



# Nature Conservation Act 1992

Current as at 30 June 2013

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- The list of annotations endnote gives historical information at section level.

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Queensland

# Nature Conservation Act 1992

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# Nature Conservation Act 1992

[as amended by all amendments that commenced on or before 30 June 2013]

## An Act to provide for the conservation of nature

### Part 1 Preliminary

#### 1 Short title

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

#### 3 Act binds all persons

- (1) This Act binds all persons, including the State, and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.
- (2) Nothing in this Act makes the Commonwealth, the State or another State liable to be prosecuted for an offence.

#### 3A Territorial application of Act

- (1) This Act applies both within and outside the State.
- (2) This Act applies outside the State to the full extent of the extraterritorial legislative power of the Parliament.

## **Part 2                      Object of Act**

### **4            Object of Act**

The object of this Act is the conservation of nature.

### **5            How object is to be achieved**

The conservation of nature is to be achieved by an integrated and comprehensive conservation strategy for the whole of the State that involves, among other things, the following—

- (a) Gathering of information and community education etc.
  - gathering, researching, analysing, monitoring and disseminating information on nature;
  - identifying critical habitats and areas of major interest;
  - encouraging the conservation of nature by the education and cooperative involvement of the community, particularly landholders;
- (b) Dedication and declaration of protected areas
  - the dedication and declaration of areas representative of the biological diversity, natural features and wilderness of the State as protected areas;
- (c) Management of protected areas
  - the management of protected areas in accordance with—
    - (i) the management principles; and
    - (ii) the interim and declared management intent; and
    - (iii) the management plans;for the areas;



- (d) Protection of native wildlife and its habitat
- the protection of the biological diversity of native wildlife and its habitat by—
    - (i) the dedication and declaration of protected areas; and
    - (ii) prescribing protected and prohibited wildlife; and
    - (iii) the management of wildlife in accordance with—
      - (A) the management principles; and
      - (B) the declared management intent; and
      - (C) any conservation plan; for the wildlife; and
    - (iv) entering into conservation agreements;
- (e) Use of protected wildlife and areas to be ecologically sustainable
- providing for the ecologically sustainable use of protected wildlife and areas by the preparation and implementation of management and conservation plans consistent with the values and needs of the wildlife or areas concerned, particularly plans dealing with the management of—
    - (i) protected areas; and
    - (ii) the taking or use of wildlife; and
    - (iii) protected wildlife and its habitat; and
    - (iv) critical habitats and areas of major interest;
- (f) Recognition of interest of Aborigines and Torres Strait Islanders in nature and their cooperative involvement in its conservation
- the recognition of the interest of Aborigines and Torres Strait Islanders in protected areas and native wildlife;

[s 6]

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- the cooperative involvement of Aborigines and Torres Strait Islanders in the conservation of nature;
- (g) Cooperative involvement of landholders
  - the cooperative involvement of landholders in the conservation of nature.

## 6 Community participation in administration of Act

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

# Part 3 Interpretation

## Division 1 Dictionary

### 7 Definitions

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

## Division 2 Key definitions

### 8 Meaning of *nature*

- (1) *Nature* includes all aspects of nature.
- (2) Without limiting subsection (1), *nature* includes—
  - (a) ecosystems and their constituent parts; and
  - (b) all natural and physical resources; and

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

## 9 Meaning of *conservation*

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

## 10 Meaning of *biological diversity*

- (1) *Biological diversity* is the natural diversity of native wildlife, together with the environmental conditions necessary for their survival, and includes—
  - (a) regional diversity, that is, the diversity of the landscape components of a region, and the functional relationships that affect environmental conditions within ecosystems; and
  - (b) ecosystem diversity, that is, the diversity of the different types of communities formed by living organisms and the relations between them; and
  - (c) species diversity, that is, the diversity of species; and
  - (d) genetic diversity, that is, the diversity of genes within each species.
- (2) In subsection (1)—

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

## 11 Meaning of *ecologically sustainable use*

*Ecologically sustainable use* is—

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

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- (b) in relation to protected areas—the use of the areas; within their capacity to sustain natural processes while—
- (c) maintaining the life support systems of nature; and
- (d) ensuring that the benefit of the use to present generations does not diminish the potential to meet the needs and aspirations of future generations.

## 12 Meaning of *threatening process*

A *threatening process* is any process that is capable of—

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

## 13 Meaning of *critical habitat*

- (1) *Critical habitat* is habitat that is essential for the conservation of a viable population of protected wildlife or community of native wildlife, whether or not special management considerations and protection are required.
- (2) A *critical habitat* may include an area of land that is considered essential for the conservation of protected wildlife, even though the area is not presently occupied by the wildlife.

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## **Part 4                      Protected areas**

### **Division 1                Basic concepts**

#### **14            Classes of protected areas to which Act applies**

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

- (a) national parks (scientific); and
- (b) national parks; and
- (c) national parks (Aboriginal land); and
- (d) national parks (Torres Strait Islander land); and
- (da) national parks (Cape York Peninsula Aboriginal land);  
and
- (e) national parks (recovery); and
- (f) conservation parks; and
- (g) resources reserves; and
- (h) nature refuges; and
- (i) coordinated conservation areas; and
- (j) wilderness areas; and
- (k) World Heritage management areas; and
- (l) international agreement areas.

#### **15            Management of protected areas**

- (1) Each protected area is to be managed in accordance with—
  - (a) the management principles prescribed by this division for the class of protected area; and
  - (b) if the area is—
    - (i) a national park (Aboriginal land) or national park (Torres Strait Islander land)—the lease or sublease of the area; or

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- (ii) a national park (Cape York Peninsula Aboriginal land) or an indigenous joint management area—any indigenous land use agreement for the area and the indigenous management agreement for the area; or
  - (iii) a nature refuge or a wilderness area—the declared management intent, and the conservation agreement or covenant, for the area; or
  - (iv) a coordinated conservation area—
    - (A) the interim management intent for the area until a management plan is approved for the area; and
    - (B) the conservation agreement for the area; and
  - (c) the management plan for the area.
- (2) The interim or declared management intent for a protected area is the management intent for the area specified in the regulation dedicating or declaring the area.
- (3) The interim or declared management intent for a protected area must contain a statement of—
- (a) the area’s significant cultural and natural resources and values; and
  - (b) the proposed management intent for, and any proposed use of, the area.

## **16 Management principles of national parks (scientific)**

- (1) A national park (scientific) is to be managed to—
- (a) protect the area’s exceptional scientific values and, in particular—
    - (i) to ensure that the processes of nature continue unaffected in the area; and
    - (ii) to protect the area’s biological diversity to the greatest possible extent; and

- (b) allow controlled scientific study and monitoring of the area's natural resources.
- (2) However, if threatened wildlife is a significant natural resource for the area, management of the area may include—
  - (a) manipulation of the wildlife's habitat; and
  - (b) the control of threatening processes relating to the wildlife, including threatening processes caused by other wildlife.
- (3) Subject to subsections (1) and (2), a national park (scientific), or a part of a national park (scientific), that is also an indigenous joint management area is to be managed, as far as practicable, in a way that is consistent with any Aboriginal tradition applicable to the area, including any tradition relating to activities in the area.

## **17 Management principles of national parks**

- (1) A national park is to be managed to—
  - (a) provide, to the greatest possible extent, for the permanent preservation of the area's natural condition and the protection of the area's cultural resources and values; and
  - (b) present the area's cultural and natural resources and their values; and
  - (c) ensure that the only use of the area is nature-based and ecologically sustainable.
- (2) The management principle mentioned in subsection (1)(a) is the cardinal principle for the management of national parks.
- (3) Subject to subsections (1) and (2), a national park, or a part of a national park, that is also an indigenous joint management area is to be managed, as far as practicable, in a way that is consistent with any Aboriginal tradition applicable to the area, including any tradition relating to activities in the area.

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**18 Management principles of national parks (Aboriginal land)**

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

**19 Management principles of national parks (Torres Strait Islander land)**

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

**19AA Management principles of national parks (Cape York Peninsula Aboriginal land)**

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

**19A Management principles of national parks (recovery)**

- (1) A national park (recovery) is to be managed to do the following—
  - (a) protect or restore, to the greatest possible extent, the park's natural condition and protect its cultural



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- resources and values so that it can be dedicated as a national park;
- (b) provide for the manipulation of the park's natural resources to restore its conservation values;
  - (c) ensure any commercial or other use of the park's natural resources to restore its conservation values is consistent with an approved regeneration plan for the park;
  - (d) ensure any other use of the park is nature-based.
- (2) Subject to subsection (1), a national park (recovery), or a part of a national park (recovery), that is also an indigenous joint management area is to be managed, as far as practicable, in a way that is consistent with any Aboriginal tradition applicable to the area, including any tradition relating to activities in the area.

## **20 Management principles of conservation parks**

- (1) A conservation park is to be managed to—
- (a) conserve and present the area's cultural and natural resources and their values; and
  - (b) provide for the permanent conservation of the area's natural condition to the greatest possible extent; and
  - (c) ensure that any commercial use of the area's natural resources, including fishing and grazing, is ecologically sustainable.
- (2) Subject to subsection (1), a conservation park, or a part of a conservation park, that is also an indigenous joint management area is to be managed, as far as practicable, in a way that is consistent with any Aboriginal tradition applicable to the area, including any tradition relating to activities in the area.

## **21 Management principles of resources reserves**

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

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- (a) recognise and, if appropriate, protect the area's cultural and natural resources; and
  - (b) provide for the controlled use of the area's cultural and natural resources; and
  - (c) ensure that the area is maintained predominantly in its natural condition.
- (2) The felling of timber for a commercial purpose must not be conducted in a resources reserve.
- (3) Subject to subsections (1) and (2), a resources reserve, or a part of a resources reserve, that is also an indigenous joint management area is to be managed, as far as practicable, in a way that is consistent with any Aboriginal tradition applicable to the area, including any tradition relating to activities in the area.

## **22 Management principles of nature refuges**

A nature refuge is to be managed to—

- (a) conserve the area's significant cultural and natural resources; and
- (b) provide for the controlled use of the area's cultural and natural resources; and
- (c) provide for the interests of landholders to be taken into account.

## **23 Management principles of coordinated conservation areas**

A coordinated conservation area is to be managed to—

- (a) conserve the area's natural and cultural values by coordinated management involving the area's various landholders; and
- (b) take account of the area's values, including its recreational, educational and commercial values; and

- (c) provide for the interests of the various landholders to be maintained.

## **24 Management principles of wilderness areas**

A wilderness area is to be managed to—

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

## **25 Management principles of World Heritage management areas**

A World Heritage management area is to be managed to—

- (a) meet international obligations in relation to the area; and
- (b) protect the area's internationally outstanding cultural and natural resources and its biological diversity; and
- (c) transmit the area's world heritage values to future generations.

## **26 Management principles of international agreement areas**

An international agreement area is to be managed to—

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

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**27 Prohibition on mining, geothermal activities and GHG storage activities**

- (1) A mining interest, geothermal tenure or GHG authority can not be granted in relation to—
- (a) a national park (scientific); or
  - (b) a national park; or
  - (c) a national park (Aboriginal land); or
  - (d) a national park (Torres Strait Islander land); or
  - (da) a national park (Cape York Peninsula Aboriginal land); or
  - (e) a national park (recovery); or
  - (f) a conservation park.
- (2) However, subsection (1) does not apply if—
- (a) the mining interest is—
    - (i) an authorised activity for a survey licence under the *Petroleum and Gas (Production and Safety) Act 2004* (the **P&G Act**), section 394 other than in relation to a petroleum facility under that Act; or
    - (ii) an authorised activity for a pipeline licence under the P&G Act; and
  - (b) an authority under section 34, 35, 42AD or 42AE has been granted, made, issued or given for the licence.
- (3) In this section—
- mining interest*** means any activity authorised under—
- (a) the *Mineral Resources Act 1989*; or
  - (b) the *Petroleum Act 1923*; or
  - (c) the P&G Act.

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## **Division 2            Protected areas (State land)**

### **Subdivision 1        Preliminary**

#### **28        Meaning of *protected area* in division**

In this division—

*protected area* means—

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

### **Subdivision 2        Dedication, revocation and                                  amalgamation**

#### **29        Dedication of protected areas**

- (1) The Governor in Council may, by regulation, dedicate a specified area of State land as—
  - (a) a national park (scientific); or
  - (b) a national park; or
  - (c) a national park (recovery); or
  - (d) a conservation park; or
  - (e) a resources reserve.
- (2) The regulation may define the extent of the area by reference to—
  - (a) a specified depth below the surface of land; or
  - (b) a specified height above the surface of land.

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

### **30 Revocation of State forests and timber reserves**

- (1) Despite the *Forestry Act 1959*, if an area that is to be dedicated as a protected area is, or includes part of, a State forest or timber reserve set apart and declared under that Act, the regulation dedicating the area may revoke, in whole or part, the setting apart and declaration of the State forest or timber reserve.
- (2) The regulation may be made only if the Legislative Assembly has, on a motion of which at least 28 days notice has been given, passed a resolution requesting the Governor in Council to dedicate the area.

### **31 Trustees of protected areas**

- (1) If an area is dedicated as a conservation park or resources reserve, the Governor in Council may, by regulation, place the area under the management of trustees.
- (2) The trustees are to be appointed by the Governor in Council.
- (3) The trustees must comply with section 15 in the management of the protected area.
- (4) The *Acts Interpretation Act 1954*, section 25 applies to an office as trustee.
- (5) The *Trusts Act 1973* does not apply to—
  - (a) trusts created under this section; and
  - (b) the trustees of such trusts.
- (6) Trustees may, in their official name—
  - (a) sue or be sued; and
  - (b) take action for removal of trespassers or protection of property under their management.

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- (7) For the purpose of any legal proceeding, trustees are taken to be the owners of property under their management.
  - (8) The Governor in Council may, by gazette notice, revoke a trust created under this section.
  - (9) The persons who were the trustees of a trust immediately before its revocation must, within 30 days of receipt of written notice given to them by the Minister, repay to the State any unspent amount that—
    - (a) was paid to them by the State for the purposes of the trust; and
    - (b) was held by them when the trust was revoked.
  - (10) An amount payable to the State under subsection (9) is a debt due to the State and may be recovered in a court having jurisdiction for the recovery of debts up to the amount concerned.

### **32 Revocation of protected areas**

- (1) The Governor in Council may, by regulation, revoke the dedication of a protected area in whole or part.
- (2) The regulation may be made only if the Legislative Assembly has, on a motion of which at least 28 days notice has been given, passed a resolution requesting the Governor in Council to make the revocation.
- (3) This section does not apply to a protected area, or a part of a protected area, that is an indigenous joint management area.

*Note—*

For a protected area that is also an indigenous joint management area, see section 42AK. Also, note section 42AM.

### **33 Amalgamation etc. of protected areas**

- (1) The Governor in Council may, by regulation—
  - (a) amalgamate protected areas of the same class, and assign a name to the amalgamated area; or

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- (b) change the class of a protected area by dedicating the area as another class of protected area; or
  - (c) change the boundaries of a protected area.
- (2) If—
- (a) because of the change in the class of a protected area, the area will be given less protection under this Act; or
  - (b) because of the change in the boundaries of a protected area, land will be removed from the area (other than for the purpose of dedicating the removed land as land with the same or a higher level of protection under this Act);
- the regulation may be made only if the Legislative Assembly has, on a motion of which at least 28 days notice has been given, passed a resolution requesting the Governor in Council to make the revocation.
- (3) This section does not apply to a protected area, or a part of a protected area, that is an indigenous joint management area.

*Note—*

For a protected area, or part of a protected area, that is an indigenous joint management area, see section 42AL. Also, note section 42AM.

### **Subdivision 3      Interests in protected areas**

#### **34      Leases etc. over protected areas**

- (1) A lease, agreement, licence, permit or other authority over, or in relation to, land in a protected area (other than an agreement or a licence, permit or other authority issued or given under a regulation) may be granted, made, issued or given only—
- (a) by—
    - (i) if the area is a national park (scientific), national park or national park (recovery)—the chief executive under this Act; or



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- (ii) if the area is a conservation park or resources reserve—the chief executive or trustees of the area with the consent of the chief executive; or
  - (b) under another Act by—
    - (i) the Governor in Council; or
    - (ii) someone else with the consent of the Minister or chief executive.
  - (2) A lease, agreement, licence, permit or other authority mentioned in subsection (1) must be consistent with—
    - (a) the management principles for the area; and
    - (b) if a management plan has been approved for the area, the management plan.
  - (3) This section does not apply to a protected area, or a part of a protected area, that is an indigenous joint management area.

*Note—*

For a protected area, or part of a protected area, that is an indigenous joint management area, see section 42AN.

### **35 Chief executive's powers about permitted uses in national parks or national parks (recovery)**

- (1) The chief executive may grant, make, issue or give a lease, agreement, licence, permit or other authority over, or in relation to, land in a national park or national park (recovery) if—
  - (a) the use under the authority is only for a service facility or an ecotourism facility; and
  - (b) if the use under the authority is for a service facility, the chief executive is satisfied—
    - (i) if the land is in a national park, the cardinal principle for the management of national parks will be observed to the greatest possible extent; and

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- (ii) if the land is in a national park (recovery), the management principle under section 19A(a) will be observed to the greatest possible extent; and
    - (iii) the use will be in the public interest; and
    - (iv) the use is ecologically sustainable; and
    - (v) there is no reasonably practicable alternative to the use; and
  - (c) if the use under the authority is for an ecotourism facility, the chief executive is satisfied—
    - (i) the use will be in the public interest; and
    - (ii) the use is ecologically sustainable; and
    - (iii) the use will provide, to the greatest possible extent, for the preservation of the land's natural condition and the protection of the land's cultural resources and values; and
  - (d) the use under the authority is prescribed under a regulation made for this section to be a permitted use for the area.
- (2) Subsection (1) has effect despite sections 15 and 34(2).
- (3) This section does not apply to—
- (a) a national park, or a part of a national park, that is an indigenous joint management area; or
  - (b) a national park (recovery), or a part of a national park (recovery), that is an indigenous joint management area.

*Note—*

For an indigenous joint management area, see section 42AO.

### **35A Chief executive's powers about permitted uses for existing service facilities in national parks or national parks (recovery)**

- (1) The chief executive may grant, make, issue or give a lease, agreement, licence, permit or other authority over, or in

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relation to, land in a national park or national park (recovery) if—

- (a) the use under the authority is only for an existing service facility; and
- (b) the chief executive is satisfied—
  - (i) the use is ecologically sustainable; and
  - (ii) the use does not include carrying out substantial improvements to the existing service facility.

*Examples of a substantial improvement to an existing service facility—*

- an upgrade of a road that provides access to a communications tower
  - the replacement of a pipeline with a larger pipeline
- (2) Subsection (1) applies despite sections 15 and 34(2), and does not limit section 35.
  - (3) This section does not apply to—
    - (a) a national park, or a part of a national park, that is an indigenous joint management area; or
    - (b) a national park (recovery), or a part of a national park (recovery), that is an indigenous joint management area.
  - (4) In this section—

*existing service facility*, for land in a national park or national park (recovery), means a service facility in existence on the land immediately before the land was dedicated as a national park or national park (recovery).

### **36 Authorities for new national park or national park (recovery)**

- (1) This section applies if—
  - (a) land is dedicated as a national park or national park (recovery); and

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- (b) immediately before the dedication, the land was being used (the *previous use*) in a way that is inconsistent with the management principles of the park.
- (2) The chief executive may grant an authority (a *previous use authority*) over, or in relation to, the land to allow the previous use to continue for no more than the allowable term after the dedication.
- (3) However, a previous use authority must not be granted for a national park if the previous use was under a sales permit under the *Forestry Act 1959*, section 56.
- (4) A previous use authority must not be renewed.
- (5) This section—
  - (a) applies despite sections 15 and 34(2); but
  - (b) does not limit sections 35 and 35A.
- (5A) This section does not apply to—
  - (a) a national park, or a part of a national park, that is an indigenous joint management area; or
  - (b) a national park (recovery), or a part of a national park (recovery), that is an indigenous joint management area.

*Note*—

For an indigenous joint management area, see section 42AP.

- (6) In this section—

*allowable term*, for a previous use of a national park or national park (recovery), means a term no longer than—

  - (a) if the previous use was under a permit or lease as follows, the term that is the unexpired term of the permit or lease—
    - (i) an occupation permit under the *Forestry Act 1959*, section 35(1)(a) under which the right of occupation is only for a service facility;
    - (ii) a stock grazing permit under the *Forestry Act 1959*, section 35(1)(c);

- (iii) an apiary permit under the *Forestry Act 1959*, section 35(1)(d);
  - (iv) a sales permit under the *Forestry Act 1959*, section 56, for the taking of plant parts if it does not authorise cutting or pruning of plants so severely that the plant is likely to die;
  - (v) a lease under the *Land Act 1994*; or
- (b) otherwise—3 years after the dedication.

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

**plant parts** means the flowers, foliage, seeds or stems of the plant.

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

- (1) In this section—

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

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

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

- (2) The chief executive may renew, or consent to the renewal of, an authority for the national park if the use under the authority is prescribed under a regulation made for this section to be a permitted use for the area.
- (3) The authority may only be renewed for—
- (a) if no management plan is in force for the area when the renewal is granted—not longer than 10 years; or

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- (b) if a management plan is in force for the area when the renewal is granted—the term authorised under the plan.
- (4) The authority may be renewed subject to the conditions the chief executive considers appropriate.
- (5) This section has effect despite sections 15 and 34(2).

### **38 Leases may be granted under Land Act 1994**

- (1) Subject to subsection (2), a term lease under the *Land Act 1994* may be granted over any land within a protected area as if the land were reserved and set apart under that Act for public purposes.
- (2) The lease must—
  - (a) be consistent with—
    - (i) the management principles for the area; and
    - (ii) the management plan for the area; and
  - (b) be granted only with the consent of, and subject to the conditions decided by, the chief executive.
- (3) The *Land Act 1994* applies to the lease to the extent that it is not inconsistent with this Act.

### **39 Creation of interests in protected areas**

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

## **Subdivision 4 Environmental impact statements**

### **39A Application of sdiv 4**

- (1) This subdivision applies if a person seeks, under section 34, 35, or 38, an interest in land in a protected area.
- (2) This subdivision applies despite any other Act under which the interest is to be created.

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**39B Chief executive may require EIS**

- (1) The chief executive may, before the interest is created, require the person to give the chief executive an EIS for the use, or a stated use, of the land under the interest.
- (2) The EIS process under the *Environmental Protection Act 1994* applies for the EIS as if the use or stated use were a project to which chapter 3, part 1 of that Act applies.
- (3) The person must pay the costs of preparing the EIS.

**39C EIS must be considered**

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

**Division 3 Protected areas (Aboriginal land and Torres Strait Islander land) and indigenous joint management areas**

**Subdivision 1 National parks (Aboriginal land) and national parks (Torres Strait Islander land)**

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

- (1) This section applies to a national park, or part of a national park, (the *national park land*) that—
  - (a) is not in the Cape York Peninsula Region or the North Stradbroke Island Region; and
  - (b) becomes Aboriginal land or Torres Strait Islander land.

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- (2) On approval of the management plan for the national park land under section 119, the Governor in Council must, by regulation, dedicate the national park land as national park (Aboriginal land) or national park (Torres Strait Islander land).
- (3) Despite any other Act, a regulation under this section takes effect on the delivery of the deed of grant over the national park land to the indigenous landholder for the land.

