas.

stock-proof, for a fence, means a fence of a type, and in a condition, that prevents the movement of stock from 1 side of the fence to the other.

stock route means a road or route ordinarily used for travelling stock or declared under a regulation to be a stock route.

stock route agistment permit means a permit issued under chapter 3, part 4, division 1.

stock route network means the network of stock routes and reserves for travelling stock in the State.

stock route travel permit means a permit issued under section 137.

stray stock means stock that have—

- (a) strayed onto the stock route network; or
- (b) been travelling on the stock route network and been left behind or abandoned on the network.

submission period for—

- (a) a pest management plan—see section 28(2)(c); or

²³ *Transport Infrastructure Act 1994*, section 24 (Declaration of State-controlled roads)

Schedule 3 (continued)

- (b) a stock route network management plan—see section 108(2)(c).

supply includes the following—

- (a) give or sell;
- (b) offer or agree to give, sell or otherwise supply;
- (c) cause or permit to be given, sold or otherwise supplied;
- (d) supply under a lease, exchange, hiring or other commercial arrangement.
- (e) attempt to supply or do an act mentioned in paragraphs (a) to (d).

travelling stock means stock being driven by foot, other than on the land where the stock are ordinarily pastured.

travelling stock facility includes the following things supplied by the State or a local government on the stock route network—

- (a) a water facility;
- (b) a stock holding yard, loading ramp or enclosure;
- (c) a fence, other than a boundary fence;
- (d) a bridge or water crossing for use by travelling stock;
- (e) a gate, grid or signage to assist persons moving stock.

unallocated State land means unallocated State land as defined under the Land Act.

vehicle means anything used for carrying anything or any person by land, water or air, and includes equipment or machinery capable of moving on land.

watercourse means a river, creek or stream in which water flows permanently or intermittently—

- (a) in a natural channel, whether artificially improved or not; or
- (b) in an artificial channel that has changed the course of the watercourse.

Schedule 3 (continued)

water facility means an artificial water source for travelling stock and includes equipment used to supply the water to the stock.

water facility agreement see section 163(1).

wild river area see the *Wild Rivers Act 2005*, schedule 2.

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).

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 6 February 2006. Future amendments of the Land Protection (Pest and Stock Route Management) Act 2002 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

Key	Explanation	Key	Explanation
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	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1	none	1 July 2003	
1A	2004 Act No. 4	6 May 2004	
1B	2004 Act No. 33	27 October 2004	
1C	2004 Act No. 25	31 December 2004	R1C withdrawn, see R2
2	—	31 December 2004	
2A	2005 Act No. 19	19 May 2005	
2B	2005 Act No. 42	2 December 2005	
2C	2005 Act No. 68	6 February 2006	

5 List of legislation

Land Protection (Pest and Stock Route Management) Act 2002 No. 12

date of assent 24 April 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2003 (2003 SL No. 116)

amending legislation—

Natural Resources and Other Legislation Amendment Act 2004 No. 4 s 1, pt 5

date of assent 6 May 2004

commenced on date of assent

Petroleum and Gas (Production and Safety) Act 2004 No. 25 ss 1, 2(2), 1003–1004 (prev ss 943–944)

date of assent 12 October 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 31 December 2004 (2004 SL No. 308)

Natural Resources Legislation Amendment Act 2004 No. 33 pts 1–2

date of assent 27 October 2004

commenced on date of assent

Water and Other Legislation Amendment Act 2005 No. 19 s 1, pt 5

date of assent 19 May 2005

commenced on date of assent

Wild Rivers Act 2005 No. 42 ss 1–2, 52 sch 1

date of assent 14 October 2005

ss 1–2 commenced on date of assent

remaining provisions commenced 2 December 2005 (2005 SL No. 287)

Natural Resources and Other Legislation Amendment Act 2005 No. 68 pt 1, s 150 sch

date of assent 8 December 2005

ss 1–2 commenced on date of assent

remaining provisions commenced 6 February 2006 (2006 SL No. 6)

6 List of annotations

Relationship with particular Acts**prov hdg** amd 2004 No. 33 s 3(1)**s 6** amd 2004 No. 33 s 3(2)**Local governments to have pest management plan****s 25** amd 2004 No. 4 s 48**Declaring declared pests by emergency pest notice****s 37** amd 2004 No. 33 s 4**Keeping declared pest****s 41** amd 2004 No. 33 s 5**Amnesty for keeping particular declared pests****s 41A** ins 2004 No. 33 s 6**Supplying declared pest****s 44** amd 2004 No. 33 s 7**Supplying things containing reproductive material of particular declared pests****s 45** amd 2004 No. 33 s 8**Pest control notice****s 78** amd 2005 No. 42 s 52 sch 1**Extending compliance period****s 79** amd 2004 No. 33 s 9**Noncompliance with pest control notice****s 80** amd 2004 No. 33 s 10**Emergency quarantine notice****s 90** amd 2004 No. 33 s 11**Local governments to have stock route network management plan****s 105** amd 2004 No. 4 s 49**Application for permit****s 116** amd 2004 No. 33 s 12**Deciding application****s 118** amd 2004 No. 33 s 13**Amounts payable by permit holder****s 159 prov hdg** amd 2004 No. 33 s 14

Water facility agreements

s 163 amd 2004 No. 33 s 15

Registration of particular agreements

s 165 amd 2004 No. 33 s 16

Investigations about eligibility for appointment

s 195A ins 2004 No. 33 s 17

Criminal history is confidential document

s 195B ins 2004 No. 33 s 17

Qualifications for appointment

s 224 amd 2004 No. 33 s 18

Investigations about eligibility for appointment

s 224A ins 2004 No. 33 s 19

Criminal history is a confidential document

s 224B ins 2004 No. 33 s 19

Destruction or disposal of seized things

s 274 amd 2004 No. 33 s 20

Existing agreement about water facilities

s 325 amd 2005 No. 19 s 181

CHAPTER 12—CONSEQUENTIAL AMENDMENTS

ch 12 (s 329) om R1 (see RA s 40)

SCHEDULE 1—APPEALABLE DECISIONS AND AGGRIEVED PERSONS

amd 2005 No. 68 s 150 sch

SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF ACTS

om R1 (see RA s 40)

SCHEDULE 3—DICTIONARY

def “**criminal history**” ins 2004 No. 33 s 21(1)

def “**notifiable disease**” amd 2005 No. 68 s 150 sch

def “**owner**” amd 2004 No. 25 s 1004

def “**State-controlled land**” amd 2004 No. 33 s 21(2)

def “**wild river area**” ins 2005 No. 42 s 52 sch 1