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

- (1) This section applies to Aboriginal land or Torres Strait Islander land that is not a national park or included in a national park.
- (2) If the indigenous landholder for the land and the Minister agree on a proposal for the lease of the land, or part of the land, to the State for the purpose of the land being managed as a national park (Aboriginal land) or national park (Torres Strait Islander land), the Minister may prepare a management plan for the land.
- (3) Part 7 applies to the management plan as if it were a management plan required to be prepared under section 111(1).
- (4) The Minister must prepare the management plan in cooperation with the indigenous landholder, and the board of management, for the land.
- (5) On—
  - (a) the signing of the lease; and
  - (b) the approval of a management plan for the land;the Governor in Council must, by regulation, dedicate the land as national park (Aboriginal land) or national park (Torres Strait Islander land).
- (6) The regulation may define the extent of the area by reference to—



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- (a) a specified depth below the surface of land; or
  - (b) a specified height above the surface of land.
- (7) Despite any other Act, a regulation under this section takes effect on the registration of the lease.

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

- (1) Despite the *Land Act 1994*, an authorised lessee may, under this section, sublease land to the State for the purpose of the land being managed as a national park (Aboriginal land) or national park (Torres Strait Islander land).
- (2) If an authorised lessee and the Minister agree on a proposal for the sublease of land to the State for the purpose of the land being managed as a national park (Aboriginal land) or national park (Torres Strait Islander land), the Minister may prepare a management plan for the land.
- (3) Part 7 applies to the management plan as if it were a management plan required to be prepared under section 111(1).
- (4) The Minister must prepare the management plan in cooperation with the lessees of, and the board of management for, the land.
- (5) On—
  - (a) the signing of a sublease; and
  - (b) the approval of a management plan for the land;the Governor in Council must, by regulation, dedicate the area as national park (Aboriginal land) or national park (Torres Strait Islander land).
- (6) The regulation may define the extent of the area by reference to—
  - (a) a specified depth below the surface of land; or
  - (b) a specified height above the surface of land.

[s 42AA]

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

(8) In this section—

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

## **Subdivision 2 National parks (Cape York Peninsula Aboriginal land)**

### **42AA Dedication of national park as national park (Cape York Peninsula Aboriginal land)**

- (1) This section applies to a national park, or part of a national park, (the *national park land*) if—
  - (a) the national park land is in the Cape York Peninsula Region and becomes Aboriginal land; and
  - (b) the Minister is satisfied an indigenous management agreement about the management of the Aboriginal land has been entered into.
- (2) On the land becoming Aboriginal land, the Minister must recommend to the Governor in Council the making of a regulation dedicating the land as a national park (Cape York Peninsula Aboriginal land).
- (3) Despite any other Act, the dedication under the regulation is taken to have effect on the delivery of the deed of grant over the national park land to the indigenous landholder for the land.

### **42AB Dedication of Aboriginal land as national park (Cape York Peninsula Aboriginal land)**

- (1) This section applies to Aboriginal land that is not a national park or included in a national park if—

- 
- (a) the indigenous landholder for the land has entered into an indigenous management agreement for it; and
  - (b) the Minister and the indigenous landholder agree that the land is to be managed as a national park (Cape York Peninsula Aboriginal land).
- (2) The Minister must recommend to the Governor in Council the making of a regulation dedicating the land as a national park (Cape York Peninsula Aboriginal land).
  - (3) The regulation may define the extent of the area by reference to—
    - (a) a stated depth below the surface of the land; or
    - (b) a stated height above the surface of the land.

#### **42AC Dedication of other land as national park (Cape York Peninsula Aboriginal land)**

- (1) This section applies to land, other than land to which section 42AB applies, that is not a national park or included in a national park if—
  - (a) under the *Aboriginal Land Act 1991*, an entity has entered into an indigenous management agreement for the land; and
  - (b) the Minister and the entity agree that the land is to be managed as a national park (Cape York Peninsula Aboriginal land).
- (2) If the land becomes Aboriginal land—
  - (a) the grant of the land as Aboriginal land is subject to a condition that the land must become a national park (Cape York Peninsula Aboriginal land); and
  - (b) the Minister must recommend to the Governor in Council the making of a regulation dedicating the land as a national park (Cape York Peninsula Aboriginal land).
- (3) The regulation may define the extent of the area by reference to—

[s 42AD]

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

#### **42AD Leases etc. over national park (Cape York Peninsula Aboriginal land)**

- (1) A lease, agreement, licence, permit or other authority over, or in relation to, land in a national park (Cape York Peninsula Aboriginal land), other than an agreement or a licence, permit or other authority issued or given under a regulation, may be granted, made, issued or given only—
  - (a) by the chief executive with the consent of the indigenous landholder for the land; or
  - (b) by the indigenous landholder for the land with the consent of the chief executive.
- (2) A lease, agreement, licence, permit or other authority mentioned in subsection (1) must be consistent with—
  - (a) the management principles and management plan for the national park (Cape York Peninsula Aboriginal land); and
  - (b) any indigenous land use agreement for the land; and
  - (c) the indigenous management agreement for the land.

#### **42AE Particular powers about permitted uses in national park (Cape York Peninsula Aboriginal land)**

- (1) The chief executive and the indigenous landholder for land in a national park (Cape York Peninsula Aboriginal land), may grant, make, issue or give a lease, agreement, licence, permit or other authority over, or in relation to, the land if—
  - (a) the use under the authority is only for a service facility or an ecotourism facility; and
  - (b) if the use under the authority is for a service facility, the chief executive and the indigenous landholder are satisfied—

- 
- (i) the cardinal principle for the management of national parks will be observed to the greatest possible extent; and
  - (ii) the use will be in the public interest; and
  - (iii) the use is ecologically sustainable; and
  - (iv) there is no reasonably practicable alternative to the use; and
- (c) if the use under the authority is for an ecotourism facility, the chief executive and the indigenous landholder are satisfied—
- (i) the use will be in the public interest; and
  - (ii) the use is ecologically sustainable; and
  - (iii) the use will provide, to the greatest possible extent, for the preservation of the land's natural condition and the protection of the land's cultural resources and values; and
- (d) the use under the authority is prescribed under a regulation made for this section to be a permitted use for the protected area.
- (2) Subsection (1) has effect despite sections 15 and 42AD(2).

**42AEA Particular powers about permitted uses for existing service facilities in national park (Cape York Peninsula Aboriginal land)**

- (1) The chief executive and the indigenous landholder for land in a national park (Cape York Peninsula Aboriginal land), may grant, make, issue or give a lease, agreement, licence, permit or other authority over, or in relation to, the land if—
- (a) the use under the authority is only for an existing service facility; and
  - (b) the chief executive and the indigenous landholder are satisfied—
    - (i) the use is ecologically sustainable; and

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- (ii) the use does not include carrying out substantial improvements to the existing service facility.

*Examples of a substantial improvement to an existing service facility—*

- an upgrade of a road that provides access to a communications tower
  - the replacement of a pipeline with a larger pipeline
- (2) Subsection (1) applies despite sections 15 and 42AD(2), and does not limit section 42AE.
- (3) In this section—

*existing service facility*, for land in a national park (Cape York Peninsula Aboriginal land), means a service facility in existence on the land immediately before the land was dedicated as a national park (Cape York Peninsula Aboriginal land).

#### **42AF Revocation of national park (Cape York Peninsula Aboriginal land)**

- (1) A regulation may revoke the dedication of all or a part of a national park (Cape York Peninsula Aboriginal land) if the land in the national park or the part of the national park has been surrendered to the State.
- (2) The regulation may be made only if the Legislative Assembly has, on a motion of which at least 28 days notice has been given, passed a resolution requesting the Governor in Council to make the revocation.

### **Subdivision 3 Indigenous joint management areas**

#### **42AG Purpose of sdiv 3**

The purpose of this subdivision is to provide for the declaration of prescribed protected areas situated in the North Stradbroke Island Region as indigenous joint management areas.

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**42AH Declaration of a prescribed protected area as indigenous joint management area**

- (1) This section applies to a prescribed protected area, or part of a prescribed protected area, (the *protected area land*) if—
  - (a) the protected area land is in the North Stradbroke Island Region and becomes Aboriginal land; and
  - (b) the Minister is satisfied an indigenous management agreement about the management of the Aboriginal land has been entered into.
- (2) On the land becoming Aboriginal land, the Minister must recommend to the Governor in Council the making of a regulation declaring the protected area land as an indigenous joint management area.
- (3) Despite any other Act, the declaration under the regulation is taken to have effect on the delivery of the deed of grant over the protected area land to the indigenous landholder for the land.

**42AI Declaration of Aboriginal land as indigenous joint management area**

- (1) This section applies to Aboriginal land in the North Stradbroke Island Region that is not a prescribed protected area or included in a prescribed protected area if—
  - (a) the indigenous landholder for the land has entered into an indigenous management agreement for it; and
  - (b) the Minister and the indigenous landholder agree that the land is to be managed as an indigenous joint management area.
- (2) The Minister must recommend to the Governor in Council the making of a regulation—
  - (a) dedicating the land as a prescribed protected area; and
  - (b) declaring the land as an indigenous joint management area.

[s 42AJ]

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- (3) The regulation may define the extent of the land by reference to—
  - (a) a stated depth below the surface of the land; or
  - (b) a stated height above the surface of the land.

#### **42AJ Declaration of other land as an indigenous joint management area**

- (1) This section applies to land in the North Stradbroke Island Region, other than land to which section 42AI applies, that is not a prescribed protected area or included in a prescribed protected area if—
  - (a) under the *Aboriginal Land Act 1991*, an entity has entered into an indigenous management agreement for the land; and
  - (b) the Minister and the entity agree that the land is to be managed as an indigenous joint management area.
- (2) If the land becomes Aboriginal land—
  - (a) the grant of the land as Aboriginal land is subject to a condition that the land must become—
    - (i) a prescribed protected area; and
    - (ii) an indigenous joint management area; and
  - (b) the Minister must recommend to the Governor in Council the making of a regulation—
    - (i) dedicating the land as a prescribed protected area; and
    - (ii) declaring the land as an indigenous joint management area.
- (3) The regulation may define the extent of the land by reference to—
  - (a) a stated depth below the surface of the land; or
  - (b) a stated height above the surface of the land.



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**42AK Revocation of dedication of protected area or declaration of indigenous joint management areas**

- (1) A regulation may—
  - (a) revoke the dedication of a protected area, or part of a protected area, that is an indigenous joint management area; or
  - (b) revoke the declaration of all or a part of an indigenous joint management area;  
only if the land the subject of the revocation has been surrendered to the State.
- (2) A regulation under subsection (1)(a) may be made only if the Legislative Assembly has, on a motion of which at least 28 days notice has been given, passed a resolution requesting the Governor in Council to make the revocation.

**42AL Amalgamation etc. of protected areas that are indigenous joint management areas**

- (1) This section applies only to protected areas that are indigenous joint management areas.
- (2) The Governor in Council may, by regulation—
  - (a) amalgamate protected areas of the same class, and assign a name to the amalgamated area; or
  - (b) change the class of a protected area by dedicating the area as another class of protected area; or
  - (c) change the boundaries of a protected area.
- (3) If, because of the change in the class of a protected area, the area will be given less protection under this Act, the regulation may be made—
  - (a) only with the consent of the indigenous landholder for the land; and
  - (b) only if the Legislative Assembly has, on a motion of which at least 28 days notice has been given, passed a

[s 42AM]

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resolution requesting the Governor in Council to make the revocation.

- (4) If, because of the change in the boundaries of a protected area, land will be removed from the area (other than for the purpose of dedicating the removed land as land with the same or a higher level of protection under this Act), the regulation may be made only if—
  - (a) the land to be removed has been surrendered to the State; and
  - (b) the Legislative Assembly has, on a motion of which at least 28 days notice has been given, passed a resolution requesting the Governor in Council to make the revocation.
- (5) This section applies despite section 42AK.

#### **42AM Effect of revocation of prescribed protected area on indigenous joint management area**

- (1) This section applies if—
  - (a) the dedication of a prescribed protected area, or part of a prescribed protected area, that is an indigenous joint management area is revoked under this Act; or
  - (b) a prescribed protected area, or part of a prescribed protected area, that is an indigenous joint management area is removed under section 42AL(2).
- (2) On the revocation of the dedication of, or the removal of, the prescribed protected area or part—
  - (a) if the area or part is dedicated as another class of prescribed protected area—the declaration of the indigenous joint management area continues in force; or
  - (b) otherwise—the declaration of the indigenous joint management area for the protected area or part is taken to have been revoked.

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**42AN Leases etc. over land in indigenous joint management area**

- (1) A lease, agreement, licence, permit or other authority over, or in relation to, land in an indigenous joint management area, other than an agreement or a licence, permit or other authority issued or given under a regulation, may be granted, made, issued or given only—
  - (a) by the chief executive with the consent of the indigenous landholder for the land; or
  - (b) by the indigenous landholder for the land with the consent of the chief executive.
- (2) A lease, agreement, licence, permit or other authority mentioned in subsection (1) must be consistent with—
  - (a) the management principles and management plan for the indigenous joint management area; and
  - (b) any indigenous land use agreement for the land; and
  - (c) the indigenous management agreement for the land.

**42AO Particular powers about permitted uses on land in particular indigenous joint management areas**

- (1) The chief executive and the indigenous landholder for land in a national park or national park (recovery), or part of a national park or national park (recovery), that is an indigenous joint management area, may grant, make, issue or give a lease, agreement, licence, permit or other authority over, or in relation to, the land if—
  - (a) the use under the authority is only for a service facility or an ecotourism facility; and
  - (b) if the use under the authority is for a service facility, the chief executive and the indigenous landholder are satisfied—
    - (i) if the land is in a national park—the cardinal principle for the management of national parks will be observed to the greatest possible extent; and

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- (ii) if the land is in a national park (recovery)—the management principle under section 19A(1)(a) will be observed to the greatest possible extent; and
    - (iii) the use will be in the public interest; and
    - (iv) the use is ecologically sustainable; and
    - (v) there is no reasonably practicable alternative to the use; and
  - (c) if the use under the authority is for an ecotourism facility, the chief executive and the indigenous landholder are satisfied—
    - (i) the use will be in the public interest; and
    - (ii) the use is ecologically sustainable; and
    - (iii) the use will provide, to the greatest possible extent, for the preservation of the land’s natural condition and the protection of the land’s cultural resources and values; and
  - (d) the use under the authority is prescribed under a regulation made for this section to be a permitted use for the indigenous joint management area.
- (2) Subsection (1) has effect despite sections 15 and 42AN(2).

**42AOA Particular powers about permitted uses for existing service facilities on land in particular indigenous joint management areas**

- (1) The chief executive and the indigenous landholder for land in a national park or national park (recovery), or part of a national park or national park (recovery), that is an indigenous joint management area, may grant, make, issue or give a lease, agreement, licence, permit or other authority over, or in relation to, the land if—
- (a) the use under the authority is only for an existing service facility; and

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- (b) the chief executive and the indigenous landholder are satisfied—
- (i) the use is ecologically sustainable; and
  - (ii) the use does not include carrying out substantial improvements to the existing service facility.

*Examples of a substantial improvement to an existing service facility—*

- an upgrade of a road that provides access to a communications tower
  - the replacement of a pipeline with a larger pipeline
- (2) Subsection (1) applies despite sections 15 and 42AN(2), and does not limit section 42AO.
- (3) In this section—

*existing service facility*, for land in a national park or national park (recovery), or part of a national park or national park (recovery), that is an indigenous joint management area, means a service facility in existence on the land immediately before the land was declared as an indigenous joint management area.

#### **42AP Authorities for new national park or national park (recovery) that is an indigenous joint management area**

- (1) This section applies if—
- (a) land is, or is part of, an indigenous joint management area; and
  - (b) the land is dedicated as a national park or national park (recovery); and
  - (c) immediately before the dedication, the land was being used (the *previous use*) in a way that is inconsistent with the management principles of the park.
- (2) The chief executive and the indigenous landholder for land in the national park or national park (recovery), or a part of the national park or national park (recovery), that is an indigenous joint management area, may grant an authority (a *previous*

[s 42AP]

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*use authority*) over, or in relation to, the land to allow the previous use to continue for no more than the allowable term after the dedication.

- (3) However, a previous use authority must not be granted for a national park if the previous use was under a sales permit under the *Forestry Act 1959*, section 56.
- (4) A previous use authority must not be renewed.
- (5) This section applies despite sections 15 and 42AN(2), and does not limit sections 42AO and 42AOA.
- (6) In this section—

*allowable term*, in relation to a previous use authority, means a term no longer than—

- (a) if the previous use was under a permit or lease as follows, the term that is the unexpired term of the permit or lease—
  - (i) an occupation permit under the *Forestry Act 1959*, section 35(1)(a) under which the right of occupation is only for a service facility;
  - (ii) a stock grazing permit under the *Forestry Act 1959*, section 35(1)(c);
  - (iii) an apiary permit under the *Forestry Act 1959*, section 35(1)(d);
  - (iv) a sales permit under the *Forestry Act 1959*, section 56, for the taking of plant parts if it does not authorise cutting or pruning of plants so severely that the plant is likely to die;
  - (v) a lease under the *Land Act 1994*; or
- (b) otherwise—3 years after the dedication.

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

*plant parts* means the flowers, foliage, seeds or stems of the plant.

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## **Division 3A                    Regeneration plans for national parks (recovery)**

### **42A    Obligation to prepare regeneration plan**

- (1) The chief executive must, as soon as practicable after the dedication of a national park (recovery), make a regeneration plan for the park.
- (2) However, subsection (1) applies only if the chief executive considers a regeneration plan is necessary for the manipulation of the park's natural resources to restore its conservation values.
- (3) A regeneration plan must be made under this division.

### **42B    Purpose of regeneration plan**

- (1) The purpose of a regeneration plan for a national park (recovery) is to describe how it is proposed to manage the manipulation of the park's natural resources to restore its conservation values.
- (2) If a management plan has been approved for the park, the management procedures under the regeneration plan must be consistent with the management plan.

### **42C    Publication of draft regeneration plan**

- (1) The chief executive must publish a notice of the preparation of a draft regeneration plan for a national park (recovery) in a newspaper likely to be read by people particularly affected by the draft plan.
- (2) The notice must state the following—
  - (a) the location and area of the park;
  - (b) where copies of the draft plan may be obtained or inspected;
  - (c) that any entity may comment about the draft plan to the chief executive;

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- (d) the period during which comments may be made.
- (3) The stated period must be at least 35 days after the publication of the notice.
- (4) A copy of the draft plan must be available free, or on payment of a reasonable price, at the place, or each of the places, stated in the notice.

#### **42D Comments to be considered before final plan made**

The chief executive must, before making a final regeneration plan, consider all comments received by the chief executive within the period under section 42C(2)(d) for making comments about the draft regeneration plan.

#### **42E Final regeneration plan**

- (1) The chief executive must make a final regeneration plan by gazette notice.
- (2) The chief executive must keep copies of the plan open for public inspection during office hours on business days at—
  - (a) the department's head office; and
  - (b) each regional office and district office of the department in whose area the national park (recovery) to which the plan relates is situated; and
  - (c) other places the chief executive considers appropriate.

#### **42F Implementation of final regeneration plan**

The chief executive must give effect to a final regeneration plan.



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## **Division 4                      Nature refuges, coordinated conservation areas and wilderness areas**

### **43            Meaning of *protected area* in division**

In this division—

*protected area* means—

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

### **44            Proposal for declaration of protected area**

- (1) If the Minister is satisfied that an area should be declared a protected area, the Minister must prepare a proposal for the declaration.
- (2) The proposal for the declaration must—
  - (a) describe the lands to be included in the area; and
  - (b) specify the proposed class of protected area and the proposed management intent for the area.
- (3) The Minister must give written notice to all landholders affected by the proposal.
- (4) The notice must specify a day by which the landholders may make submissions to the Minister relating to the proposal.
- (5) If the Minister considers that it is impracticable to give notice to each landholder of a particular class, it is sufficient compliance with subsection (3) if the Minister gives notice to the class by publishing a notice in such newspapers as the Minister determines.
- (6) In this section—

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

## **45 Conservation agreements**

- (1) If the Minister and landholders concerned agree on—
  - (a) a proposal that an area should be a protected area; and
  - (b) the class of the protected area; and
  - (c) the management intent for the area; and
  - (d) the terms of a proposed conservation agreement for the area to be made between the State and the landholders;the Minister must, for the State, enter into the conservation agreement.
- (2) However, if the rights of any of the following persons will be materially affected by the conservation agreement, the Minister must not enter into it without that person's written consent—
  - (a) if land in the area is subject to a lease, mining interest, geothermal tenure or GHG authority—the lessee, interest holder or authority holder;
  - (b) if land in the area is subject to an encumbrance—the person entitled to the benefit of the encumbrance.
- (3) The conservation agreement must be consistent with the management principles for the class of area.
- (4) The conservation agreement may contain terms that are binding on—
  - (a) the State; and
  - (b) a landholder and the landholder's successors in title.
- (5) Without limiting subsection (4), the conservation agreement may contain terms—
  - (a) requiring the State to provide financial or other assistance; or
  - (b) requiring the State to provide technical advice; or
  - (c) requiring the State to carry out specified activities; or
  - (d) allowing a landholder to carry out specified activities; or

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- (e) prohibiting a specified use of land in the area; or
  - (f) restricting the use or management of land in the area; or
  - (g) requiring a landholder to refrain from, or not to permit, specified activities; or
  - (h) requiring a landholder to carry out specified activities; or
  - (i) requiring a landholder to permit or restrict access to the area by specified persons; or
  - (j) specifying the way in which amounts provided to a landholder under the agreement are to be applied by the landholder; or
  - (k) requiring a landholder to repay amounts paid under the agreement if the landholder contravenes the agreement or the agreement is terminated under section 47(2); or
  - (l) providing for any other matter relating to the conservation of the area, including the implementation of the management plan for the protected area.

#### **46 Declaration of protected area**

- (1) The Governor in Council may, by regulation, declare a specified area of State land, or the area the subject of a conservation agreement, as—
  - (a) a nature refuge; or
  - (b) a coordinated conservation area; or
  - (c) a wilderness area.
- (2) The regulation must specify—
  - (a) if the area is—
    - (i) a nature refuge or a wilderness area—the declared management intent for the area; or
    - (ii) a coordinated conservation area—the interim management intent for the area; and

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- (b) the duration of the declaration, which must, if the area is the subject of a conservation agreement, be the duration of the agreement.
- (3) For subsection (2)(b), a reference in the regulation to the duration of the conservation agreement for the area is, if the agreement is terminated and replaced by another agreement under section 48, a reference to the duration of the other agreement.
- (4) The regulation may define the extent of the area by reference to—
  - (a) a specified depth below the surface of land; or
  - (b) a specified height above the surface of land.
- (5) To allay any doubt, a coordinated conservation area or wilderness area may include an area that is, or is part of, a protected area dedicated or declared under any provision of this Act.
- (6) Subsection (5) does not apply to revoke the dedication or declaration of a protected area, or a part of a protected area, included in a coordinated conservation area or wilderness area.
- (7) In subsection (1)—  
*State land* includes a reserve under the *Land Act 1994*.

#### **47 Duration and termination of conservation agreements**

- (1) A conservation agreement has effect until it expires under its terms unless—
  - (a) it is terminated under subsection (2) or by another agreement under section 48; or
  - (b) the declaration of the protected area to which it relates is revoked.
- (2) Subject to section 48, a conservation agreement may be terminated only if—
  - (a) in the case of a nature refuge or wilderness area—

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

#### **48 Variation or replacement of conservation agreements**

- (1) The State and the landholders bound by a conservation agreement for a protected area (the *earlier agreement*) may enter into another conservation agreement for the area (the *later agreement*) that varies, or terminates and replaces, the earlier agreement.
- (2) The earlier agreement may be varied, for example—
  - (a) in the case of a nature refuge or wilderness area—by removing, at the request of the landholder who entered into the agreement, a part of the area that, in the Minister’s opinion, is no longer needed for, or capable of being used to achieve, the declared management intent for the area; and
  - (b) in the case of a coordinated conservation area—by removing a part of the area at the request of one of the landholders.
- (3) Section 45(2) to (5) applies to the later agreement.
- (4) However, section 45(2) does not apply in relation to a person whose rights will only be affected by the later agreement in the same way as by the earlier agreement.

#### **49 Compulsory declaration of nature refuge**

- (1) If—

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

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

- (2) The notice must specify—
  - (a) the proposed management intent for the area; and
  - (b) the reasons why the Minister has reached the opinion; and
  - (c) a day by which objections relating to the recommendation must be received by the Minister.
- (3) After consideration of any objections properly received by the Minister, the Governor in Council may, by regulation, declare the area, or part of the area, as a nature refuge.
- (4) The regulation must—
  - (a) describe the area for which the declaration is made; and
  - (b) specify the declared management intent for the area; and
  - (c) specify the covenant applying to the declaration; and
  - (d) specify such other particulars as are prescribed.

## 50 Revocation of protected area

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

## 51 Conservation agreements and covenants binding

- (1) A conservation agreement that is recorded by the registrar under section 134 in relation to land is binding on—
  - (a) the successors in title to the landholder who entered into the agreement; and
  - (b) persons who have an interest in the land.
- (2) A conservation agreement (other than an agreement mentioned in subsection (1)) is binding on the persons mentioned in section 45(2).
- (3) A conservation covenant is binding on—
  - (a) the landholder and the landholder's successors in title; and
  - (b) persons who have an interest in the land.

## 52 Liability of State

- (1) In this section—

*private land* means land other than State land.
- (2) The State is not legally liable for an act or omission merely because—
  - (a) a conservation agreement has been entered into under section 45 for private land; or
  - (b) private land has been declared under section 46 or 49 as, or as part of, a protected area.

## **Division 5                      World Heritage management areas**

### **53            Proposal to declare World Heritage management area**

- (1) If an area has been included in the World Heritage List established and kept under the World Heritage Convention, the Minister may, by advertisement published in a newspaper circulating throughout the State, propose that the whole or part of the area be declared a World Heritage management area.
- (2) The advertisement must—
  - (a) describe the lands to be included in the proposed area; and
  - (b) specify the proposed management of the area; and
  - (c) invite submissions from affected landholders, interested groups and persons and members of the public; and
  - (d) specify a day by which submissions are to be made to the Minister.

### **54            Preparation of management plan**

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

### **55            Declaration of World Heritage management area**

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



- 
- (a) describe the area for which the declaration is made; and
    - (b) specify such other particulars as are prescribed.
  - (3) The regulation may define the extent of the area by reference to—
    - (a) a specified depth below the surface of land; or
    - (b) a specified height above the surface of land.
  - (4) To allay any doubt, a World Heritage management area may include an area that is, or is part of, a protected area dedicated or declared under any provision of this Act.
  - (5) Subsection (4) does not apply to revoke the dedication or declaration of a protected area, or a part of a protected area, included in a World Heritage management area.

## **56 Revocation of World Heritage management area**

- (1) The Governor in Council may, by regulation, revoke the declaration under this Act of a World Heritage management area, in whole or part.
- (2) The regulation may be made only if the Legislative Assembly has, on a motion of which at least 28 days notice has been given, passed a resolution requesting the Governor in Council to make the revocation.

## **Division 6 International agreement areas**

### **57 Proposal to declare international agreement area**

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

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

## **58 Preparation of management plan**

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

## **59 Declaration of international agreement area**

- (1) On approval of a management plan for an area that is proposed to become an international agreement area, the Governor in Council must, by regulation, declare the area to which the plan relates to be an international agreement area.
- (2) The regulation must—
  - (a) describe the area for which the declaration is made; and
  - (b) specify such other particulars as are prescribed.
- (3) The regulation may define the extent of the area by reference to—
  - (a) a specified depth below the surface of land; or
  - (b) a specified height above the surface of land.
- (4) To allay any doubt, an international agreement area may include an area that is, or is part of, a protected area dedicated or declared under any provision of this Act.

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

## **60 Revocation of international agreement area**

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

## **Division 7 Cultural and natural resources**

### **61 Property in cultural and natural resources**

- (1) All cultural and natural resources of a national park (scientific), national park, national park (recovery), conservation park or resources reserve are the property of the State.
- (2) However, if land in a protected area mentioned in subsection (1) was included in a forest reserve immediately before the dedication of the protected area, subsection (1) does not extinguish or affect native title or native title rights and interests in relation to the land.
- (3) Also, subsection (1) has effect subject to—
- (a) the *Aboriginal Cultural Heritage Act 2003* to the extent it provides for the ownership of Aboriginal cultural heritage other than by the State; and
  - (b) the *Torres Strait Islander Cultural Heritage Act 2003* to the extent it provides for the ownership of Torres Strait Islander cultural heritage other than by the State.

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

- (1) A person, other than an authorised person, must not take, use, keep or interfere with a cultural or natural resource of a protected area, other than under—
- (a) the interim or declared management intent for the area; or
  - (b) an indigenous management agreement in relation to the area or any conservation agreement or covenant applicable to the area; or
  - (c) a lease, agreement, licence, permit or other authority granted, made, issued or given—
    - (i) by the chief executive under sections 34 to 38; or
    - (ii) under the *Forestry Act 1959* or *Mineral Resources Act 1989*; or
    - (iii) under another Act by the Governor in Council, or someone else with the consent of the Minister or chief executive; or
  - (d) a licence, permit or other authority issued or given under a regulation; or
  - (e) if the area is a conservation park, resources reserve, nature refuge, coordinated conservation area, wilderness area, World Heritage management area or international agreement area—an exemption under a regulation.

Maximum penalty—3000 penalty units or 2 years imprisonment.

- (2) It is a defence to a charge of taking or interfering with a cultural or natural resource in contravention of subsection (1) to prove that—
- (a) the taking or interference happened in the course of a lawful activity that was not directed towards the taking or interference; and
  - (b) the taking or interference could not have been reasonably avoided.

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- (3) Subsection (2) does not allow a person to use or keep the resource.
- (4) Despite subsection (1) and section 15, but subject to the conditions prescribed under a regulation, a person may take—
- (a) a fish in a prescribed place; or
  - (b) an invertebrate animal in a prescribed place for use as bait to take fish under paragraph (a); or
  - (c) a mud crab (*Scylla serrata*) in a prescribed place.
- (5) However, subsection (4) does not authorise a person to take—
- (a) an animal for a commercial purpose; or
  - (b) an animal prescribed under this Act as threatened, rare or near threatened wildlife; or
  - (c) an animal prescribed under a regulation for this paragraph.
- (6) Also, subsection (4) does not, in itself, authorise a person to enter a prescribed place.
- (7) In this section—
- national park*** includes a national park (Aboriginal land), national park (Torres Strait Islander land), national park (Cape York Peninsula Aboriginal land) and national park (recovery).
- prescribed place*** means a national park, or part of a national park, prescribed under a regulation for subsection (4)(a), (b) or (c).

## Division 8                      General

### 63            Meaning of *landholder* in division

In this division—

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

## **64 Naming of protected areas**

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

## **65 Effect of change in class of protected area**

- (1) If a protected area, or part of a protected area, is dedicated or declared under this Act to be a protected area of a different class, the later dedication or declaration revokes the earlier dedication or declaration of the area or the part of the area to which the dedication or declaration relates.
- (2) To allay any doubt—
  - (a) subsection (1) applies subject to sections 32 and 33; and
  - (b) subsection (1) does not apply to the declaration of a protected area that includes another class of protected area.

## **66 Cancellation of licences etc.**

- (1) If a licence, permit or other authority issued or given under any Act permits the holder to do an act that would contravene a regulation giving effect to a management plan for—
  - (a) a World Heritage management area; or
  - (b) an international agreement area;the operation of such an authority is, by force of this section, cancelled to the extent that it permits the doing of the act.
- (2) The Minister must, immediately after the making of the regulation, give written notice of the cancellation to the authority holder.
- (3) If the Minister considers that it is impracticable to give notice to each holder of a particular class of authority holder, it is sufficient compliance with subsection (2) if the Minister gives notice of the cancellation to the authority holders by

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publishing a notice in such newspapers as the Minister determines.

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

## **67 Compensation when protected area declared**

- (1) This section applies if—
  - (a) a nature refuge is declared under section 49; or
  - (b) a regulation giving effect to a management plan for a World Heritage management area or international agreement area commences.
- (2) If a landholder's interest in land is injuriously affected by a restriction or prohibition imposed under the declaration or regulation on the landholder's existing use of the land, the landholder is entitled to be paid by the State the reasonable compensation because of the restriction or prohibition that is agreed between the State and the landholder or, failing agreement, decided by the Land Court.
- (3) The landholder's interest in the land is not injuriously affected if the restriction or prohibition under the declaration or regulation is the same, or to the same effect, as a provision of another law applying to the land immediately before the commencement of the declaration or regulation.
- (4) Compensation is not payable if compensation has already been paid for—
  - (a) the restriction or prohibition; or
  - (b) a restriction or prohibition to the same effect.
- (5) A claim for compensation must—
  - (a) be made in a form approved by the chief executive; and
  - (b) be made to the chief executive within 6 months after the declaration of the protected area or the commencement of the regulation, or the longer period the chief

[s 67]

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executive or Land Court in special circumstances allows.

- (6) In making a determination, the Land Court must have regard to the following matters—
  - (a) the capacity of the land to sustain the existing use;
  - (b) any change in the value of the land because of the declaration or regulation;
  - (c) any change in the profitability of the land because of the declaration or regulation;
  - (d) any conservation agreement with the landholder.
- (7) Subsection (6) does not limit the matters to which the Land Court may have regard in making a determination.
- (8) Subsection (2) does not apply to land—
  - (a) if—
    - (i) a regulation giving effect to a management plan for a nature refuge is in force; and
    - (ii) the nature refuge is declared to be included in a World Heritage management area or international agreement area; and
    - (iii) the regulation continues to apply to the nature refuge after declaration; and
    - (iv) the landholder receives, or is entitled to receive, compensation under this section in relation to the land because of the declaration of the nature refuge; or
  - (b) if—
    - (i) an area is identified in a conservation plan as, or including, a critical habitat or an area of major interest; and
    - (ii) the area is declared to be a protected area; and



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- (iii) the regulation making the declaration declares that the plan continues to apply to the area after declaration; and
  - (iv) the landholder receives, or is entitled to receive, compensation under section 126 in relation to the land because of the approval of the plan.
- (9) In this section—
- existing use* of land includes a lawful use made of the land immediately before the commencement of the declaration or regulation that restricts or prohibits the use.

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

If—

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

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

**69 Preservation of landholders' interests**

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

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

## **70 Unlawful use of certain words**

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

Maximum penalty—50 penalty units.

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

Maximum penalty—50 penalty units.

- (3) However, subsections (1) and (2) do not stop a person using the words ‘national park’ or ‘conservation park’ in referring to the name of—

- (a) a zone of a marine park set apart and declared under the *Marine Parks Act 1982*; or
- (b) an area declared to be part of the Great Barrier Reef Marine Park under the *Great Barrier Reef Marine Park Act 1975* (Cwlth).

# **Part 4A Forest reserves**

## **Division 1 Preliminary**

### **70A Purpose of pt 4A and its achievement**

- (1) The purpose of this part is to assist the dedication of areas within State forests, timber reserves, Land Act reserves or unallocated State land as protected areas.
- (2) The purpose is achieved primarily by providing for forest reserve dedications as an interim measure to assist the dedication of the areas as protected areas.

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

## **70B Definitions for pt 4A**

In this part—

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

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

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

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

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

***protected area*** means any of the following—

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

***SEQ horse riding trail network*** see section 70BA.

***State forest*** means a State forest under the *Forestry Act 1959*.

***timber reserve*** means a timber reserve under the *Forestry Act 1959*.

***unallocated State land*** means unallocated State land under the *Land Act 1994*.

[s 70BA]

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### **70BA SEQ horse riding trail network**

- (1) The *SEQ horse riding trail network* is the network of horse riding trails in south-east Queensland designated as ‘finalised horse trails’ on maps held by the department for this section.
- (2) Copies of the maps may be inspected, free of charge, on the department’s website and, during office hours on business days, at the department’s head office.

*Editor’s note—*

The department’s website is <[www.derm.qld.gov.au](http://www.derm.qld.gov.au)>.

## **Division 2                    Dedication and revocation**

### **70C      Dedication of forest reserves**

The Governor in Council may, under a regulation, dedicate a stated area of land as a forest reserve if the area is, or is part of—

- (a) a Land Act reserve; or
- (b) a State forest or timber reserve; or
- (c) unallocated State land.

### **70D      Naming of forest reserves**

A regulation may give a name to, or change the name of, a forest reserve.

### **70E      Revocation of forest reserves**

- (1) The Governor in Council may, under a regulation, revoke the dedication of a forest reserve or a part of a forest reserve.
- (2) The regulation may be made only if the Legislative Assembly has, on a motion of which at least 28 days notice has been given, passed a resolution requesting the Governor in Council to make the revocation.

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

## **Division 3            Management of forest reserves**

### **Subdivision 1        Management principles of forest reserves**

#### **70F    Management principles**

- (1) A forest reserve is to be managed to do the following—
- (a) protect the biological diversity, cultural resources and values and conservation values of land included in the reserve, having regard to the purpose of this part;
  - (b) provide for the continuation of any lawful existing use of the land;

*Examples of existing uses that may be lawful existing uses—*

- 1    apiculture, foliage harvesting, recreation and salvage timber harvesting under the *Forestry Act 1959*
  - 2    grazing under the *Forestry Act 1959* or the *Land Act 1994*
  - 3    maintenance and use of existing roads used for timber extraction and other forest management activities under the *Forestry Act 1959*
  - 4    mining under the *Mineral Resources Act 1989*
- (c) ensure all uses of the land under an authority in relation to the forest reserve made after its dedication are ecologically sustainable;
  - (d) ensure all uses of the land under an authority made after any designation of land in the forest reserve as a proposed protected area are consistent with the management principles for the class of protected area that the land is proposed to become.

[s 70F]

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- (2) However, subsection (1)(b) only applies to the use of the land for commercial logging if the purpose of the logging is to remove plantation trees to restore the land's conservation values.
- (3) To remove any doubt, it is declared that the dedication of the land as a forest reserve or any designation of land in the forest reserve as a proposed protected area does not extinguish or affect native title or native title rights and interests in relation to the land.

- (4) In this section—

**commercial logging** means taking timber for commercial gain, other than—

- (a) to build, maintain or repair public infrastructure or utilities relating to the forest reserve; or
- (b) to enhance or protect a lawful use of the land, or to ensure the use may be carried out safely; or
- (c) to allow native vegetation on the land to be regenerated under a written approval given by the chief executive; or
- (d) for use as firewood; or
- (e) incidentally to a lawful use of the land that does not involve taking timber.

*Example for paragraph (e)—*

If collecting seeds from trees on the land is lawful, collecting the seeds may involve taking branches from trees that have the seeds on them.

**ecologically sustainable**, for use of the land, means use within the capacity of the land to sustain natural processes while—

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

**make**, for an authority, includes renew the authority.

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## Subdivision 2 Management

### 70G State forest or timber reserve dedicated as a forest reserve

- (1) This section applies if land in a State forest or timber reserve is dedicated as a forest reserve.
- (2) The land ceases to be land in a State forest or timber reserve.
- (3) However—
  - (a) the *Forestry Act 1959* continues to apply, with necessary changes, in relation to the land and its management as if the land were, and had continued to be, a State forest or timber reserve; but
  - (b) the *Forestry Act 1959*, section 33 does not apply to the management of the land.
- (4) This section applies despite the *Forestry Act 1959*.

### 70H Land Act reserve dedicated as a forest reserve

- (1) This section applies if land in a Land Act reserve is dedicated as a forest reserve.
- (2) The land ceases to be land in a Land Act reserve.
- (3) However, the *Land Act 1994* continues to apply, with necessary changes, in relation to the land and its management as if the land were, and had continued to be, a Land Act reserve.
- (4) Also, if a person was, immediately before the dedication, a trustee of the land under the *Land Act 1994*, the person continues to be a trustee of the land under that Act.
- (5) This section applies despite the *Land Act 1994*.

### 70I Management principles prevail

- (1) A forest reserve must be managed under the management principles under section 70F.

[s 70J]

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- (2) If there is an inconsistency between the management principles and a provision of the *Forestry Act 1959* or the *Land Act 1994*, the management principles prevail to the extent of the inconsistency.
- (3) Despite sections 70G and 70H, an action must not be done in relation to the management of a forest reserve if it is inconsistent with the management principles.
- (4) In this section—  
*action* includes any of the following—
  - (a) making, amending or renewing an authority in relation to a forest reserve;
  - (b) converting an authority to another form of authority;
  - (c) changing the purpose of an authority;
  - (d) offering or agreeing to carry out an action under paragraphs (a) to (c).

## **Division 4                    Progression to protected area**

### **Subdivision 1            Review of forest reserves**

#### **70J      Review**

- (1) The chief executive must review each forest reserve to consider the most appropriate class of protected area for land in the reserve.
- (2) The review must start as soon as practicable after the dedication of the forest reserve.

#### **70JA    Review of impact of horse riding trails**

- (1) The chief executive must review the areas within forest reserves that comprise horse riding trails in the SEQ horse riding trail network.



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- (2) In conducting the review, the chief executive must—
    - (a) have assessments conducted under section 70JB; and
    - (b) consider how to address any significant adverse impacts identified by the assessments including, if appropriate, removing a trail from the SEQ horse riding trail network.
  - (3) The review must start as soon as practicable after the commencement of this section and must be completed for all areas by 31 December 2025.

### **70JB Assessment by independent scientific advisory committee**

- (1) This section applies to an assessment required under section 70JA(2)(a).
- (2) The assessment must be of the impact, on horse riding trails and adjacent areas, of horse riding use.
- (3) The assessment must be conducted by an advisory committee, established under section 132, comprising members who—
  - (a) have expertise in relevant disciplines for the assessment; and  
*Examples of disciplines that may be relevant—*  
aquatic science, conservation biology, conservation management, environmental impact assessment, social science, soil science, statistical analysis, sustainable recreation, weed management
  - (b) are independent of government or non-government entities that might reasonably be perceived to be particularly interested in decisions affecting horse riding in forest reserves.
- (4) The assessment must be based on monitoring and evaluation conducted over a period long enough to assess the likely impacts of horse riding use.

[s 70K]

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- (5) The assessment must take account of the cumulative impacts of horse riding and other activities conducted in the areas to which the assessment relates.
- (6) To the extent the assessment relates to a particular horse riding trail, the assessment need not be based on measurement or monitoring of the trail, or of every part of the trail, but may be based on appropriate information obtained from measuring or monitoring, and evaluating, other trails or parts of the trail with relevant characteristics.
- (7) In this section—  
*adjacent areas*, in relation to horse riding trails, means areas adjacent to the trails whether or not the areas are part of a forest reserve.

## **Subdivision 2 Proposed protected areas**

### **70K Designation**

- (1) The chief executive may, by an entry in the proposed protected area register, designate the whole or part of a forest reserve as a proposed protected area if—
  - (a) under section 70J the chief executive has reviewed the reserve; and
  - (b) for a proposed protected area that includes a horse riding trail in the SEQ horse riding trail network, the chief executive has completed the review under section 70JA to the extent the review relates to the proposed protected area; and
  - (c) subsections (2) to (5) have been complied with.
- (2) The chief executive must publish a notice of a proposed designation in a newspaper likely to be read by people particularly affected by it.
- (3) The notice must state the following—
  - (a) the location and area of the proposed protected area;

- (b) the class of protected area that the area is proposed to become;
  - (c) that any entity may comment about the proposal to the chief executive;
  - (d) the period during which comments may be made.
- (4) The stated period must be at least 35 days after the publication of the notice.
- (5) The chief executive must consider any comment about the proposal made during the period.

### **70L Effect of designation**

- (1) Subject to the management principle under section 70F(1)(d), a proposed protected area designation acts as a proposal only and the area continues to be a forest reserve.
- (2) A proposed protected area designation does not—
- (a) make, or have the effect of making, the area a protected area or a protected area of the class it is proposed to become; or
  - (b) bind the Governor in Council to dedicate, or the chief executive to take action to dedicate, the area as a protected area or as a protected area of that class.

### **70M When designation ends**

The designation of an area as a proposed protected area ends if—

- (a) the dedication of the area as a forest reserve is revoked; or
- (b) the area is dedicated as a protected area.

### **70N Register of proposed protected areas**

- (1) The chief executive must keep a register of proposed protected areas.

[s 70O]

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- (2) The register must, for each proposed protected area, state—
  - (a) its location and area; and
  - (b) the class of protected area that it is proposed to become; and
  - (c) any other information the chief executive considers desirable.
- (3) The chief executive may keep the register in the way the chief executive considers appropriate, including, for example, in electronic form.
- (4) The chief executive must keep the register open for inspection during office hours on business days at—
  - (a) the department's head office; and
  - (b) each regional office of the department in whose area the proposed protected area is situated; and
  - (c) other places the chief executive considers appropriate.

## **70O Amendment of designation**

- (1) The chief executive may, by an entry in the proposed protected area register, amend the designation of an area as a proposed protected area if subsections (2) to (5) have been complied with.
- (2) The chief executive must publish a notice of a proposed amendment in a newspaper likely to be read by people particularly affected by it.
- (3) The notice must state the following—
  - (a) the location of the area;
  - (b) the proposed amendment;
  - (c) that any entity may comment about the proposal to the chief executive;
  - (d) the period during which comments may be made.
- (4) The stated period must be at least 35 days after the publication of the notice.

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- (5) The chief executive must consider any comment about the proposal made during the period.

## **Division 5                      Miscellaneous provisions**

### **70P      References to State forest or timber reserve in other legislation**

- (1) A reference in another Act or in subordinate legislation to a State forest or timber reserve is, if the context permits, taken to include a forest reserve.
- (2) However, subsection (1) does not apply if—
- (a) the reference is in or under the *Forestry Act 1959*; or
- Editor's note—*
- For State forests or timber reserves, see section 70G(3) (State forest or timber reserve dedicated as a forest reserve).
- (b) the reference is only to the setting apart and dedication of an area as a State forest or timber reserve.

### **70Q      References to Land Act reserves in other legislation**

- (1) A reference in this or another Act or in subordinate legislation to a Land Act reserve is, if the context permits, taken to include a forest reserve.
- (2) However, subsection (1) does not apply if the reference is in or under the *Land Act 1994*.

### **70QA    Prohibition on mining, geothermal activities and GHG storage activities in forest reserves**

A mining interest under section 27, a geothermal tenure or a GHG authority can not be granted in relation to land in a forest reserve.

[s 70R]

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## **Division 6                      Expiry of pt 4A**

### **70R      Expiry**

This part expires on 31 December 2025.

## **Part 5                              Wildlife and habitat conservation**

### **Division 1                      Basic concepts**

#### **71              Classes of wildlife to which Act applies**

The classes of wildlife to which this Act applies are—

- (a) protected wildlife, that is—
  - (i) extinct in the wild wildlife; and
  - (ii) endangered wildlife; and
  - (iii) vulnerable wildlife; and
  - (iv) rare wildlife; and
  - (v) near threatened wildlife; and
  - (vi) least concern wildlife; and
- (b) international wildlife; and
- (c) prohibited wildlife.

#### **72              Management of wildlife—general**

- (1) Wildlife is to be managed in accordance with—
  - (a) the management principles prescribed by this division for the class of the wildlife; and
  - (b) the declared management intent for the wildlife; and

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- (c) any conservation plan for the wildlife.
  - (2) The declared management intent for wildlife is the management intent applicable to the wildlife under the regulations.
  - (3) The declared management intent for wildlife must contain a statement of—
    - (a) the significance of the wildlife to nature and its value; and
    - (b) the proposed management intent for the wildlife; and
    - (c) the principles relating to any proposed taking and use of the wildlife.

### **73 Management principles of protected wildlife**

Protected wildlife is to be managed to—

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

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#### **74 Management principles of international wildlife**

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

- (a) to ensure the protection of protected wildlife from any threatening process that may be posed by the wildlife; and
- (b) to prevent unlawful introduction of the wildlife into the State; and
- (c) to prohibit the release of the wildlife into the wild except under a licence, permit or other authority issued or given under a regulation.

#### **75 Management principles of prohibited wildlife**

Prohibited wildlife is to be managed to—

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

### **Division 2 Classes of wildlife**

#### **76 Native wildlife may be prescribed as extinct in the wild wildlife**

A regulation may prescribe native wildlife as extinct in the wild wildlife if—

- (a) there have been thorough searches conducted for the wildlife; and



- (b) the wildlife has not been seen in the wild over a period that is appropriate for the life cycle or form of the wildlife.

**77 Native wildlife may be prescribed as endangered wildlife**

A regulation may prescribe native wildlife as endangered wildlife if—

- (a) there have not been thorough searches conducted for the wildlife and the wildlife has not been seen in the wild over a period that is appropriate for the life cycle or form of the wildlife; or
- (b) the habitat or distribution of the wildlife has been reduced to an extent that the wildlife may be in danger of extinction; or
- (c) the population size of the wildlife has declined, or is likely to decline, to an extent that the wildlife may be in danger of extinction; or
- (d) the survival of the wildlife in the wild is unlikely if a threatening process continues.

**78 Native wildlife may be prescribed as vulnerable wildlife**

(1) A regulation may prescribe native wildlife as vulnerable wildlife if—

- (a) the population size or distribution of the wildlife has declined, or is likely to decline, to an extent that the wildlife may become endangered because of a threatening process; or
- (b) the population size of the wildlife has been seriously depleted and the protection of the wildlife is not secured; or
- (c) the population of the wildlife is—
  - (i) low or localised; and

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- (ii) dependent on habitat that has been, or is likely to be, adversely affected, in terms of quantity or quality, by a threatening process.

(2) In this section—

*endangered*, in relation to wildlife, means the wildlife falls within a description mentioned in section 77.

## **79 Native wildlife may be prescribed as near threatened wildlife**

(1) A regulation may prescribe native wildlife as near threatened wildlife if—

- (a) the population size or distribution of the wildlife is small and may become smaller; or
- (b) the population size of the wildlife has declined, or is likely to decline, at a rate higher than the usual rate for population changes for the wildlife; or
- (c) the survival of the wildlife in the wild is affected to an extent that the wildlife is in danger of becoming vulnerable.

(2) Native wildlife may be prescribed as near threatened wildlife even if the wildlife is the subject of a threatening process.

(3) In this section—

*vulnerable*, in relation to wildlife, means the wildlife falls within a description mentioned in section 78(1).

## **80 Native wildlife may be prescribed as least concern wildlife**

(1) A regulation may prescribe native wildlife as least concern wildlife if the wildlife is common or abundant and is likely to survive in the wild.

(2) Native wildlife may be prescribed as least concern wildlife even if—

- (a) the wildlife is the subject of a threatening process; or

- (b) the population size or distribution of the wildlife has declined; or
- (c) there is insufficient information about the wildlife to conclude whether the wildlife is common or abundant or likely to survive in the wild.

**81 Wildlife may be prescribed as international wildlife**

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

**82 Wildlife may be prescribed as prohibited wildlife**

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

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

the wildlife may be prescribed as prohibited wildlife.

**Division 3 Ownership of protected wildlife**

**83 Property in protected animals**

- (1) Subject to subsections (2) to (5), sections 85 and 86 and the provisions of any captive breeding agreement, all protected animals are the property of the State.
- (2) A protected animal ceases to be the property of the State if—
  - (a) the animal is taken under a licence, permit or other authority issued or given under a regulation; and
  - (b) under a conservation plan property in the animal passes from the State on that taking of the animal.
- (3) A protected animal to which subsection (2) applies becomes the property of the holder of the authority, subject to the rights

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in the animal of any other person (other than the rights of the State under subsection (1)).

- (4) A protected animal that is the progeny of an animal to which subsection (2) applies is the property of the owner of the progeny's female parent, subject to the rights in the animal of any other person (other than the rights of the State under subsection (1)).
- (5) If—
  - (a) a person is keeping an animal that is not a protected animal; and
  - (b) the animal becomes a protected animal because of the making of a regulation under this Act;

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

## **84 Property in protected plants**

- (1) Subject to subsections (2) to (4), section 86 and the provisions of any captive breeding agreement, all protected plants (other than protected plants on private land) are the property of the State.
- (2) A protected plant ceases to be the property of the State if—
  - (a) the plant is taken under a licence, permit or other authority issued or given under a regulation; and
  - (b) under a conservation plan property in the plant passes from the State on that taking of the plant.
- (3) A protected plant to which subsection (2) applies becomes the property of the holder of the authority, subject to the rights in the plant of any other person (other than the rights of the State under subsection (1)).
- (4) The progeny of a plant to which subsection (2) applies is the property of the owner of the plant from which the progeny is propagated, subject to the rights in the plant of any other person (other than the rights of the State under subsection (1)).

(5) In this section—

*private land* means—

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

*protected plant* means a protected plant that is in the wild.

## **85 Property in newly protected animals**

(1) In this section—

*commencing day* means the day on which this division commences.

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

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

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

## **86 Preservation of existing property rights**

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

## **87 Liability of State**

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

## **Division 4                      Restrictions on activities relating to protected wildlife**

### **88            Restrictions on taking protected animal and keeping or use of unlawfully taken protected animal**

- (1) This section—
- (a) is subject to section 93; and
  - (b) does not apply to the taking of protected animals in a protected area.

*Editor's note—*

For the taking of protected animals in protected areas, see section 62 (Restriction on taking etc. of cultural and natural resources of protected areas).

- (2) A person must not take a protected animal unless the person is an authorised person or the taking is authorised under this Act.

Maximum penalty—

- (a) for a class 1 offence—3000 penalty units or 2 years imprisonment; or
  - (b) for a class 2 offence—1000 penalty units or 1 year's imprisonment; or
  - (c) for a class 3 offence—225 penalty units; or
  - (d) for a class 4 offence—100 penalty units.
- (3) It is a defence to a charge of taking a protected animal in contravention of subsection (2) to prove that—
- (a) the taking happened in the course of a lawful activity that was not directed towards the taking; and
  - (b) the taking could not have been reasonably avoided.
- (4) Subsection (3) does not allow a person to keep or use the animal.

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- (5) A person must not keep or use an animal that is either of the following unless the person is an authorised person or the keeping or use is authorised under this Act—
- (a) a protected animal if, at any time, it has been taken and the taking was not authorised under this Act or a law of another State;
  - (b) a descendant of an animal mentioned in paragraph (a).

Maximum penalty—

- (a) for a class 1 offence—3000 penalty units or 2 years imprisonment; or
  - (b) for a class 2 offence—1000 penalty units or 1 year's imprisonment; or
  - (c) for a class 3 offence—225 penalty units; or
  - (d) for a class 4 offence—100 penalty units.
- (6) In this section—

***class 1 offence*** means an offence against this section that involves—

- (a) 1 or more animals that are extinct in the wild or endangered wildlife; or
- (b) 5 or more animals that are vulnerable or near threatened wildlife; or
- (c) 10 or more animals that are rare wildlife; or
- (d) 1 or more echidna, koala or platypus.

***class 2 offence*** means an offence against this section that is not a class 1 offence and involves—

- (a) 3 or 4 animals that are vulnerable or near threatened wildlife; or
- (b) 4 or more, but no more than 9, animals that are rare wildlife; or
- (c) 10 or more animals that are least concern wildlife.

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*class 3 offence* means an offence against this section that is not a class 1 or class 2 offence and involves—

- (a) 1 or 2 animals that are vulnerable or near threatened wildlife; or
- (b) 2 or 3 animals that are rare wildlife; or
- (c) 5 or more, but less than 10, animals that are least concern wildlife.

*class 4 offence* means an offence against this section other than a class 1, 2 or 3 offence.

#### **88A Restriction on keeping or use of lawfully taken protected animal**

(1) Subject to section 93, a person, other than an authorised person, must not keep or use a protected animal that is either of the following unless the keeping or use is authorised under this Act—

- (a) a protected animal, if the animal has, at any time, been taken and the taking was authorised under this Act or a law of another State;
- (b) a descendant of an animal mentioned in paragraph (a).

Maximum penalty—

- (a) generally—1000 penalty units; or
- (b) if a circumstance mentioned in subsection (2) applies—100 penalty units.

(2) For subsection (1), the circumstances are that—

- (a) in the 12 months before the commission of the offence, the person held a licence, permit or other authority (the *former authority*) under this Act and—
  - (i) the former authority is no longer in force; and
  - (ii) had the former authority still been in force, the offence would not have been committed; and



- (iii) the former authority ceased to be in force for a reason other than its cancellation or suspension; and
  - (iv) an application to renew the former authority has not been refused; or
- (b) the offence only relates to moving the animal.

**88B Offence to keep or use native wildlife reasonably suspected to have been unlawfully taken**

- (1) A person must not keep or use native wildlife if a reasonable person in the person's circumstances ought to have suspected that the wildlife may have been unlawfully taken unless—
- (a) the person is an authorised person; or
  - (b) the State has, under this Act, disposed of the native wildlife to the person.

Maximum penalty—

- (a) if the wildlife ought to have been suspected to have been taken in contravention of section 88(2), 89 or 97—the maximum penalty under that section that applies to an unlawful taking of the wildlife; or
- (b) if the wildlife ought to have been suspected to have been taken in contravention of a law of another State—the maximum penalty under that law that applies to the unlawful taking of the wildlife.

*Examples of when an offence is committed under subsection (1)—*

A buys and keeps the native wildlife mentioned in item 1 or 2, under the circumstances mentioned in the item. A is not an authorised person. A did not buy the wildlife from the State. A reasonable person in A's circumstances ought to have suspected that the wildlife may have been unlawfully taken.

- 1 A buys protected wildlife from B at a market stall. Before buying the wildlife A asked B for evidence that it had been lawfully taken. In response, B replied that B did not have that evidence and that B bought the wildlife from someone else whom B did not know.

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- 2 A holds a licence under this Act to keep particular protected wildlife. A buys protected wildlife of that type from B. Under this Act, to keep or deal with the wildlife, B must hold a particular type of licence. A regulation requires that B must, before the sale is completed, fill in a movement advice in the approved form for the movement of the wildlife because of the sale. The approved form requires a written acknowledgement by A as the person to whom the wildlife is being moved. B has not shown to A that B holds a licence to keep and deal with the wildlife. A did not give the acknowledgement.
- (2) If a person is charged with an offence against subsection (1), it is a defence to the charge if the person satisfies the court that the person had no reasonable grounds for suspecting the wildlife was unlawfully taken.
- (3) In this section—
- unlawfully taken* means taken in contravention of section 88(2), 89 or 97 or of a law of another State.

### **88C Restrictions relating to flying-foxes and flying-fox roosts**

- (1) A person must not destroy a flying-fox roost unless the person is an authorised person or the destruction is authorised under this Act.
- Maximum penalty—1000 penalty units or 1 year's imprisonment.
- (2) A person must not drive away, or attempt to drive away, a flying-fox from a flying-fox roost unless the person is an authorised person or the driving away is authorised under this Act.
- Maximum penalty—1000 penalty units or 1 year's imprisonment.
- (3) A person must not disturb a flying fox in a flying-fox roost unless the person is an authorised person or the disturbance is authorised under this Act.
- Maximum penalty—100 penalty units.
- (4) This section does not apply if the flying-fox roost is in a protected area.

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*Note—*

For interfering with natural resources in protected areas, see section 62 (Restriction on taking etc. of cultural and natural resources of protected areas).

- (5) Also, this section does not apply for an Aborigine or Torres Strait Islander taking, using or keeping a flying-fox under section 93.
- (6) In this section—

***breeding*** includes gestating.

***drive away***, a flying-fox from a flying-fox roost, means—

- (a) cause the flying-fox to move away from the roost; or
- (b) if the flying-fox has moved away from the roost, deter the flying-fox from returning to the roost.

*Examples of ways of driving away a flying-fox—*

using sound, light, smoke, electric current or chemicals

***flying-fox*** means a protected animal of the genus *Pteropus*.

***flying-fox roost*** means a tree or other place where flying-foxes congregate from time to time for breeding or rearing their young.

## **89 Restriction on taking etc. particular protected plants**

- (1) Subject to section 93, a person, other than an authorised person, must not take a protected plant that is in the wild unless—
- (a) it is necessary and reasonable to take the plant to avoid or reduce an imminent risk of death or serious injury to a person and the taking can not reasonably be avoided or minimised; or
- (b) each of the following applies—
- (i) it is necessary and reasonable to take the plant to avoid or reduce an imminent risk of serious damage to a building or other structure on land, or to personal property;

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- (ii) if the damage is not prevented or controlled, a person may suffer significant economic loss;
  - (iii) the taking can not reasonably be avoided or minimised; or
- (c) taking the plant is, or is a necessary part of, a measure that is—
  - (i) authorised under the *Fire and Rescue Service Act 1990*, section 53(1) or 68(1)(c); or
  - (ii) required under section 53(2)(j) or 69(1) of that Act; or
- (d) the person takes the plant by lighting a fire that is—
  - (i) authorised under a notification under the *Fire and Rescue Service Act 1990*, section 63 or a permit granted under section 65(2) of that Act; and
  - (ii) necessary to reduce hazardous fuel load; or
- (e) the plant is taken under a development approval—
  - (i) for work that includes the clearing of native vegetation under the *Vegetation Management Act 1999*; and
  - (ii) for which taking the plant was assessed under a regional vegetation management code or concurrence agency policy; or
- (f) the taking of the plant is authorised under a land management agreement under the *Land Act 1994*; or
- (g) each of the following applies—
  - (i) the plant is least concern wildlife;
  - (ii) the plant is taken other than under a relevant development activity;
  - (iii) taking the plant, other than under a relevant development activity, is not assessable development; or

- 
- (h) the plant is taken under—
    - (i) a conservation plan applicable to the plant; or
    - (ii) a licence, permit or other authority issued or given under a regulation; or
    - (iii) an exemption under a regulation.

Maximum penalty—

- (a) for a class 1 offence—3000 penalty units or 2 years imprisonment; or
  - (b) for a class 2 offence—1000 penalty units or 1 year's imprisonment; or
  - (c) for a class 3 offence—225 penalty units; or
  - (d) for a class 4 offence—165 penalty units.
- (2) Subsection (1) does not apply to the taking of protected plants in a protected area.
  - (3) It is a defence to a charge of taking a protected plant in contravention of subsection (1) to prove that—
    - (a) the taking happened in the course of a lawful activity that was not directed towards the taking; and
    - (b) the taking could not have been reasonably avoided.
  - (4) A person must not use or keep a protected plant that has been taken in contravention of subsection (1).

Maximum penalty—

- (a) for a class 1 offence—3000 penalty units or 2 years imprisonment; or
  - (b) for a class 2 offence—1000 penalty units or 1 year's imprisonment; or
  - (c) for a class 3 offence—225 penalty units; or
  - (d) for a class 4 offence—165 penalty units.
- (5) In this section—

*assessable development* see the *Sustainable Planning Act 2009*, schedule 3.

**building** means a fixed structure that is wholly or partly enclosed by walls.

**class 1 offence** means an offence against this section that involves—

- (a) 1 or more plants that are extinct in the wild or endangered wildlife; or
- (b) 5 or more plants that are vulnerable or near threatened wildlife; or
- (c) 10 or more plants that are rare wildlife.

**class 2 offence** means an offence against this section that is not a class 1 offence and involves—

- (a) 3 or 4 plants that are vulnerable or near threatened wildlife; or
- (b) 4 or more, but no more than 9, plants that are rare wildlife.

**class 3 offence** means an offence against this section that is not a class 1 or class 2 offence and involves—

- (a) 1 or 2 plants that are vulnerable or near threatened wildlife; or
- (b) 2 or 3 plants that are rare wildlife.

**class 4 offence** means an offence against this section other than a class 1, 2 or 3 offence.

**concurrency agency policy** see the *Vegetation Management Act 1999*, section 10A(3).

**development approval** see the *Sustainable Planning Act 2009*, schedule 3.

**regional vegetation management code** see the *Vegetation Management Act 1999*, section 11.

**relevant development activity** means—

- (a) a mining activity or a chapter 5A activity under the *Environment Protection Act 1994*; or

- 
- (b) geothermal exploration or any activity related to the extraction or production of geothermal energy, carried out under a geothermal exploration permit under the *Geothermal Exploration Act 2004*; or
  - (c) either of the following—
    - (i) an activity under the *Electricity Act 1994*, section 101 or 112A;
    - (ii) an electricity entity under that Act otherwise clearing, lopping or pruning trees under that Act; or
  - (d) for a State-controlled road under the *Transport Infrastructure Act 1994*—
    - (i) road works carried out on the State-controlled road; or
    - (ii) ancillary works and encroachments constructed, maintained, operated or conducted on the State-controlled road under section 50 of that Act; or
  - (e) clearing, for routine transport corridor management and safety purposes, on existing rail corridor land, new rail corridor land, non-rail corridor land or commercial corridor land (within the meaning of the *Transport Infrastructure Act 1994*) that is not leased on a commercial basis.

## **90 Restriction on using particular protected plants**

- (1) Subject to section 93, a person, other than an authorised person, must not use a protected plant, other than under—
  - (a) a licence, permit or other authority issued under a regulation; or
  - (b) an exemption under a regulation.

Maximum penalty—

- (a) for a class 1 offence—1000 penalty units; or

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(b) for a class 2 offence—165 penalty units.

(2) In this section—

*class 1 offence* means an offence against this section that involves 1 or more plants that are threatened, rare or near threatened wildlife.

*class 2 offence* means an offence against this section other than a class 1 offence.

## **91 Restriction on release etc. of international and prohibited wildlife**

(1) A person, other than an authorised person, must not, unless authorised under this Act—

- (a) abandon or release international or prohibited wildlife into the wild; or
- (b) introduce international or prohibited wildlife into the State; or
- (c) keep or use international or prohibited wildlife that, in contravention of paragraph (b), has been introduced into the State.

Maximum penalty—3000 penalty units or 2 years imprisonment.

(2) A person, other than an authorised person, must not otherwise keep or use international or prohibited wildlife unless—

- (a) the wildlife is dead and, if the wildlife is international wildlife, an approved tag is, under a regulation, attached to the animal or the part of the animal that is being kept or used; or
- (b) the keeping or use is the keeping or use of milk obtained from prohibited wildlife; or
- (c) the keeping or use is otherwise authorised under this Act.

Maximum penalty—100 penalty units.



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**92 Restriction on breeding etc. hybrids of protected animals**

- (1) A person must not—
- (a) knowingly breed a hybrid or mutation of a protected animal; or
  - (b) abandon a hybrid or mutation of a protected animal in the wild;
- other than under a regulation or exemption under a regulation.
- Maximum penalty—165 penalty units.
- (2) A person must not release a hybrid or mutation of a protected animal into the wild other than under a conservation plan for the protected animal.
- Maximum penalty—165 penalty units or 1 year's imprisonment.

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

- (1) *Despite any other Act, but subject to the Animal Care and Protection Act 2001, an Aborigine or Torres Strait Islander may take, use or keep protected wildlife under Aboriginal tradition or Island custom.*
- (2) *Subsection (1) applies subject to any provision of a conservation plan that expressly applies to the taking, using or keeping of protected wildlife under Aboriginal tradition or Island custom.*
- (3) *An Aborigine or Torres Strait Islander who takes, uses or keeps protected wildlife in contravention of a provision of a conservation plan that expressly prohibits the taking, using or keeping of protected wildlife under Aboriginal tradition or Island custom commits an offence against this Act.*
- Maximum penalty—3000 penalty units or imprisonment for 2 years.*
- (4) *Subsection (1) does not apply to the taking, using or keeping of protected wildlife in a protected area.*

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**94 Conservation officers prohibited in dealing with protected wildlife**

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

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

Maximum penalty—50 penalty units.

**Division 5 Conservation value for protected wildlife**

**95 Payment of conservation value**

- (1) Subject to subsection (8), there is payable to the State for protected wildlife taken under a licence, permit or other authority issued or given under a regulation, the conservation value (if any) prescribed under this Act for the wildlife.
- (2) The conservation value of protected wildlife is an expression in monetary terms of the State's conservation concern for the wildlife.
- (3) Despite any Act or law, payment of the conservation value does not, of itself, transfer property in protected wildlife from the State.
- (4) A person who lawfully takes protected wildlife must pay the conservation value for the wildlife within 30 days after the wildlife is taken.

Maximum penalty—50 penalty units.

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

Maximum penalty—50 penalty units.

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

Maximum penalty—50 penalty units.

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

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

- (a) is exempt from the payment under a regulation; or
- (b) takes the wildlife for an authorised purpose under a conservation plan applicable to the wildlife; or
- (c) takes the wildlife under a captive breeding agreement and pays the amount that the agreement provides must be paid for the taking of the wildlife.

## **96 Recovery of unpaid conservation value**

- (1) An amount of conservation value payable under this Act is a debt due to the State and may be recovered in a court having jurisdiction for the recovery of debts up to the amount concerned.
- (2) A proceeding may be instituted against a person for the recovery of an amount of conservation value payable under this Act whether or not—
- (a) a prosecution has been instituted against the person for an offence in relation to the nonpayment; or
  - (b) the person has been convicted of an offence in relation to the nonpayment.

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## **Division 6                      Specific restriction on activities relating to native wildlife**

### **97            Restriction on taking etc. of native wildlife in areas of major interest and critical habitats**

- (1) This section applies to native wildlife (other than protected wildlife) in an area that is identified under a conservation plan as, or including—
  - (a) a critical habitat; or
  - (b) an area of major interest.
- (2) A person, other than an authorised person, must not take, use, keep or interfere with the wildlife, other than under—
  - (a) the conservation plan; or
  - (b) a licence, permit or other authority issued or given under a regulation.

Maximum penalty—3000 penalty units or 2 years imprisonment.

- (3) It is a defence to a charge of taking or interfering with wildlife in contravention of subsection (2) to prove that—
  - (a) the taking or interference happened in the course of a lawful activity that was not directed towards the taking or interference; and
  - (b) the taking or interference could not have been reasonably avoided.
- (4) Subsection (3) does not allow a person to use or keep the wildlife.

### **97A          Additional restriction on hunting native ducks or native quails**

- (1) A regulation or conservation plan under this Act does not and can not authorise, whether directly or indirectly—

- 
- (a) the recreational hunting of native ducks or native quails;  
or
  - (b) the issue or giving of a licence, permit or other authority authorising the recreational hunting of native ducks or native quails; or
  - (c) the entry into an agreement or other arrangement authorising the recreational hunting of native ducks or native quails.
- (2) The recreational hunting of native ducks or native quails is not and can not be authorised, for section 62(1), 88(2) or another provision of this Act, in any other way provided for under this Act, including, for example, under anything mentioned in section 62(1)(a), (b), (c), (d) or (e).
- (3) An authorisation, however called, under this Act that is in existence immediately before the commencement of this section is of no legal effect to the extent it authorises, or purports to authorise, the recreational hunting of native ducks or native quails.
- (4) In this section—
- recreational hunting*, of native ducks or native quails, means hunting directed at killing (including, for example, by shooting) native ducks or native quails for a recreational purpose.

## **Division 7                      Provisions for landholders**

### **98            No right to enter land**

Nothing in this Act gives—

- (a) the holder of a licence, permit or other authority issued or given under a regulation; or
- (b) an Aborigine or Torres Strait Islander;

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

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## **99 Offence to trespass—general**

- (1) A person must not—
  - (a) take wildlife on any land; or
  - (b) enter or be on any land for the purpose of taking wildlife;without the landholder's consent.  
Maximum penalty—165 penalty units.
- (2) Subsection (1) does not apply to a conservation officer who—
  - (a) has entered the land under part 9; and
  - (b) exercises a power under the part.

## **100 Offence to trespass—landholders' rights**

- (1) This section applies to a person who a landholder suspects on reasonable grounds—
  - (a) is trespassing on the landholder's land; and
  - (b) is committing on the land, has committed on the land or is on the land for the purpose of committing, an offence against this Act.
- (2) The landholder may—
  - (a) require the person to state—
    - (i) the person's name and address; and
    - (ii) the person's purpose for being on the land; and
  - (b) if the person is on the land without lawful authority—require the person to leave the land immediately.
- (3) If—
  - (a) the person fails to give—
    - (i) his or her name and address; or
    - (ii) the person's purpose for being on the land;

- if required to do so by the landholder; or
- (b) the person—
- (i) is on the land without lawful authority; and
  - (ii) fails to leave the land immediately if required to do so by the landholder;
- the person commits an offence against this Act.
- Maximum penalty—165 penalty units.
- (4) This section does not affect any other right or remedy that the landholder may have against the trespasser.

## **Division 8                      Captive breeding agreements and    captive breeding for conservation**

### **Subdivision 1              Preliminary**

#### **100A    Main purpose of div 8 and its achievement**

- (1) The main purpose of this division is to facilitate the conservation of native wildlife in the wild through captive breeding programs and the introduction of captive-bred wildlife into the wild.
- (2) The purpose is achieved by—
- (a) providing for agreements between the State and other entities about captive breeding; and
  - (b) authorising the taking of protected wildlife in the wild for use in captive breeding programs.

[s 100B]

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## Subdivision 2 Captive breeding agreements

### 100B Minister's power to enter into captive breeding agreement

- (1) The Minister may, for the State, enter into an agreement (a *captive breeding agreement*) with someone else about captive breeding of protected wildlife to—
  - (a) reintroduce it into the wild, in the State or elsewhere; or
  - (b) otherwise ensure the survival in the wild of the protected wildlife or another species of wildlife.
- (2) However, the agreement may provide for the reintroduction of the protected wildlife only if the Minister is satisfied—
  - (a) suitable habitat exists, or will exist, for the wildlife at the place where it is to be released; and
  - (b) threatening processes for the wildlife or its habitat will be minimised at the place.
- (3) The agreement may be made even though no conservation plan or recovery plan has been made for the wildlife.
- (4) In this section—

*captive breeding*, of protected wildlife, means doing, in the State or elsewhere, any of the following for a purpose mentioned in subsection (1)—

  - (a) growing or propagating protected plants under controlled conditions;
  - (b) breeding, hand-rearing or incubating protected animals in captivity;
  - (c) removing eggs, sperm or other reproductive material from protected wildlife in captivity or the wild for embryo transfer, fertilisation, artificial insemination or incubation.

*protected wildlife* includes wildlife that, under a law of another State, is an equivalent (however called) of protected wildlife as defined under this Act.



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**recovery plan**, for wildlife, is a document stating what research and management is necessary to stop the decline, support the recovery, or enhance the chance of long-term survival in the wild, of the wildlife.

*Example—*

a recovery plan made or adopted under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth), section 269A

**reproductive material**, of protected wildlife, means any part of the wildlife that is capable of, or contributes to, asexual or sexual reproduction.

*Examples of reproductive material of a plant—*

all or part of a bulb, rhizome, root, seed, stolon or tuber

### **100C Things a captive breeding agreement may provide for**

- (1) A captive breeding agreement may do any of the following in relation to protected wildlife to which the agreement applies—
  - (a) authorise, for this Act, a party to the agreement to—
    - (i) take the wildlife in a protected or other area; or
    - (ii) keep or use the wildlife;
  - (b) provide for the passing of property rights in relation to the wildlife to a party to the agreement.
- (2) However, the authorisation is subject to section 100E.
- (3) A captive breeding agreement may provide that wildlife that is the property of the State is, under the agreement, to pass to another party to the agreement.

### **100D Required provisions for captive breeding agreement**

- (1) A captive breeding agreement must state or provide for each of the following—
  - (a) the species of wildlife to which the agreement applies;

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- (b) how many of the wildlife are to be taken in the wild, their sex and place of taking;
  - (c) whether the conservation value or a stated different amount must be paid for any of the wildlife that, under the agreement, is to be taken in the wild;
  - (d) arrangements to be made to distinguish the wildlife from others of the same species;
  - (e) the taking of tissue samples of the wildlife for genetic typing;
  - (f) where the wildlife are to be kept;
  - (g) requirements for keeping stud books and other records;
  - (h) arrangements to be made for releasing the wildlife or their descendants or to dispose of any of the wildlife that are no longer suitable for breeding or release;
  - (i) how the agreement may be enforced or terminated;
  - (j) any other matter prescribed under a regulation.
- (2) To remove any doubt, it is declared that subsection (1) does not limit section 100B(1).

### **100E Restriction on the taking, under a captive breeding agreement, of wildlife in the wild**

A person who, under a captive breeding agreement, takes wildlife in the wild must carry a copy of the agreement while taking or moving the wildlife.

Maximum penalty—50 penalty units.

### **100F Additional provisions for termination of captive breeding agreement**

- (1) The Minister may, by written notice to each other party to a captive breeding agreement, terminate the agreement if a party to the agreement is convicted of an offence against section 88, 88A or 89.
- (2) A regulation may terminate a captive breeding agreement.

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- (3) This section—
- (a) applies despite any provision of a captive breeding agreement; and
  - (b) does not limit the ways in which a captive breeding agreement may be terminated.

**100G Obligation to surrender protected wildlife on termination of captive breeding agreement**

- (1) If a captive breeding agreement is terminated, the chief executive may give a written notice to any person who is, or who appears to be, in charge of protected wildlife that, under the agreement, is the property of the State, to surrender the wildlife to the State.
- (2) The notice may be given even if the wildlife is being kept or used at a place outside the State.
- (3) The person must comply with the notice.  
Maximum penalty—1000 penalty units.
- (4) This section does not limit—
  - (a) section 88, 88A or 89; or
  - (b) the State’s property in the wildlife; or
  - (c) a conservation officer’s powers in relation to the wildlife.

**Subdivision 3 Chief executive’s power for captive breeding**

**100H Powers**

The chief executive may take, keep or use protected wildlife for captive breeding or to give effect to a captive breeding agreement.

## Part 6 Interim conservation orders

### 101 Definitions

In this part—

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

*protected area* includes the wet tropics area within the meaning of the *Wet Tropics World Heritage Protection and Management Act 1993*.

### 102 Issue of order

If the Minister is of the opinion that—

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

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

### 103 Effect of order

- (1) An interim conservation order may provide for—
  - (a) the prohibition or control of a specified threatening process; or
  - (b) such other matters as are prescribed.
- (2) An order may be made in relation to land even though—
  - (a) the wildlife or habitat is not within the land; or

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

#### **104 Notice of order**

- (1) On the day an interim conservation order is made, the Minister must give or send written notice to—
  - (a) all landholders of land to which the order relates; and
  - (b) the local government for the area in which the land is situated;that the order has been made and of the terms of the order.
- (2) It is sufficient compliance with subsection (1)(a) in relation to a landholder if the Minister gives notice of the order to the landholder by displaying the notice in a prominent place on the land.

#### **105 Duration of order**

- (1) An interim conservation order has effect from the time it is made and continues in force for not more than 60 days.
- (2) The Governor in Council may, by gazette notice, extend the order by not more than 90 days.

#### **106 Orders prevail over planning schemes**

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

#### **107 Suspension of licences etc.**

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

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- (2) The Minister must give written notice of the order to the authority holder.
- (3) If the Minister considers that it is impracticable to give notice to each holder of a particular class of authority, it is sufficient compliance with subsection (2) if the Minister gives notice of the order to the authority holders by publishing a notice in such newspapers as the Minister determines.
- (4) The suspension—
  - (a) takes effect from—
    - (i) if notice is given under subsection (2)—the day the notice is received by the holder; or
    - (ii) if notice is given under subsection (3)—the day the notice is first published in a newspaper; or
    - (iii) if a later day is specified in the notice—the later day; and
  - (b) ends—
    - (i) when the interim conservation order ends; or
    - (ii) if an earlier day is specified in the notice—on the earlier day.
- (5) This section applies despite any other Act.

## **108 Compensation**

- (1) A landholder of land subject to an interim conservation order is entitled to be paid by the State such reasonable compensation because of the making of the order as is agreed between the State and the landholder or, failing agreement, as is determined by the Land Court.
- (2) A claim for compensation must—
  - (a) be made in a form approved by the chief executive; and
  - (b) be made to the chief executive within 6 months after the making of the order or the longer period the chief executive or the Land Court in special circumstances allows.

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**109 Compliance with order**

A person must not contravene an interim conservation order.

Maximum penalty—3000 penalty units or 2 years imprisonment.

**Part 7 Management and conservation plans**

**110 Meaning of *landholder* in part**

In this part—

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

**111 Management plans**

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

- (a) the dedication of—
  - (i) a national park (scientific); or
  - (ii) a national park; or
  - (iii) a national park (Cape York Peninsula Aboriginal land); or
  - (iv) a national park (recovery); or
  - (v) a conservation park; or
  - (vi) a resources reserve; or
- (b) the declaration of—
  - (i) a nature refuge, under section 49; or
  - (ii) a coordinated conservation area; or
  - (iii) a wilderness area; or
  - (iv) an indigenous joint management area;

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prepare a management plan for the area.

(2) However, the Minister is not required to prepare a management plan for the area (the *newly dedicated protected area*) if—

(a) the area is dedicated or declared as a protected area in connection with any of the following changes to a protected area (an *existing protected area*) for which a management plan (an *existing management plan*) is in force—

- (i) renaming the existing protected area;
- (ii) changing the class of the existing protected area;
- (iii) adding an area to the existing protected area;
- (iv) removing an area from the existing protected area;
- (v) amalgamating the existing protected area with another protected area;
- (vi) dividing the existing protected area into 2 or more separate protected areas; and

(b) either of the following apply—

- (i) the regulation dedicating or declaring the newly dedicated protected area declares that the existing management plan applies to the newly dedicated protected area;
- (ii) the Minister amends the existing management plan to apply to the newly dedicated protected area.

(5) If—

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

the Minister may prepare a management plan for the aggregation of areas instead of a plan for the area (whether or



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not plans have been prepared for other areas included in the aggregation of areas).

- (6) If the Minister decides to prepare a management plan for an amalgamated area or aggregation of areas, this part applies to the preparation and approval of the plan.
- (7) The Minister may after the declaration of a nature refuge, other than under section 49, prepare a management plan for the area of the refuge if the landholder of the area agrees.
- (8) A management plan for a national park (Cape York Peninsula Aboriginal land) or an indigenous joint management area must—
  - (a) be prepared jointly with the indigenous landholder for the protected area; and
  - (b) be consistent with any indigenous land use agreement, and the indigenous management agreement, for the protected area.

## **112 Conservation plans**

- (1) The Minister may prepare a conservation plan for any native wildlife, class of wildlife, native wildlife habitat or area that is, in the Minister's opinion, an area of major interest.
- (2) If a person applies for a licence, permit or other authority under a regulation to—
  - (a) take or use protected wildlife; or
  - (b) release international or prohibited wildlife into the wild; or
  - (c) introduce international or prohibited wildlife into the State;the Minister may, before the authority is given—
  - (d) require the person, at the person's cost, to prepare a draft conservation plan; or
  - (e) prepare a draft conservation plan;for the taking, use, release or introduction of the wildlife.

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- (3) The procedures applying to the preparation and approval of plans under this part (other than sections 113 and 114) apply to a draft conservation plan prepared under subsection (2).
- (4) The Minister may require the person to pay—
  - (a) if subsection (2)(d) applies—the reasonable costs incurred by the Minister in relation to the preparation and approval of a final conservation plan; or
  - (b) if subsection (2)(e) applies—the reasonable costs incurred by the Minister in relation to—
    - (i) the preparation of the draft and final conservation plans; and
    - (ii) the approval of the final conservation plan.
- (5) A conservation plan may make provision about the following matters—
  - (a) any matter for which a regulation may be made under this Act, including, for example, prescribing offences for contraventions of the plan, and fixing a maximum penalty of a fine of not more than 165 penalty units for the contravention;
  - (b) the use or development of land, and activities, in an area identified under the plan as, or including, a critical habitat or an area of major interest.

### **113 Notice of proposal to prepare draft plan**

- (1) The Minister must give public notice that the Minister proposes to prepare a draft management or conservation plan (other than a plan for a nature refuge that is subject to a conservation agreement).
- (2) The notice must—
  - (a) be published in such newspapers as the Minister determines; and
  - (b) specify the protected area, area of major interest, wildlife or native wildlife habitat concerned; and

- (c) invite submissions from landholders, local governments, interested groups and persons, including Aborigines and Torres Strait Islanders and members of the public; and
- (d) specify a day by which submissions may be made to the Minister.

#### **114 Preparation of draft plan**

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

#### **115 Notice of preparation of draft plan**

- (1) The Minister must give public notice when a draft management or conservation plan has been prepared (other than a plan for a nature refuge that is subject to a conservation agreement).
- (2) The notice must—
  - (a) be published in such newspapers as the Minister determines; and
  - (b) specify the protected area, area of major interest, wildlife or native wildlife habitat concerned; and
  - (c) specify the addresses at which copies of the draft plan may be inspected and, on payment of the appropriate fee, purchased; and
  - (d) invite submissions from landholders, local governments, interested groups and persons, including Aborigines and Torres Strait Islanders and members of the public; and
  - (e) specify a day by which submissions may be made to the Minister.
- (3) The fee for the purchase of a copy of a draft plan is the amount that—
  - (a) the chief executive considers to be reasonable; and

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- (b) is not more than the reasonable cost of preparing the plan.

### **116 Submissions to be considered when preparing final plans**

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

### **117 Final management plans**

- (1) A final management plan for a protected area must—
  - (a) be consistent with the management principles for the class of the area and, if the area is a nature refuge, coordinated conservation area or wilderness area, any conservation agreement or covenant for the area; and
  - (b) specify management outcomes for the protection, presentation and use of the area and the policies, guidelines and actions to achieve the outcomes.
- (1A) A final management plan for a protected area may be inconsistent with a wild river declaration that applies to a part or all of the protected area only to the extent the management plan provides for a greater level of protection for the area than is provided for in the declaration.
- (2) A final management plan for a protected area may divide the area into management zones.

### **118 Final conservation plans**

- (1) A final conservation plan for wildlife must be consistent with the management principles for the class of wildlife.
- (2) A final conservation plan for wildlife, or a class of wildlife, may provide for the State to be divided into wildlife districts.

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## **119 Approval of final plan**

- (1) A final management or conservation plan does not have effect until it has been approved by the Governor in Council.
- (2) A final conservation plan is subordinate legislation.
- (3) The chief executive must keep the approved plan open for inspection by members of the public during office hours on business days at—
  - (a) the department's head office; and
  - (b) each regional office of the department; and
  - (c) such other places as the chief executive considers appropriate.

## **120 Implementation of approved plan**

- (1) On approval of a management plan for a protected area or an indigenous joint management area, the following persons must give effect to the plan—
  - (a) if the area is a national park (Aboriginal land) or national park (Torres Strait Islander land)—the board of management for the area;
  - (b) if the area is a national park (Cape York Peninsula Aboriginal land) or an indigenous joint management area—the indigenous landholder for the area and the chief executive;
  - (c) if the area is under the control of trustees appointed under section 31—the trustees;
  - (d) if paragraphs (a), (b) and (c) do not apply—the chief executive.
- (2) On approval of a conservation plan for wildlife, native wildlife habitat or area of major interest, the chief executive must give effect to the plan.

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### **121 Plan replaces interim or declared management intent**

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

### **122 Conservation plans and regulations prevail over planning schemes**

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

### **123 Local governments' decisions to be consistent with plans**

- (1) This section applies to land in—
  - (a) a protected area for which a regulation is in force giving effect to a management plan for the area; or
  - (b) an area identified under a conservation plan as, or including, a critical habitat or an area of major interest.
- (2) A local government must not issue or give any approval, consent, permit or other authority for a use of, or a development on, the land that is inconsistent with the regulation or plan.

### **124 Procedures applying to amending plans**

- (1) The procedures for the preparation and approval of management plans and conservation plans apply to amending plans subject to this section.
- (2) Sections 113 and 114 do not apply to an amending plan.

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- (3) Also, sections 115 and 116 do not apply to an amending plan if its only amendments of another management or conservation plan are to—
- (a) correct an error in the other plan; or
  - (b) make a change (other than a change of substance) in the other plan; or
  - (c) if the other plan or a regulation provides that an amendment of a stated type may be made to the other plan by amendment under this subsection—make an amendment of that type.
- (4) In this section—

*amending plan* means a management or conservation plan made only to amend another management or conservation plan.

## 125 Review of plans

- (1) The Minister must review the operation of each management and conservation plan not later than 10 years after its approval.
- (2) The procedures applying to the preparation and approval of plans under this part apply to the review of plans with any necessary changes and any changes prescribed by regulation.

## 126 Compensation

- (1) This section applies if—
  - (a) a conservation plan is approved for an area identified under the plan as, or including, a critical habitat or an area of major interest; and
  - (b) a landholder's interest in land in the area is injuriously affected by a restriction or prohibition imposed under the plan on the landholder's existing use of the land.
- (2) The landholder is entitled to be paid by the State the reasonable compensation because of the restriction or

prohibition that is agreed between the State and the landholder or, failing agreement, decided by the Land Court.

- (3) The landholder's interest in the land is not injuriously affected if the restriction or prohibition under the conservation plan is the same, or to the same effect, as a provision of another law applying to the land immediately before the commencement of the plan.
- (4) Compensation is not payable if compensation has already been paid for—
  - (a) the restriction or prohibition; or
  - (b) a restriction or prohibition to the same effect.
- (5) A claim for compensation must—
  - (a) be made in a form approved by the chief executive; and
  - (b) be made to the chief executive within 6 months after the approval of the conservation plan or the longer period the chief executive or Land Court in special circumstances allows.
- (6) In making a determination, the Land Court must have regard to the following matters—
  - (a) the capacity of the land to sustain the existing use;
  - (b) any change in the value of the land because of the approval of the conservation plan;
  - (c) any change in the profitability of the land because of the approval of the conservation plan;
  - (d) any conservation agreement with the landholder.
- (7) Subsection (6) does not limit the matters to which the Land Court may have regard in making a determination.
- (8) In this section—

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



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## Part 8 Administration

### 127 Appointment of conservation officers

- (1) The Minister may—
- (a) appoint an employee of the department; or
  - (b) appoint an officer of the public service; or
  - (c) appoint a police officer; or
  - (d) with the person's consent, appoint another person;
- to be a conservation officer.

*Note—*

Under the *Police Powers and Responsibilities Act 2000*, section 13, a police officer may be appointed as a conservation officer only with the written approval of the commissioner of the police service.

- (2) The Minister may appoint a conservation officer, who has satisfactorily completed a course of training approved by the Minister, to be a special conservation officer.
- (3) An appointment under subsection (1) or (2) must be in, or evidenced by, writing signed by the Minister.
- (4) A conservation officer appointed under subsection (1)(a) or (b) holds office subject to the conditions specified in the instrument of appointment.
- (5) A conservation officer appointed under subsection (1)(d)—
- (a) holds office for the term, and subject to the conditions, specified in the instrument of appointment; and
  - (b) may resign office by writing signed and given to the Minister.

### 128 Appointment of honorary protectors

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

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- (a) holds office for the term, and subject to the conditions, specified in the instrument of appointment; and
  - (b) has the powers of a conservation officer under section 151 and such other powers as may be prescribed; and
  - (c) may resign by writing signed and given to the Minister.
- (3) In this section—
- qualified person*** means a person who—
- (a) in the Minister’s opinion, has the necessary expertise or experience to be an honorary protector; or
  - (b) has satisfactorily completed a course of training approved by the Minister.

### **129 Minister may inquire into suitability of proposed appointees**

- (1) Before appointing a person as a conservation officer or honorary protector, the Minister may inquire into the suitability of the person.
- (2) The Minister may obtain a report from the commissioner of the police service about the criminal history of the person.
- (3) The report must include reference to, or disclosure of, convictions mentioned in the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6.

### **130 Identity cards**

- (1) The Minister must issue an identity card to—
  - (a) each conservation officer, other than a police officer or an officer of a prescribed class; and
  - (b) each honorary protector.
- (2) The identity card must—
  - (a) contain a recent photograph of the conservation officer or honorary protector; and
  - (b) be in a form approved, in writing, by the Minister; and

- (c) in the case of a conservation officer who is a special conservation officer—state that the officer is a special conservation officer; and
  - (d) be signed by the conservation officer or honorary protector.
- (3) A person who ceases to be a conservation officer or honorary protector must, as soon as practicable, return his or her card to the Minister.

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

### **131 Proof of authority**

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

### **132 Advisory committees**

- (1) The Minister may establish as many advisory committees as the Minister considers appropriate for the purposes of the administration of this Act, including, for example—
- (a) scientific advisory committees; and
  - (b) wilderness area advisory committees; and
  - (c) protected area management advisory committees; and
  - (d) wildlife management advisory committees.
- (2) An advisory committee is to have the functions that the Minister specifies, including, for example, the function of advising the Minister on—
- (a) the management intent of, and the identification of areas that are suitable for declaration as, wilderness areas; and
  - (b) the identification, classification and management of protected areas; and

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- (c) the classification of wildlife; and
  - (d) the suitability of management and conservation plans.
- (3) A member of an advisory committee may be paid such fees and allowances as are approved by the Governor in Council.

### **132A Committees for protected areas in Cape York Peninsula Region**

- (1) The Minister may establish committees to advise the Minister about matters relating to particular protected areas in the Cape York Peninsula Region, including, for example, matters about the preparation of management plans, and matters about implementing the plans, for the areas.
- (2) Also, the Minister must establish a committee of indigenous people who have an interest in a protected area in the Cape York Peninsula Region (the *Regional Protected Area Management Committee*) to advise the Minister about matters relating to protected areas in the region, including, for example, matters about—
- (a) employment opportunities for indigenous people in the areas; and
  - (b) the management plans for the areas; and
  - (c) the provision of resources for the management of the areas.
- (3) Each committee established under subsection (1) must consist of representatives of indigenous people the Minister is satisfied have an interest in the protected areas for which the committee is established.
- (4) The Regional Protected Area Management Committee may consist of representatives of—
- (a) the committees established under subsection (1); or
  - (b) indigenous regional organisations in the Cape York Peninsula Region.
- (5) In this section—

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*Cape York Peninsula Region* means the Cape York Peninsula Region under the *Cape York Peninsula Heritage Act 2007*.

### **133 Chief executive to keep register**

- (1) The chief executive must keep a register of—
  - (a) leases granted under sections 34 to 37, or section 42AD or 42AE; and
  - (b) conservation agreements; and
  - (c) management and conservation plans; and
  - (d) critical habitats; and
  - (e) areas of major interest; and
  - (f) captive breeding agreements that are in force; and
  - (g) interim conservation orders; and
  - (h) conservation officers; and
  - (i) honorary protectors.
- (2) Subject to subsection (3), the chief executive must—
  - (a) keep the registers open for inspection by members of the public during office hours on business days at—
    - (i) the department's head office; and
    - (ii) such other places as the chief executive considers appropriate; and
  - (b) on payment of the prescribed fee by a person—
    - (i) permit the person to take extracts from a register; or
    - (ii) give the person a copy of a part of a register.
- (3) A person must not be given information that is declared under section 136 to be confidential information.

### **134 Records to be maintained by registrar**

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

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- (a) a registrable conservation agreement is entered into; or
- (b) a nature refuge is declared under section 49; or
- (c) a regulation giving effect to a management plan for a World Heritage management area or international agreement area commences; or
- (d) an area is identified under a conservation plan as, or including—
  - (i) a critical habitat; or
  - (ii) an area of major interest;

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

- (2) The registrar must maintain records that—
  - (a) show that the land specified in the notice is—
    - (i) the subject of a registrable conservation agreement; or
    - (ii) subject to a conservation covenant; or
    - (iii) the subject of a management plan and the regulation giving effect to it; or
    - (iv) the subject of a conservation plan; and
  - (b) state the places where—
    - (i) particulars of the agreement; or
    - (ii) particulars of the conservation covenant applying to the declaration; or
    - (iii) the management plan for the area and regulation;  
or
    - (iv) the conservation plan for the area;may be inspected.

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- (3) The registrar must maintain the records in such a way that a search of the register maintained by the registrar under any Act relating to the land will show the existence of—
- (a) the registrable conservation agreement; or
  - (b) the conservation covenant; or
  - (c) the management plan and regulation; or
  - (d) the conservation plan.
- (4) The chief executive must, within 14 days after—
- (a) a registrable conservation agreement is terminated; or
  - (b) the declaration of a protected area is revoked; or
  - (c) a regulation giving effect to a management plan is repealed; or
  - (d) a conservation plan is revoked; or
  - (e) an area is removed from the operation of the conservation plan;
- give written notice to the registrar of the termination, revocation, repeal or removal.
- (5) The registrar must, on receipt of a notice under subsection (4), remove the particulars of the land from the registrar's records.
- (6) In this section—

*private land* means land other than State land.

*registrable conservation agreement* means a conservation agreement expressed to be binding on the landholder's successors in title and other persons who have an interest in the land the subject of the agreement.

### 135 Chief executive may inquire into applications

- (1) The chief executive may, in relation to—
- (a) an application for, or for the renewal of, a lease, agreement, licence, permit or other authority; or

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- (b) an application for the consent of the Minister to, or to the renewal of, a lease, agreement, licence, permit or other authority;
- inquire into—
- (c) if the applicant is an individual—the fame, character and suitability of the applicant; or
  - (d) if the applicant is a corporation—the fame, character and suitability of each executive officer of the corporation.
- (2) The chief executive may obtain—
- (a) a report from the commissioner of the police service in respect of the criminal history of the applicant and, if the applicant is a corporation, in respect of each executive officer of the corporation; and
  - (b) if the applicant, or an executive officer of a corporation that is an applicant, holds or previously held in another State a relevant lease, licence, permit or other authority—a report from the appropriate authority in the State.
- (3) A report under subsection (2)(a) must include reference to or disclosure of convictions mentioned in of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6.
- (4) In this section—
- applicant***, in relation to an expression of interest, means the person who has submitted to the chief executive the expression of interest.
- application***, for a lease, agreement, licence permit or other authority, includes an expression of interest for the lease, agreement, licence, permit or other authority.

## 136 Confidentiality of information

- (1) The chief executive may declare information acquired in the administration of this Act to be confidential information if the chief executive is of the opinion that disclosure of the



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information may result in an unreasonable level of risk to the wellbeing of a cultural or natural resource or critical habitat.

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

- (a) confidential information; or
- (b) information obtained under section 129 or 135;

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

Maximum penalty—165 penalty units.

- (3) In this section—

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

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

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

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

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

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

must be consistent with—

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

### **138 Compensation not payable**

(1) In this section—

*authority* means a licence, permit or other authority issued or given under a regulation or conservation plan.

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

(a) the renewal of an authority is refused; or

(b) conditions are imposed on an authority, or anything previously permitted under an authority is prohibited or regulated; or

(c) an authority is amended, or anything previously permitted under an authority is prohibited or regulated; or

(d) an authority is suspended or cancelled.

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

### **139 Annual report**

(1) The chief executive must, within 4 months after the end of each financial year, give to the Minister a report on the administration of this Act during the year.

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

### **140 Delegation by Minister**

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

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### **141 Delegation by chief executive**

- (1) The chief executive may delegate the chief executive's powers under this Act to a conservation officer or an officer of the public service.
- (2) However, the chief executive may not delegate powers under a prescribed provision.
- (3) In this section—

*prescribed provision* means section 34, 35, 35A, 36, 37, 38, 42AD, 42AE, 42AEA, 42AO, 42AOA, 42AP or 136.

### **142 Protection from liability**

- (1) This section applies to—
  - (a) the Minister or chief executive; and
  - (b) a conservation officer; and
  - (c) a person acting under the direction of a person mentioned in paragraph (a) or (b).
- (2) A person to whom this section applies does not incur civil liability for an act or omission done or omitted to be done honestly and without negligence under, or for the purposes of, this Act.
- (3) A liability that would, but for this section, attach to a person to whom this section applies attaches instead to the State.

### **143 Immunity from prosecution**

- (1) A conservation officer is not liable to be prosecuted for an offence against this Act for anything done or omitted to be done—
  - (a) under the direction of the Minister or chief executive; or
  - (b) in the exercise of a power or performance of a function conferred or imposed on the officer under this Act.
- (2) A person acting under the direction of the Minister, chief executive or a conservation officer is not liable to be

prosecuted for an offence against this Act for anything done or omitted to be done under the direction.

## **Part 9 Investigation and enforcement**

### **144 Power to stop and search vehicles etc.**

- (1) This section applies if a conservation officer suspects on reasonable grounds that—
  - (a) a vehicle, boat or aircraft is being, or has been, used in the commission of an offence against this Act; or
  - (b) a vehicle, boat or aircraft, or anything on or in, a vehicle, boat or aircraft may afford evidence of the commission of an offence against this Act.
- (2) The conservation officer may, with such assistance and by such force as is necessary and reasonable—
  - (a) enter or board the vehicle, boat or aircraft; and
  - (b) exercise the powers set out in section 147.
- (3) If—
  - (a) the vehicle or boat is moving or about to move; or
  - (b) the aircraft is moving, or about to move, on the ground;the conservation officer may signal the driver or the person in command or control, or who appears to be in command or control, of the vehicle, boat or aircraft, to stop or not to move the vehicle, boat or aircraft.
- (4) A person must not, without reasonable excuse, disobey a signal under subsection (3).  
Maximum penalty—165 penalty units or 1 year's imprisonment.
- (5) It is a reasonable excuse for the person to fail to stop or to move the vehicle, boat or aircraft if—

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- (a) to immediately obey the signal would have endangered the person or another person; and
  - (b) the person obeys the signal as soon as it is practicable to obey the signal.
- (6) The conservation officer may require the driver or the person in command or control, or who appears to be in command or control, of the vehicle, boat or aircraft—
- (a) to provide such reasonable assistance as the officer requires to enable the vehicle, boat or aircraft to be entered or boarded under subsection (2); or
  - (b) to bring the vehicle, boat or aircraft to a specified place and remain in control of the vehicle, boat or aircraft at the place for a reasonable time to enable the officer to exercise the officer's powers in relation to the vehicle, boat or aircraft.
- (7) A person must not, without reasonable excuse, contravene a requirement under subsection (6).
- Maximum penalty—165 penalty units or 1 year's imprisonment.
- (8) If, while searching the vehicle, boat or aircraft, the conservation officer finds a thing that the officer believes, on reasonable grounds, will afford evidence of the commission of an offence against this Act, section 146(2)(a) to (c) apply to the thing.
- (9) If, after searching the vehicle, boat or aircraft, the conservation officer believes on reasonable grounds that the vehicle, boat or aircraft will afford evidence of the commission of an offence against this Act, section 146(2)(a) and (b) apply to the vehicle, boat or aircraft.

## **145 Entry and search—monitoring compliance**

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

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- (a) enter any place at any reasonable time of the day or night; and
  - (b) exercise the powers set out in section 147.
- (2) The conservation officer must not enter a place, or exercise a power under subsection (1), unless—
- (a) the occupier of the place consents to the entry or exercise of the power; or
  - (b) a warrant under section 148 authorises the entry or exercise of the power; or
  - (c) the place is a place to which the public are admitted (whether or not for consideration) and the entry is made when members of the public attend or the premises are open for admission by the public; or
  - (d) the place is premises, or the part of premises, that—
    - (i) are licensed under a regulation and the entry is made when the premises are open for conduct of business or otherwise open for entry; and
    - (ii) are not used exclusively for residential purposes.
- (3) In this section—
- place* does not include a vehicle, boat or aircraft.

#### **146 Entry and search—evidence of offences**

- (1) Subject to subsection (3), if a conservation officer has reasonable grounds for suspecting that there is in a place a particular thing (*the evidence*) that may afford evidence of the commission of an offence against this Act, the officer may—
- (a) enter the place; and
  - (b) exercise the powers set out in section 147.
- (2) If the conservation officer enters the place and finds the evidence, the following provisions have effect—
- (a) the officer may seize the evidence;

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- (b) the officer may keep the evidence for 6 months or, if a prosecution for an offence against this Act in the commission of which the evidence may have been used or otherwise involved is instituted within that period, until the completion of the proceeding for the offence and any appeal in relation to the proceeding;
  - (c) if the evidence is a document—while the officer has possession of the document, the officer may take extracts from and make copies of the document, but must allow the document to be inspected at any reasonable time by a person who would be entitled to inspect it if it were not in the officer's possession.
- (3) A conservation officer must not enter the place or exercise a power under subsection (1) unless—
- (a) the occupier of the place consents to the entry or exercise of the power; or
  - (b) a warrant under section 149 that was issued in relation to the evidence authorises the entry or exercise of the power.
- (4) If, while searching the place under subsection (1) under a warrant under section 149—
- (a) a conservation officer finds a thing that the officer believes, on reasonable grounds, to be—
    - (i) a thing (other than the evidence) that will afford evidence of the commission of the offence mentioned in subsection (1); or
    - (ii) a thing that will afford evidence of the commission of another offence against this Act; and
  - (b) the officer believes, on reasonable grounds, that it is necessary to seize the thing to prevent—
    - (i) its concealment, loss or destruction; or
    - (ii) its use in committing, continuing or repeating the offence mentioned in subsection (1) or the other offence, as the case may be;

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

(5) In this section—

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

## **147 General powers of conservation officer in relation to places**

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

- (a) search any part of the place;
- (b) inspect, examine, photograph or film anything in or on the place;
- (c) take extracts from, and make copies of, any documents in or on the place;
- (d) take into or onto the place such persons, equipment and materials as the conservation officer reasonably requires for the purpose of exercising any powers in relation to the place;
- (e) require the occupier or any person in or on the place to give to the conservation officer reasonable assistance in relation to the exercise of the powers mentioned in paragraphs (a) to (d);
- (f) the powers mentioned in the following provisions—
  - (i) section 151;
  - (ii) section 152;
  - (iii) section 154(1)(b) to (e).

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

Maximum penalty—50 penalty units.

(3) It is a reasonable excuse for a person to fail to answer a question or produce a document (other than a document required to be kept by the person under a regulation) if



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answering the question, or producing the document, might tend to incriminate the person.

- (4) A conservation officer who seizes or damages anything under this part must, as soon as it is reasonably practicable after seizing or damaging the thing, give written notice of particulars of the thing or damage.
- (5) The notice must be given to—
  - (a) if anything is seized—the person from whom the thing was seized; or
  - (b) if damage was caused to anything—the person who appears to the conservation officer to be the owner of the thing.
- (6) This section does not limit any power that a conservation officer has apart from this section.

## **148 Monitoring warrants**

- (1) A conservation officer may apply to a magistrate for a warrant under this section in relation to a particular place (other than premises, or the part of premises, used exclusively for residential purposes).
- (2) Subject to subsection (3), the magistrate may issue the warrant if the magistrate is satisfied, by information on oath, that it is reasonably necessary that the conservation officer should have access to the place for the purpose of finding out whether this Act is being complied with.
- (3) If the magistrate requires further information concerning the grounds on which the issue of the warrant is being sought, the magistrate must not issue the warrant unless the conservation officer or some other person has given the information to the magistrate in the form (either orally or by affidavit) that the magistrate requires.
- (4) The warrant must—

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

#### **149 Offence related warrants**

- (1) A conservation officer may apply to a magistrate for a warrant under this section in relation to a particular place.
- (2) Subject to subsection (3), the magistrate may issue the warrant if the magistrate is satisfied, by information on oath, that there are reasonable grounds for suspecting that there is, or there may be within the next 7 days, in or on the place a particular thing (*the evidence*) that may afford evidence of the commission of an offence against this Act.
- (3) If the magistrate requires further information concerning the grounds on which the issue of the warrant is being sought, the magistrate must not issue the warrant unless the conservation officer or another person has given the information to the magistrate in the form (either orally or by affidavit) that the magistrate requires.
- (4) The warrant must—
  - (a) authorise any conservation officer or a stated conservation officer, with such assistance and by such force as is necessary and reasonable—
    - (i) to enter the place; and

- (ii) to exercise the powers set out in section 147(1)(a) to (e); and
- (iii) to seize the evidence; and
- (b) state whether the entry is authorised to be made at any time of the day or night or only during specified hours of the day or night; and
- (c) specify the day (not more than 14 days after the issue of the warrant) on which the warrant ceases to have effect; and
- (d) state the purpose for which the warrant is issued.

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

- (1) If a conservation officer considers it necessary to do so because of—
  - (a) urgent circumstances; or
  - (b) other special circumstances, including, for example, the officer's remote location;the officer may, under this section, apply by telephone, facsimile, radio or another form of communication for a warrant under section 148 or 149.
- (2) Before applying for the warrant, the conservation officer must prepare information of the kind mentioned in section 148(2) or 149(2) that sets out the grounds on which the issue of the warrant is sought.
- (3) If it is necessary to do so, a conservation officer may apply for the warrant before the information has been sworn.
- (4) If the magistrate is satisfied—
  - (a) after having considered the terms of the information; and
  - (b) after having received such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought;

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

- (5) If the magistrate completes and signs the warrant, the magistrate must immediately send a copy of the warrant to the conservation officer by facsimile or, if it is not reasonably practicable to do so—
- (a) the magistrate must—
    - (i) tell the officer what the terms of the warrant are; and
    - (ii) tell the officer the day and time when the warrant was signed; and
    - (iii) record on the warrant the reasons for granting the warrant; and
  - (b) the officer must—
    - (i) complete a form of warrant in the same terms as the warrant completed and signed by the magistrate; and
    - (ii) write on the form of warrant the name of the magistrate and the day and time when the magistrate signed the warrant.
- (6) The conservation officer must also—
- (a) not later than the day after the day of expiry or execution of the warrant (whichever is the earlier); or
  - (b) if it is not practicable to comply with paragraph (a)—as soon as practicable after the day mentioned in the paragraph;
- send to the magistrate—
- (c) the information mentioned in subsection (2), which must have been properly sworn; and

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- (d) if a form of warrant was completed by the conservation officer under subsection (5)(b)—the completed form of warrant.
- (7) When the magistrate receives the documents mentioned in subsection (6), the magistrate must—
- (a) attach them to the warrant that the magistrate completed and signed; and
  - (b) deal with them in the way in which the magistrate would have dealt with the information if the application for the warrant had been made under section 148 or 149.
- (8) A facsimile copy of a warrant, or a form of warrant properly completed by the conservation officer under subsection (5)(b), is authority for any entry, search, seizure or other exercise of a power that the warrant signed by the magistrate authorises.
- (9) If—
- (a) it is material for a court to be satisfied that an entry, search, seizure or other exercise of power was authorised by this section; and
  - (b) the warrant completed and signed by the magistrate authorising the exercise of power is not produced in evidence;

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

## **151 Conservation officer may require name and address**

- (1) This section applies if a conservation officer—
- (a) finds a person committing an offence against this Act; or
  - (b) finds a person in circumstances that lead the officer to suspect, on reasonable grounds, that the person has just committed an offence against this Act; or
  - (c) has information that leads the officer to suspect, on reasonable grounds, that a person has just committed an offence against this Act; or

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- (d) believes, on reasonable grounds, that the name and address of a person is required for the administration or enforcement of this Act.
- (2) The conservation officer may require the person to state the person's name and address.
- (3) When making the requirement, the conservation officer must warn the person it is an offence to fail to state the person's name and address, unless the person has a reasonable excuse.
- (4) The conservation officer may require the person to give evidence of the correctness of the person's name or address if the officer suspects, on reasonable grounds, that the name or address given is false.
- (5) A person must comply with a conservation officer's requirement under subsection (2) or (4), unless the person has a reasonable excuse for not complying with the requirement.  
Maximum penalty—100 penalty units.
- (6) The person does not commit an offence against this section if—
  - (a) the conservation officer required the person to state the person's name and address on suspicion of the person having committed an offence against this Act; and
  - (b) the person is not proved to have committed the offence.

## **152 Power to require information from certain persons**

- (1) This section applies if a conservation officer suspects, on reasonable grounds, that—
  - (a) an offence against this Act has happened; and
  - (b) a person may be able to give information about the offence.
- (2) The conservation officer may require the person to give information about the offence.

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- (3) When making the requirement, the conservation officer must warn the person it is an offence to fail to give the information, unless the person has a reasonable excuse.
  - (4) The person must comply with the requirement, unless the person has a reasonable excuse for not complying with it.  
Maximum penalty—100 penalty units.
  - (5) It is a reasonable excuse for the person to fail to give information if giving the information might tend to incriminate the person.
  - (6) The person does not commit an offence against this section if the information sought by the conservation officer is not in fact relevant to the offence.

## 152A General powers for seized things

- (1) Having, under this part, seized a thing, a conservation officer may do 1 or more of the following—
  - (a) move it from the place where it was seized (the *place of seizure*);
  - (b) leave it at the place of seizure, but take reasonable action to restrict access to it;  
*Examples of restricting access to a thing—*
    - 1 brand, mark, seal, tag or otherwise identify it to show access to it is restricted
    - 2 sealing the entrance to a room where the thing is situated and marking it to show access to it is restricted
  - (c) for equipment—make it inoperable;  
*Example of making equipment inoperable—*

dismantling equipment or removing a component of equipment without which the equipment is not capable of being used
  - (d) for wildlife, 1 or more of the following as is appropriate to ensure its survival—
    - (i) take it to a place the conservation officer considers appropriate;

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- (ii) give it accommodation, food, rest, water or other appropriate living conditions;
- (iii) if the conservation officer reasonably believes it requires veterinary or other treatment—arrange for the treatment;
- (iv) leave it at the place of seizure and take any action mentioned in subparagraphs (i) to (iii);
- (v) if it is left at the place of seizure—give the person from whom it was seized a direction to look after, or continue to look after, the wildlife;
- (vi) if the wildlife is left at the place of seizure and the person from whom it was seized does not comply with a direction under subparagraph (v)—take any action mentioned in subparagraphs (i) to (iii).

(2) If—

- (a) the seized thing is an animal left at the place of seizure; and
- (b) the person from whom it was seized is given a direction under subsection (1)(d)(v);

for the *Animal Care and Protection Act 2001*, the person is taken to be, or continue to be, the person in charge of the animal.

### **152B Offence to tamper with seized thing**

- (1) This section applies in relation to a thing seized under this part.
- (2) However, this section does not apply to a person from whom an animal was seized if the person—
  - (a) is complying with a direction under section 152A(1)(d)(v); and
  - (b) does not, without the written authority of a conservation officer, take the animal from the place where it was seized.



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- (3) A person, other than a conservation officer or a person authorised by a conservation officer for the purpose, must not do, or attempt to do, any of the following unless the person has a reasonable excuse—
- (a) tamper with the thing or something done under section 152A(1)(b) to restrict access to it;
  - (b) enter, or be at, the place where the thing is being kept;
  - (c) move the thing from the place where it is being kept;
  - (d) have the thing in the person's possession.

Maximum penalty—500 penalty units.

### **153 Power to keep protected wildlife until conservation value is paid**

- (1) If a conservation officer, under this Act, seizes protected wildlife for which an amount of conservation value remains unpaid, the officer may keep the wildlife until the conservation value for the wildlife is paid.
- (2) If the amount is not paid within 30 days after the seizure, the wildlife may be disposed of in such way as the chief executive directs.
- (3) The seizure and keeping of wildlife does not affect any proceeding under this Act for the recovery of an amount of conservation value for the wildlife or an offence in relation to the nonpayment of the amount.

### **154 Other powers of conservation officers**

- (1) Subject to subsections (2) to (5), a conservation officer may, for the purposes of this Act, exercise any of the following powers—
  - (a) enter any land at any reasonable time for the purpose of—
    - (i) inspecting, researching or reporting on protected, international or prohibited wildlife, critical habitats

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- or areas of major interest; or
  - (ii) inspecting an area to ascertain—
    - (A) its suitability for dedication or declaration as a protected area; or
    - (B) whether a conservation agreement should be entered into in relation to the area;
  - (b) require a person to produce to the officer—
    - (i) any licence, permit or other authority held by the person under a regulation; or
    - (ii) any document required to be kept by the person under a regulation;
  - (c) inspect, take extracts from, make copies of or keep a document produced to the officer under paragraph (b);
  - (d) if the officer is a special conservation officer—
    - (i) arrest a person found by the officer committing an offence against this Act; or
    - (ii) arrest a person whom the officer suspects on reasonable grounds of having committed an offence against this Act;

if the officer believes on reasonable grounds that proceedings by way of complaint and summons against the person would be ineffective;
  - (e) such other powers as are prescribed.
- (2) Before exercising the power mentioned in subsection (1)(a), a conservation officer must—
- (a) obtain or, in urgent circumstances, take all reasonable steps to obtain, the consent of the landholder concerned; or
  - (b) give at least 14 days written notice to the landholder concerned of—
    - (i) the officer's intention to enter the land; and
    - (ii) the proposed purpose in entering the land; and

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- (iii) the day and time when the officer proposes to enter the land.
- (3) In exercising the power mentioned in subsection (1)(a), a conservation officer must take all reasonable steps to ensure that the officer causes as little inconvenience, and does as little damage, as is practicable.
- (4) A conservation officer may keep a document under subsection (1)(c) only for the purpose of taking copies of the document and must, as soon as practicable after taking the copies, return the document to the person who produced it.
- (5) If a special conservation officer arrests a person under subsection (1)(d), the officer must, as soon as it is reasonably practicable to do so, deliver the person into the custody of a police officer at the nearest accessible police station or watch house to be dealt with according to law.

## **155 Obstruction of conservation officers**

- (1) A person must not obstruct a conservation officer in the exercise of a power under this Act.
- (2) A person is taken to obstruct a conservation officer in the exercise of a power under this Act if the person—
- (a) assaults, abuses, hinders, resists or intimidates the officer or a person assisting the officer in the exercise of the officer's powers under this Act; or
  - (b) deliberately prevents or attempts to prevent (whether directly or indirectly) a person from—
    - (i) being questioned by a conservation officer; or
    - (ii) giving, under this Act, any information or document to a conservation officer; or
  - (c) in any other way obstructs, or attempts to obstruct, a conservation officer in the exercise of the officer's powers under this Act.

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

## **156 Court may order compensation**

- (1) A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under this part, including, for example, in complying with a requirement made of the person under this part.
- (2) Payment of compensation may be claimed and ordered in a proceeding for—
  - (a) compensation brought in a court of competent jurisdiction; or
  - (b) an offence against this Act brought against the person making the claim for compensation.
- (3) A court may order the payment of compensation for the loss or expense only if it is satisfied it is just to make the order in the circumstances of the particular case.

## **157 False or misleading information**

- (1) A person must not—
  - (a) make a statement to a conservation officer that the person knows is false or misleading in a material particular; or
  - (b) omit from a statement made to a conservation officer anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—100 penalty units.

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

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## **158 False or misleading documents**

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

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

Maximum penalty—100 penalty units.

## **159 Impersonation of conservation officer**

A person must not pretend to be a conservation officer.

Maximum penalty—50 penalty units.

# **Part 10 Legal proceedings**

## **Division 1 Proceedings and offences generally**

### **160 Evidentiary provisions**

- (1) This section applies to any proceeding under or in relation to this Act.
- (2) It is not necessary to prove the appointment of a conservation officer or the authority of a conservation officer to do any act under this Act.
- (3) A signature purporting to be that of the chief executive or a conservation officer is evidence of the signature it purports to be.
- (4) A certificate purporting to be signed by the chief executive stating that—

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

is evidence of the matter stated in the certificate.

- (5) A statement in a complaint starting the proceeding of any of the following matters is evidence of the matters—
  - (a) that the matter of the complaint came to the knowledge of the complainant on a stated day;
  - (b) that stated wildlife is a stated class of wildlife under this Act;
  - (c) that the whole or any part of—
    - (i) the progeny, larvae, pupae, eggs or genetic or reproductive material of an animal; or
    - (ii) the carcass or another part of an animal; or
    - (iii) the flowers, seeds or genetic or reproductive material of a plant;is, or is from, a stated taxon, species or class of wildlife;
  - (d) that wildlife is or is not indigenous to Australia or indigenous to the State;

- (e) that the place where the offence was committed was in a stated protected area or in a stated zone in a stated protected area.
- (6) In a proceeding for an offence that an act or omission was committed in a protected area, it is not necessary to prove the particular protected area in which the offence was committed.
- (7) In this section—
  - indigenous to the State* in relation to wildlife, means—
    - (a) wildlife that was not originally introduced to the State by human intervention (other than wildlife introduced before the year 1600); or
    - (b) a migratory animal that periodically or occasionally migrates to, or visits, the State;but does not include wildlife that was introduced to another part of Australia by human intervention after the year 1600 and later spread naturally to the State.

## **161 Conduct of executive officers, servants and agents**

- (1) If, in a proceeding for an offence against this Act, it is necessary to establish the state of mind of a corporation in relation to particular conduct, it is sufficient to show—
  - (a) that the conduct was engaged in by an executive officer, servant or agent of the corporation within the scope of his or her actual or apparent authority; and
  - (b) that the executive officer, servant or agent had the state of mind.
- (2) Any conduct engaged in on behalf of a corporation by an executive officer, servant or agent of the corporation within the scope of his or her actual or apparent authority is to be taken, in a proceeding for an offence against this Act, to have been engaged in also by the corporation unless the corporation establishes that it took reasonable precautions and exercised due diligence to avoid the conduct.

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- (3) If, in a proceeding for an offence against this Act, it is necessary to establish the state of mind of a person other than a corporation in relation to particular conduct, it is sufficient to show—
- (a) that the conduct was engaged in by a servant or agent of the person within the scope of his or her actual or apparent authority; and
  - (b) that the servant or agent had the state of mind.
- (4) Any conduct engaged in on behalf of a person other than a corporation by a servant or agent of the person within the scope of his or her actual or apparent authority is to be taken, in a proceeding for an offence against this Act, to have been engaged in also by the first person unless the first person establishes that the person took reasonable precautions and exercised due diligence to avoid the conduct.
- (5) If—
- (a) a person other than a corporation is convicted of an offence; and
  - (b) the person would not have been convicted of the offence if subsections (3) and (4) had not been enacted;
- the person is not liable to be punished by imprisonment for the offence.
- (6) In this section—
- engaging*** in conduct includes failing to engage in conduct.
- state of mind*** of a person includes a reference to—
- (a) the person's knowledge, intention, opinion, belief or purpose; and
  - (b) the person's reasons for the intention, opinion, belief or purpose.



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**162 Executive officers must ensure corporation complies with Act**

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

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

- (3) Evidence that the corporation has committed an offence against this Act is evidence that each of the executive officers committed the offence of failing to ensure that the corporation complies with this Act.
- (4) However, it is a defence for an executive officer to prove that—
  - (a) the corporation's offence was committed without the officer's knowledge or consent; and
  - (b) the officer took all reasonable steps to ensure that the corporation complied with this Act.

**163 Offence committed over a period**

- (1) This section applies to the offence of taking—
  - (a) a cultural or natural resource in contravention of section 62; or
  - (b) protected wildlife in contravention of section 88 or 89; or
  - (c) native wildlife in contravention of section 97.
- (2) If the day or days on which a person is alleged to have committed the offence can not be established, the person may—

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

#### **164 Indictable and summary offences**

- (1) An offence against this Act for which the maximum penalty of imprisonment is 2 years or more is an indictable offence, and is a misdemeanour.
- (2) Any other offence against this Act is a summary offence.
- (3) To remove any doubt, it is declared that a class 2, 3 or 4 offence under section 88 or 89 is a summary offence.

#### **165 Proceedings for indictable offences**

- (1) A proceeding for an indictable offence against this Act may be taken, at the election of the prosecution—
  - (a) by way of summary proceedings under the *Justices Act 1886*; or
  - (b) on indictment.
- (2) A magistrate must not hear an indictable offence summarily if—
  - (a) the defendant asks at the start of the hearing that the charge be prosecuted on indictment; or
  - (b) the magistrate considers that the charge should be prosecuted on indictment.
- (3) If subsection (2) applies—
  - (a) the magistrate must proceed by way of an examination of witnesses for an indictable offence; and
  - (b) a plea of the person charged at the start of the proceeding must be disregarded; and
  - (c) evidence brought in the proceeding before the magistrate decided to act under subsection (2) is taken to

be evidence in the proceeding for the committal of the person for trial or sentence; and

- (d) before committing the person for trial or sentence, the magistrate must make a statement to the person as required by section 104(2)(b) of the *Justices Act 1886*.
- (4) The maximum penalty of imprisonment that may be summarily imposed for an indictable offence is 1 year's imprisonment.

### **166 Limitation on who may summarily hear indictable offence proceedings**

- (1) A proceeding must be before a magistrate if it is a proceeding—
  - (a) for the summary conviction of a person on a charge for an indictable offence; or
  - (b) for an examination of witnesses for a charge for an indictable offence.
- (2) However, if a proceeding for an indictable offence is brought before a justice who is not a magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.

### **167 Limitation on time for starting summary proceedings**

A proceeding for an offence against this Act by way of summary proceeding under the *Justices Act 1886* must start—

- (a) within 1 year after—
  - (i) the commission of the offence; or
  - (ii) the offence comes to the complainant's knowledge, but not later than 2 years after the commission of the offence;

whichever is the later; or

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- (b) if section 163 applies to the offence—within 1 year after—
  - (i) the end of the relevant period; or
  - (ii) the offence comes to the complainant’s knowledge, but not later than 2 years after the end of the relevant period;whichever is the later.

**168 Court may order costs of rehabilitation or restoration**

On a conviction of a person for an offence against this Act, the court may order the person to pay to the State such amount as it considers appropriate for, or towards, the cost of rehabilitation or restoration of a critical habitat, cultural or natural resource or protected area.

**169 Additional penalty—conservation value of protected wildlife**

A person who is convicted of an offence of taking—

- (a) a natural resource that is protected wildlife in contravention of section 62; or
  - (b) protected wildlife in contravention of section 88 or 89;
- is liable to an additional penalty of not more than twice the conservation value of the protected wildlife in relation to which the offence is committed.

**171 Disposal of cultural or natural resources and protected wildlife owned by State**

- (1) This section applies to a cultural or natural resource or protected wildlife that—
  - (a) is the property of the State; and
  - (b) has been seized under this Act in relation to an offence against this Act.

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- (2) Despite any other provision of this Act, if the chief executive is satisfied that it is necessary to do so—
- (a) in the interests of the welfare of the resource or wildlife;  
or
  - (b) for the protection of the resource or wildlife;
- the chief executive may direct that the resource or wildlife be disposed of in such a way as the chief executive considers appropriate.
- (3) Subsection (2) applies even though a proceeding has not been taken for, or a person convicted of, the offence.

## **172 Disposal of wildlife etc. not owned by State**

- (1) If a person is convicted of an offence against this Act, any wildlife in relation to which the offence was committed that is not already the property of the State—
- (a) is forfeited to the State; and
  - (b) must be disposed of in such a way as the chief executive directs.
- (2) If—
- (a) a person is convicted of an offence against this Act; and
  - (b) a direction is not given under section 171 for the disposal of any cultural or natural resource in relation to which the offence was committed;
- the court may make such order, as it considers appropriate, for the disposal of the cultural or natural resource.
- (3) Forfeiture of wildlife under subsection (1)(a) does not confer a right to compensation on any person.
- (4) Subject to subsection (5), if a person is convicted of an offence against this Act, the court may order that anything in relation to which the offence was committed that has been seized be forfeited to the State.
- (5) If the court is satisfied that—

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- (a) the thing is another person's property and the other person has exercised due diligence to prevent a contravention of this Act; and
- (b) the offence has been committed without the person's knowledge, consent or help;

the court may order that the thing be given to the person on such conditions as the court considers appropriate.

- (6) A person who contravenes a condition of a court order made under subsection (5) commits an offence against this Act.

Maximum penalty for subsection (6)—50 penalty units.

### **173 Penalties payable to consolidated fund**

All penalties ordered to be paid in relation to offences against this Act must be paid into the consolidated fund.

## **Division 2 Proceedings for declarations and enforcement orders**

### **Subdivision 1 Preliminary**

#### **173A Definitions for div 2**

In this division—

*court* means the Planning and Environment Court.

*nominated offence* means an offence against section 62, 88, 88A, 89, 90, 91, 92, 94, 97 or 109.

*person* includes a body of persons, whether incorporated or unincorporated.

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## Subdivision 2      Declarations

### 173B Court may make declarations

- (1) A person may bring a proceeding in the court for a declaration about a following matter, other than an excluded matter—
  - (a) a matter that has been, is to be or should have been done for this Act;
  - (b) the construction of—
    - (i) this Act, including, for example, a conservation plan or a management plan; or
    - (ii) an authority granted, made, issued or given under the Act over, or in relation to, land in a protected area; or
    - (iii) a licence, permit or other authority issued or given under a regulation;
  - (c) the lawfulness under this Act of an activity.
- (2) The court has jurisdiction to hear and decide a proceeding for a declaration under this section.
- (3) A person who starts a proceeding under this section must, within 7 days after the person starts the proceeding, give the chief executive written notice of the proceeding.

Maximum penalty—20 penalty units.

- (4) The Minister or the chief executive may choose to be a party to the proceeding by filing in the court a notice of election in the form approved by the chief executive.
- (5) In this section—

***excluded matter*** means a matter relating to—

- (a) a licence, permit or other authority issued or given under a regulation authorising—
  - (i) the recreational keeping of wildlife; or

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- (ii) the care and rehabilitation of sick, injured or orphaned protected animals or animals whose habitats have been destroyed by human activity or natural disaster; or
- (b) camping in protected areas.

### **173C Court may make orders about declarations**

The court may also make an order about a declaration made under section 173B.

## **Subdivision 3 Enforcement orders**

### **173D Proceeding for enforcement orders**

- (1) A person may bring a proceeding in the court—
  - (a) for an order to remedy or restrain the commission of a nominated offence (an *enforcement order*); or
  - (b) if the person has brought a proceeding under this section for an enforcement order and the court has not decided the proceeding—for an order under section 173E (an *interim enforcement order*); or
  - (c) for an order to cancel or change an enforcement order or interim enforcement order.
- (2) The person may bring a proceeding for an enforcement order whether or not any right of the person has been, or may be, infringed by, or because of, the commission of the offence.
- (3) If the chief executive is not a party to a proceeding for an enforcement order, the person must, within 7 days after the person starts the proceeding, give the chief executive written notice of the proceeding.  
Maximum penalty—20 penalty units.
- (4) The Minister or the chief executive may choose to be a party to the proceeding by filing in the court a notice of election in the form approved by the chief executive.



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### **173E Making interim enforcement order**

- (1) The court may make an order pending a decision of a proceeding for an enforcement order if the court is satisfied it would be appropriate to make the order.
- (2) The court may make the order subject to conditions.
- (3) However, the court may not require as a condition of the order that the applicant for the order give an undertaking about damages.

### **173F Making enforcement order**

- (1) The court may make an enforcement order if the court is satisfied the nominated offence—
  - (a) is being or has been committed; or
  - (b) will be committed unless the enforcement order is made.
- (2) If the court is satisfied the offence is being or has been committed, the court may make an enforcement order whether or not there has been a prosecution for the offence under this Act.

### **173G Effect of orders**

- (1) An enforcement order or an interim enforcement order may direct a party to the proceeding for the order—
  - (a) to stop an activity that constitutes, or will constitute, a nominated offence; or
  - (b) not to start an activity that will constitute a nominated offence; or
  - (c) to do anything required to stop committing a nominated offence; or
  - (d) to return anything to a condition as close as practicable to the condition it was in immediately before a nominated offence was committed; or
  - (e) to do anything to comply with this Act.

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- (2) Without limiting the court's powers, an enforcement order or an interim enforcement order may require—
- (a) the repair, demolition or removal of a building; or
  - (b) for a relevant nominated offence—
    - (i) the rehabilitation or restoration of a protected area, the habitat of protected wildlife, a critical habitat or an area of major interest (an *affected area*); or
    - (ii) if an affected area is not capable of being rehabilitated or restored—the planting and nurturing of cultural or natural resources, wildlife or the habitat of protected wildlife in a stated area of equivalent size to the affected area.
- (3) An enforcement order or an interim enforcement order—
- (a) may be in terms the court considers appropriate to secure compliance with this Act; and
  - (b) must state the time by which the order is to be complied with.
- (4) A person must not contravene an enforcement order or an interim enforcement order.

Maximum penalty—3000 penalty units or 2 years imprisonment.

- (5) In this section—

*relevant nominated offence* means a nominated offence relating to any of the following—

- (a) taking or interfering with natural or cultural resources of a protected area;
- (b) taking protected wildlife, other than in a protected area;
- (c) taking or interfering with native wildlife, other than protected wildlife, in a critical habitat or area of major interest.

*Editor's notes—*

- 1 For paragraph (a), see section 62 (Restriction on taking etc. of cultural and natural resources of protected areas).

- 2 For paragraph (b), see sections 88 (Restrictions on taking protected animal and keeping or use of unlawfully taken protected animal) and 89 (Restriction on taking etc. particular protected plants).
- 3 For paragraph (c), see section 97 (Restriction on taking etc. of native wildlife in areas of major interest and critical habitats).

### **173H Court's powers about orders**

- (1) The court's power to make an enforcement order or interim enforcement order to stop, or not to start, an activity may be exercised—
  - (a) whether or not it appears to the court that the person against whom the order is made intends to engage, or to continue to engage, in the activity; and
  - (b) whether or not the person against whom the order is made has previously engaged in an activity of the kind; and
  - (c) whether or not there is danger of substantial damage to nature or injury to another person if the person against whom the order is made engages, or continues to engage, in the activity.
- (2) The court's power to make an enforcement order or interim enforcement order to do anything may be exercised—
  - (a) whether or not it appears to the court that the person against whom the order is made intends to fail, or to continue to fail, to do the thing; and
  - (b) whether or not the person against whom the order is made has previously failed to do a thing of the kind; and
  - (c) whether or not there is danger of substantial damage to nature or injury to another person if the person against whom the order is made fails, or continues to fail, to do the thing.
- (3) The court may make an order to cancel or change an enforcement order or interim enforcement order.
- (4) The court's power under this section is in addition to its other powers.

**173I Effect of enforcement order requiring restoration or rehabilitation of land**

- (1) This section applies if—
  - (a) the court makes an enforcement order directing a person (the *declared person*) to restore or rehabilitate land; and
  - (b) the declared person has an interest in the land; and
  - (c) the order states that this section applies to the land.
- (2) The person who started the proceeding for the enforcement order must, as soon as practicable after the enforcement order is made, give the chief executive—
  - (a) written notice stating that the order has been made; and
  - (b) a copy of the order.

Maximum penalty—20 penalty units.

- (3) Subsection (4) applies if the declared person transfers to another person (the *transferee*), in any way, all or part of the declared person's interest in the land.
- (4) To the extent the land is the subject of the enforcement order, on the transfer—
  - (a) a reference in the enforcement order to the declared person is taken to be a reference to the transferee; and
  - (b) the enforcement order is taken to have been made against the transferee on the transfer of the interest; and
  - (c) any outstanding liability, other than criminal liability, of the declared person becomes a liability of the transferee.
- (5) If it is not reasonably practical for the transferee to comply with the enforcement order within the time stated in the order, the transferee may apply to the court, under section 173D(1)(c), for an order to change the enforcement order by extending the time for compliance with the enforcement order.
- (6) To remove any doubt, it is declared that on the transfer of the interest, the declared person is not criminally liable for any contravention of the enforcement order that happens on or after the transfer of the interest.

- (7) Subsections (4) to (6) have effect in relation to each successor in title to the transferee's interest in the same way the subsections had effect in relation to the transferee.

**173J Record in land registry of enforcement order requiring restoration or rehabilitation of land**

- (1) As soon as practicable after receiving a notice under section 173I(2) that the enforcement order has been made, the chief executive must give the registrar written notice of the making of the order.
- (2) The registrar must keep records showing the enforcement order has been made.
- (3) The registrar must keep the records in a way that a search of the register kept by the registrar under any Act relating to title to the land the subject of the enforcement order will show the enforcement order has been made.

**173K Application for removal of particulars of enforcement order from registrar's records**

- (1) This section applies to a person who—
- (a) has an interest in land that is the subject of an enforcement order to which section 173I applies; and
- (b) wishes to have the particulars of the enforcement order removed from the registrar's records because—
- (i) the enforcement order has been cancelled by the court; or
- (ii) the enforcement order has been substantially complied with; or
- (iii) the person proposes alternative measures for ensuring the land is restored or rehabilitated.

*Example of alternative measures—*

a covenant registered under the *Land Title Act 1994*

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- (2) The person may apply to the chief executive for the particulars of the enforcement order to be removed from the registrar's records.
- (3) The application must be—
  - (a) in writing; and
  - (b) accompanied by, according to the circumstances—
    - (i) a copy of the order made by the court cancelling the enforcement order; or
    - (ii) the information or documents the person relies on to establish the enforcement order has been substantially complied with; or
    - (iii) details of the alternative measures proposed by the person to ensure the land will be restored or rehabilitated.

### **173L How chief executive must deal with application**

- (1) If the chief executive receives an application under section 173K, the chief executive must, within 6 weeks after receiving the application—
  - (a) decide whether the chief executive is reasonably satisfied, according to the circumstances—
    - (i) the enforcement order has been cancelled by the court; or
    - (ii) the enforcement order has been substantially complied with; or
    - (iii) the alternative measures proposed by the applicant will ensure the land will be restored or rehabilitated; and
  - (b) either—
    - (i) approve the application, with or without conditions to be complied with before particulars of the enforcement order may be removed from the registrar's records; or

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- (ii) refuse to approve the application.
  - (2) As soon as practicable after acting under subsection (1), the chief executive must—
    - (a) give the applicant written notice stating—
      - (i) the decision and the reasons for it; and
      - (ii) if the chief executive refuses to approve the application or approves the application with conditions—
        - (A) that the applicant may appeal against the decision to the court within 28 days after the person receives the notice; and
        - (B) how to appeal; and
    - (b) if the chief executive approves the application without conditions—give written notice of the fact to the registrar.
  - (3) If the chief executive approves the application with conditions and the chief executive is reasonably satisfied the conditions have been complied with, the chief executive must, as soon as practicable, give written notice of the fact to the registrar.
  - (4) As soon as practicable after receiving a notice under subsection (2)(b) or (3), the registrar must remove the particulars of the enforcement order from the registrar's records.
  - (5) As soon as the particulars of the enforcement order have been removed from the registrar's records, the enforcement order is taken to have been complied with.

**173M Appeal against refusal to approve application or approval of application with conditions**

- (1) This section applies if—
  - (a) a person who has an interest in land that is the subject of an enforcement order applies, as required under section 173K, for the enforcement order to be removed from the registrar's records; and

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- (b) the chief executive refuses to approve the application or approves the application with conditions.
- (2) The applicant may appeal against the chief executive's decision to the court within 28 days after the applicant receives notice of the decision under section 173L.
- (3) If the applicant appeals against the decision, the court may make any order it considers appropriate, including, for example, an order directing the registrar to remove the particulars of the enforcement order from the registrar's records.

## **Subdivision 4      General procedural provision**

### **173N    Proceeding brought in representative capacity**

- (1) A proceeding under this division may be brought by a person on behalf of an entity with the entity's consent.
- (2) The person who brings the proceeding is a party to the proceeding, despite the proceeding being brought on behalf of another entity.
- (3) The entity on whose behalf the proceeding is brought is not a party to the proceeding.
- (4) If the entity on whose behalf the proceeding is brought is an unincorporated body, the body's committee or other controlling or governing body must give the consent.
- (5) The entity on whose behalf the proceeding is brought may contribute to, or pay, the legal costs incurred by the person bringing the proceeding.



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## **Division 3                      Judicial review of administrative decisions**

### **173O Extended standing for judicial review**

- (1) This section applies, for the *Judicial Review Act 1991*, to any of the following—
  - (a) a decision made under this Act;
  - (b) a failure to make a decision under this Act;
  - (c) conduct engaged in for the purpose of making a decision under this Act.
- (2) An individual is taken to be a person aggrieved by a decision, failure or conduct mentioned in subsection (1) if—
  - (a) the individual is—
    - (i) an Australian citizen; or
    - (ii) ordinarily resident in Australia; and
  - (b) at any time in the 2 years immediately before the decision, failure or conduct, the individual engaged in a series of activities in Australia for the protection or conservation of, or research into, the environment.
- (3) A corporation or association, whether or not incorporated, and a person acting for an unincorporated association, is taken to be a person aggrieved by a decision, failure or conduct mentioned in subsection (1) if—
  - (a) the corporation or association is incorporated, or was otherwise established, in Australia; and
  - (b) at any time in the 2 years immediately before the decision, failure or conduct, the corporation or association engaged in a series of activities in Australia for the protection or conservation of, or research into, the environment; and
  - (c) at the time of the decision, failure or conduct, the objects or purposes of the corporation or association

[s 173OA]

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include protection or conservation of, or research into, the environment.

- (4) A term used in this section that is defined in the *Judicial Review Act 1991* has the meaning given to it by that Act.

## **Division 4 Stay of decisions by QCAT**

### **173OA Limitation on stays granted by QCAT for particular decisions**

QCAT can not make an order staying the operation of a decision by the chief executive under this Act to suspend or cancel a licence, permit or other authority that authorises the holder of the authority to—

- (a) take or interfere with the cultural or natural resources of a protected area; or
- (b) take protected wildlife.

## **Part 11 Miscellaneous**

### **173P Chief executive's general powers**

- (1) The chief executive may do any thing the chief executive reasonably considers is necessary to administer, or achieve the object of, this Act, including, for example—
- (a) take, keep, use, or interfere with, any wildlife in a protected or other area; or
  - (b) interfere with the cultural or natural resources of a protected area or forest reserve.
- (2) To remove any doubt, it is declared that the chief executive does not require a licence, permit or authority under this Act to carry out an activity authorised under subsection (1).

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**173Q Publication of notice for revocation under s 30, 32, 56 or 70E or particular amalgamations under s 33**

- (1) This section applies for—
  - (a) a revocation under section 30, 32, 56 or 70E; or
  - (b) an amalgamation under section 33 that involves a change in the class, or the boundaries, of a protected area.
- (2) Within 10 days after the notice of motion for the revocation or amalgamation is given, the chief executive must publish notice of the proposed revocation or amalgamation in—
  - (a) a newspaper circulating in the locality of the relevant area; and
  - (b) a newspaper circulating generally throughout the State.
- (3) The notice must state—
  - (a) the name of the relevant area; and
  - (b) for a revocation—
    - (i) whether all or part of the relevant area is proposed to be revoked; and
    - (ii) if only part of the relevant area is proposed to be revoked—a description, by map or otherwise, of the part of the relevant area proposed to be revoked; and
  - (c) for an amalgamation—the proposed change in the class, or the boundaries, of a protected area.
- (4) In this section—

*relevant area* means the State forest, timber reserve, protected area, World Heritage management area or forest reserve the subject of the motion.

**173R Provision for stock grazing in particular national parks**

- (1) This section applies if—

[s 173S]

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- (a) before 3 June 2006, an SEQFA forest reserve was dedicated as a conservation park; and
  - (b) a stock grazing permit under this Act (the *NCA permit*) is in force for the conservation park; and
  - (c) the conservation park is dedicated as a national park.
- (2) On the dedication of the national park—
- (a) the NCA permit ends; and
  - (b) subject to subsection (3), the chief executive is taken to have granted the holder of the NCA permit a previous use authority under section 36.
- (3) The previous use authority is taken to—
- (a) allow the use of the land, as provided for under the NCA permit, to continue until the end of the term stated in the permit; and
  - (b) require its grantee to continue to comply with all conditions of the NCA permit as if—
    - (i) the NCA permit had continued in force; and
    - (ii) the land were land in a conservation park.
- (4) This section—
- (a) applies despite sections 15 and 34(2); but
  - (b) does not limit section 35.
- (5) In this section—

*SEQFA forest reserve* means a forest reserve the dedication of which was in force immediately before 18 November 2005.

### **173S Permit for grazing stock in particular protected areas for emergency drought relief**

- (1) The chief executive may, before 31 December 2013, grant a stock grazing permit under this Act for a prescribed protected area if the chief executive is satisfied the grazing of stock under the permit is for drought relief for the stock.

- (2) No fee is payable for an application for the permit.
- (3) Unless sooner suspended, cancelled or surrendered, a permit granted under subsection (1) expires at the end of 31 December 2013.
- (4) This section applies despite sections 15, 17, 19A and 34(2), and any other provision of this Act restricting the grant of a stock grazing permit for a prescribed protected area.
- (5) In this section—  
*prescribed protected area* means each of the following protected areas—
  - (a) Blackbraes National Park;
  - (b) Forest Den National Park;
  - (c) Mazeppa National Park;
  - (d) Moorrinya National Park;
  - (e) Nairana National Park;
  - (f) Nairana National Park (Recovery).

## **174 Application of Statutory Instruments Act**

- (1) The *Statutory Instruments Act 1992*, sections 49 and 50 do not apply to a regulation mentioned in the following provisions of this Act—
  - section 30
  - section 32(2)
  - section 33(2)
  - section 56
  - section 70E(2).
- (2) Subsection (1) has effect despite the *Statutory Instruments Act 1992*, section 52.

[s 174A]

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### **174A Chief executive may make codes of practice**

- (1) The chief executive may, by gazette notice, approve or make codes of practice for—
  - (a) protected areas; or
  - (b) forest reserves under part 4A; or
  - (c) protected wildlife.
- (2) The *Statutory Instruments Act 1992*, sections 49, 50 and 51 apply to a code of practice as if it were subordinate legislation.
- (3) The chief executive must keep copies of each code of practice open for public inspection during office hours on business days at—
  - (a) the department's head office; and
  - (b) each regional office of the department; and
  - (c) other places the chief executive considers appropriate.

### **175 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may be made with respect to any of the following matters—
  - (a) access to protected areas by persons or animals;
  - (b) the use of land, and activities, in protected areas;
  - (c) providing for the safety of persons in protected areas, including the regulation of access to, and activities in, protected areas by persons or classes of persons;  
*Example for paragraph (c)—*

A regulation might regulate camping in a protected area by children, or adults accompanying children, to protect children from injury by animals.
  - (d) the removal from protected areas of—

- (i) trespassers; or
- (ii) persons who are believed on reasonable grounds to have contravened this Act;
- (e) the presence and use of vehicles and boats in, and the flight of aircraft over, protected areas;
- (f) the seizure of vehicles, boats, aircraft or property—
  - (i) found in a protected area in contravention of a regulation; or
  - (ii) found abandoned in a protected area;
- (g) the seizure for the protection of native wildlife of vehicles, boats, aircraft and appliances—
  - (i) found on land without the landholder's consent; or
  - (ii) found abandoned on land;
- (h) the removal and disposal of seized vehicles, boats, aircraft property and appliances;
- (i) the taking of animals or plants into, or out of, protected areas, and the impounding, removal, destruction or disposal of animals found straying in protected areas;
- (j) giving effect to, and enforcing compliance with, management and conservation plans or codes of practice approved or made under section 174A;
- (k) the taking, keeping or use of wildlife, the moving of wildlife into, in and out of the State, the release of wildlife into the wild and other dealing with wildlife;
- (l) the records to be kept and returns to be lodged by the holders of licences, permits and other authorities and requirements as to the inspection of the records;
- (m) the disqualification of persons from holding a licence, permit or other authority;
- (n) the matters in respect of which fees, costs and charges are payable under this Act, the amounts of the fees, costs and charges, the persons who are liable to pay the fees, costs and charges, when the fees, costs and charges

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- are payable, and the recovery of any amount of the fees, costs and charges not paid;
- (o) the matters in respect of which royalties are payable under this Act, the amounts of the royalties, the persons who are liable to pay the royalties, when the royalties are payable, and the recovery of any amount of the royalties not paid;
  - (p) the institution and conduct of appeals against decisions under a regulation;
  - (q) authorising the taking, keeping or use of a protected animal;
  - (r) exemption from compliance with provisions of a regulation or a conservation plan;
  - (s) prescribing offences for contraventions of a regulation, and fixing a maximum penalty of a fine of not more than 165 penalty units for such a contravention.

## **Part 12 Savings and transitional**

### **Division 1 Savings and transitional provisions for Act No. 20 of 1992**

#### **181 References to repealed Acts**

In an Act or document, a reference to any of the following Acts may, if the context permits, be taken to be a reference to this Act—

- *Fauna Conservation Act 1952*
- *Fauna Conservation Act 1974*
- *National Parks and Wildlife Act 1975*
- *Native Plants Protection Act 1930.*



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**182 References to Crown land under Act**

In an Act or document, a reference to Crown land under this Act may, if the context permits, be taken to be a reference to State land under this Act.

**183 Authorities under former Act about national parks**

- (1) An authority given or made under section 33 or 35 of the former Act and in force immediately before 19 December 1994 is taken to have continued in force until it expires, or is earlier terminated, under its terms.
- (2) The former Act, other than the power to extend or renew the authority, continues to apply to the authority as if this Act had not been enacted.
- (3) For applying subsections (1) and (2), the chief executive is taken to be the director of national parks and wildlife under the former Act.
- (4) A reference in the authority to the director is taken to be a reference to the chief executive.
- (5) In this section—

*authority* means an agreement or a lease or permit or other authority.

*former Act* means the repealed *National Parks and Wildlife Act 1975*.

**Division 2 Savings and transitional provisions  
for Nature Conservation and Other  
Legislation Amendment Act 2000**

**184 Provision to allow beekeeping in particular former forest reserves until 2025**

- (1) This section applies if a forest reserve prescribed under a regulation is dedicated as a national park or national park (recovery).

[s 184A]

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- (2) Despite sections 15 and 34, a regulation may, until 31 December 2024, authorise a person to take, use, keep or interfere with cultural or natural resources for an apiary in the national park or national park (recovery).
- (3) This section expires at the beginning of 1 January 2025.

**184A Provision to allow horse riding in particular former forest reserves until 24 November 2013**

- (1) This section applies if a forest reserve prescribed under a regulation is dedicated as a national park (recovery).
- (2) Despite sections 15, 19A and 34, a regulation may, until 23 November 2013, authorise a person to carry out horse riding in the national park (recovery).
- (3) This section expires on 23 November 2013.

**184B Provision for stock grazing permits for former SEQFA forest reserves**

- (1) This section applies if—
  - (a) land in an SEQFA forest reserve is, after the commencement of this section, dedicated as a national park or national park (recovery); and
  - (b) immediately before the dedication, a stock grazing permit (the *former permit*) under the *Forestry Act 1959*, section 35, was in force for the land.
- (2) On the dedication—
  - (a) the former permit ends; and
  - (b) the chief executive is taken to have granted the holder of the former permit a previous use authority under section 36.
- (3) The previous use authority is taken to—
  - (a) allow the use of the land, as provided for under the former permit, to continue only for the rest of the term stated in the permit; and

- 
- (b) require its grantee to continue to comply with all conditions of the former permit and requirements under the *Forestry Act 1959*, or of the chief executive of the department in which that Act is administered, that relate to stock grazing permits or the use as if—
- (i) the former permit had continued in force; and
  - (ii) the land were land in an SEQFA forest reserve.
- (4) In this section—

***SEQFA forest reserve*** means a forest reserve the dedication of which was in force immediately before the commencement of this definition.

## **185 Provision for commercial activity permits for former forest reserves**

- (1) This section applies if—
- (a) land in a forest reserve is dedicated as a protected area; and
  - (b) immediately before the dedication, a person was, under a commercial activity permit (the ***former permit***) granted under the *Forestry Act 1959*, carrying out commercial activities on the land.
- (2) On the dedication—
- (a) the former permit ceases to be a permit under the *Forestry Act 1959* and becomes a commercial activity permit under this Act to carry out the activities in the protected area; and
  - (b) the holder of the former permit becomes the holder of the commercial activity permit; and
  - (c) the commercial activity permit continues, subject to this Act, for the balance of the term of the former permit.
- (3) To remove any doubt, it is declared that subsection (2) applies even if the carrying out of the commercial activities under the former permit is not consistent with the management principles for the protected area.

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- (4) However, the grounds on which the chief executive may refuse an application to renew the commercial activity permit include the ground that the carrying out of the commercial activities under the permit is not consistent with the management principles or a management plan for the protected area.

### **Division 3                      Transitional provision for the Nature Conservation Amendment Act 2004**

#### **186      Abolition of class of rare wildlife**

After section 78A expires—

- (a) the class of rare wildlife is abolished; and
- (b) a reference in an Act or document to rare wildlife is, if the context permits, redundant.

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# Schedule Dictionary

## section 7

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

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

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

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

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

- (f) a torch or other artificial light; and
- (g) a shovel, hoe, pick, mattock, saw, axe, knife or other implement.

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

***Australia*** includes the external Territories.

***authorised person*** means any of the following—

- (a) the chief executive, performing functions under this Act;
- (b) a public service employee of the department performing functions under this Act for the chief executive;
- (c) a conservation officer who is not an employee of the department and who is performing functions under this Act for the chief executive.

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

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

***biological diversity*** has the meaning given by section 10.

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

***buy*** includes—

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

(g) accept on hire or lease.

***captive breeding agreement*** see section 100B(1).

***carcass*** of an animal includes—

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

***CITES*** means the Convention on International Trade in Endangered Species of Wild Fauna and Flora done at Washington in the United States of America on 3 March 1973.

*Editor's note—*

The English text of the convention is set out in Australian Treaty Series 1976 No. 29.

***conservation*** has the meaning given by section 9.

***conservation agreement*** means a conservation agreement under section 45 or 48.

***conservation covenant*** means a covenant applying to the declaration of a nature refuge under section 49.

***conservation officer*** means a conservation officer appointed under this Act.

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

***conservation plan*** means a conservation plan approved under part 7.

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

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

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

***court***, for part 10, division 2, see section 173A.

***critical habitat*** has the meaning given by section 13.

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

***ecologically sustainable use*** has the meaning given by section 11.

***ecotourism facility***, for land, means a facility that—

- (a) is designed and managed to facilitate the presentation, appreciation and conservation of the land's natural condition and cultural resources and values (the ***primary purpose***); and
- (b) is managed in a way that does not allow an activity to be carried out on the land that—
  - (i) is inconsistent with the primary purpose; and
  - (ii) would require a significant change to the land's natural condition or would adversely affect the conservation of the land's cultural resources and values.

*Example of an activity for subparagraph (ii)—*

the construction of a golf course, amusement park or casino on the land

***EIS*** means an environmental impact statement.

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

***enforcement order*** see section 173D(1)(a).

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

***extinct in the wild wildlife*** means native wildlife prescribed under this Act as extinct in the wild wildlife.

***fee*** includes tax.



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**forest reserve** see section 70B.

**geothermal tenure** see the *Geothermal Energy Act 2010*, section 19(2).

**GHG authority** means a GHG authority under the *Greenhouse Gas Storage Act 2009*.

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

**honorary protector** means an honorary protector appointed under this Act.

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

**indigenous joint management area** means an area declared under this Act as an indigenous joint management area.

**indigenous landholder**, for a protected area or land, means the entity that, under the *Aboriginal Land Act 1991* or the *Torres Strait Islander Land Act 1991*, is the trustee for the protected area or land.

**indigenous land use agreement** means an indigenous land use agreement registered on the Register of Indigenous Land Use Agreements under the *Native Title Act 1993* (Cwlth).

**indigenous management agreement**, in relation to land, means an indigenous management agreement under the *Aboriginal Land Act 1991* about the management of the land.

**indigenous to Australia**, in relation to wildlife, means—

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

**interest**, in relation to land, includes a mining interest, geothermal tenure or GHG authority.

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

***interim conservation order*** means an order made under part 6.

***interim enforcement order*** see section 173D(1)(b).

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

***international wildlife*** means wildlife that is prescribed under this Act as international wildlife.

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

***keep***, in relation to a cultural or natural resource or wildlife, includes have in possession, or under control, in any place (whether for the use or benefit of the person in relation to whom the term is used or another person), even though another person has the actual possession or custody.

***land*** includes—

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

***landholder*** includes—

- (a) for a reserve under the *Land Act 1994*—the trustees of the reserve; and
- (b) for land leased under the *Land Act 1994*—the lessee of the land; and
- (c) for a conservation agreement under section 45 in relation to transferred land as defined under the *Aboriginal Land Act 1991*—the indigenous landholder for the transferred land under that Act.

***least concern wildlife*** means native wildlife prescribed under this Act as least concern wildlife.

***management plan*** means a management plan approved under part 7.

***mining interest*** means—

- 
- (a) a mining claim, mineral development licence or mining lease granted under the *Mineral Resources Act 1989*; or
  - (b) a petroleum lease granted under the *Petroleum Act 1923* or *Petroleum and Gas (Production and Safety) Act 2004*.

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

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

***national park (Cape York Peninsula Aboriginal land)*** means an area dedicated under this Act as a national park (Cape York Peninsula Aboriginal land).

***national park (recovery)*** means an area dedicated under this Act as a national park (recovery).

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

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

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

***natural resources***, in relation to—

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

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

***nature*** has the meaning given by section 8.

***nature-based***, in relation to the use of a protected area, includes scientific, educational, spiritual, intellectual, cultural, recreational and biodiscovery under the *Biodiscovery Act 2004*.

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

***near threatened wildlife*** means native wildlife prescribed under this Act as near threatened wildlife.

***nominated offence***, for part 10, division 2, see section 173A.

***North Stradbroke Island Region*** see the *North Stradbroke Island Protection and Sustainability Act 2011*, section 5.

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

***person***, for part 10, division 2, see section 173A.

***place*** includes—

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

***planning scheme*** has the meaning given by the *Sustainable Planning Act 2009*, section 79.

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

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

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***premises*** includes—

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

***prescribed protected area*** means a protected area of a following class—

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

***prokaryote*** means a unicellular organism lacking a true nucleus, and includes bacteria and cyanobacteria.

***prohibited wildlife*** means wildlife that is prescribed under this Act as prohibited wildlife.

***protect*** includes rehabilitate.

***protected animal*** means an animal that is prescribed under this Act as threatened, rare, near threatened or least concern wildlife, but does not include a processed product that—

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

***protected area*** means a protected area of a class mentioned in section 14.

***protected plant*** means a plant that is prescribed under this Act as threatened, rare, near threatened or least concern wildlife, but does not include a processed product that—

- (a) is made or derived from a protected plant; and

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

***protected wildlife*** means native wildlife prescribed under this Act as—

- (a) extinct in the wild wildlife; or
- (b) endangered wildlife; or
- (c) vulnerable wildlife; or
- (d) rare wildlife; or
- (e) near threatened wildlife; or
- (f) least concern wildlife.

***protista*** means a unicellular organism other than a prokaryote.

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

***regeneration plan*** means a regeneration plan made under part 4, division 3A.

***registrar*** means the registrar of titles under the *Land Title Act 1994*.

***resources reserve*** means an area dedicated under this Act as a resources reserve.

***sell*** includes—

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

**SEQ horse riding trail network** see section 70BA.

**service facility** means any of the following—

- (a) a communications facility, including for example, a communications tower or cable;
- (b) a device designed to be used for navigation or the guidance of aircraft or vessels;
- (c) a transmission grid or supply network under the *Electricity Act 1994*;
- (d) a pipeline for oil or gas;
- (e) a water supply or sewerage facility, including, for example, a pipeline or pumping station.

**special conservation officer** means a special conservation officer appointed under this Act.

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

**State** includes Territory.

**State land** means all land in the State that is not—

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

**take** includes—

- (a) in relation to an animal—
  - (i) hunt, shoot, wound, kill, skin, poison, net, snare, spear, trap, catch, dredge for, bring ashore or aboard a boat, pursue, lure, injure or harm the animal; or

- (ii) attempt to do an act mentioned in subparagraph (i);  
and
- (b) in relation to a plant—
  - (i) gather, pluck, cut, pull up, destroy, dig up, fell, remove or injure the plant or any part of the plant;  
or
  - (ii) attempt to do an act mentioned in subparagraph (i).

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

- (a) extinct in the wild wildlife; or
- (b) endangered wildlife; or
- (c) vulnerable wildlife.

***threatening process*** has the meaning given by section 12.

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

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

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

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

***waters*** means Queensland waters.

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

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

- (a) of sufficient size to enable the long-term protection of its natural systems and biological diversity; and
- (b) substantially undisturbed by modern society; and



- (c) remote at its core from points of mechanised access and other evidence of society.

**wilderness area** means an area declared under this Act as a wilderness area.

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

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

**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 *Wet Tropics World Heritage Protection and Management Act 1993*, schedule 2.

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

## Endnotes

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the *Reprints Act 1992*, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 30 June 2013. Future amendments of the *Nature Conservation Act 1992* may be made in accordance with this reprint under the *Reprints Act 1992*, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

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 version
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

### 4 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the *Reprints Act 1992* used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3237 0466 or email [legislation.queries@oqpc.qld.gov.au](mailto:legislation.queries@oqpc.qld.gov.au).

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

Reprint No.	Amendments to	Effective	Reprint date
1	1994 Act No. 42	19 December 1994	23 December 1994
2	1995 Act No. 57	28 November 1995	21 December 1995
2A	1997 Act No. 80	12 December 1997	17 December 1997
2B	1998 Act No. 13	30 March 1998	9 July 1998

## Endnotes

Reprint No.	Amendments to	Effective	Reprint date
2C	1999 Act No. 15	11 June 1999	19 August 1999
2D	2000 Act No. 5	1 July 2000	4 July 2000
3	2000 Act No. 64	1 January 2001	9 February 2001
3A rv	2000 Act No. 44	26 October 2001	26 October 2001

  

Reprint No.	Amendments included	Effective	Notes
3B	2002 Act No. 72	13 December 2002	
3C	2003 Act No. 96	19 December 2003	
3D	2003 Act No. 79	16 April 2004	
3E	2003 Act No. 96	3 October 2004	
3F	2004 Act No. 19	12 November 2004	
3G	2004 Act No. 53	29 November 2004	
3H rv	2003 Act No. 96	4 December 2004	
3I	2004 Act No. 48	17 December 2004	
3J	2004 Act No. 26	31 December 2004	
3K	2005 Act No. 8	18 March 2005	
3L	2004 Act No. 14 (amd 2004 Act No. 48)	25 June 2005	R3L withdrawn, see R4
4	—	25 June 2005	
4A	2005 Act No. 53	18 November 2005	
4B	2005 Act No. 42	2 December 2005	
4C	2006 Act No. 11	30 March 2006	
4D	—	1 April 2006	prov exp 31 March 2006
4E	2006 Act No. 47	10 November 2006	
4F	2006 Act No. 59	7 December 2006	R4F withdrawn, see R5
5	—	7 December 2006	
5A	2007 Act No. 36	29 August 2007	
5B	2007 Act No. 48	2 November 2007	
5C	2007 Act No. 56	9 November 2007	
5D	2008 Act No. 52	1 January 2009	
5E	2009 Act No. 3	23 February 2009	R5E withdrawn, see R6
6	—	23 February 2009	
6A	2009 Act No. 24	1 December 2009	
6B	2009 Act No. 36	18 December 2009	
6C	2010 Act No. 20	23 May 2010	
6D	—	26 June 2010	prov exp 25 June 2010
6E	2011 Act No. 6	4 April 2011	
6F	2011 Act No. 11	14 April 2011	
6G	2011 Act No. 3	5 May 2011	
6H	2011 Act No. 26	9 September 2011	
6I	2010 Act No. 52	2 December 2011	
6J	2010 Act No. 31	2 March 2012	R6J withdrawn, see R7
7	—	2 March 2012	
7A	2010 Act No. 52 2012 Act No. 23	2 December 2012	

Current as at	Amendments included	Notes
29 April 2013	2013 Act No. 18	
23 May 2013	2013 Act No. 24	
30 June 2013	2013 Act No. 18	

## 5 List of legislation

### **Nature Conservation Act 1992 No. 20**

date of assent 22 May 1992

pts 1–3, pt 4 div 1, pt 5 div 1, ss 111, 113–119 and 132 commenced on date of assent

pt 4 divs 4, 7–8 and s 134 commenced 12 February 1993 (1993 SL No. 26)

pt 5 div 2 commenced 2 September 1994 (1994 SL No. 326)

prev s 159 sch 2 (amendments of the Acts Interpretation Act 1954) commenced 1 July 1992 (1992 SL No. 159)

pts 6, 9 and 11, ss 127, 130–131, 133, 136, 140–142, 160–168, 172–173, prev s 159 sch 2 (amendments 2–4 of the Land Act 1962) commenced 14 May 1994 (1994 SL No. 151)

s 164A commenced 14 October 1994 (1994 SL No. 362)

s 93 not yet proclaimed into force (see s 2)

remaining provisions commenced 19 December 1994 (1994 SL No. 472)

amending legislation—

### **Wet Tropics World Heritage Protection and Management Act 1993 No. 50 ss 1–2, 86 sch 3**

date of assent 30 September 1993

ss 1–2 commenced on date of assent

remaining provisions commenced 1 November 1993 (1993 SL No. 396)

### **Fisheries Act 1994 No. 37 ss 1–2, 244 sch 2**

date of assent 8 September 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 27 January 1995 (1994 SL No. 9)

### **Nature Conservation Amendment Act 1994 No. 42**

date of assent 14 September 1994

commenced on date of assent

### **Land Act 1994 No. 81 ss 1–2, 527 sch 5**

date of assent 1 December 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1995 (1995 SL No. 185)

### **Environmental Legislation Amendment Act 1995 No. 40 pts 1, 4**

date of assent 27 October 1995

commenced on date of assent

### **Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1**

date of assent 28 November 1995

commenced on date of assent

**Nature Conservation Amendment Act 1997 No. 8**

date of assent 15 May 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 12 December 1997 (1997 SL No. 433)

**Environmental and Other Legislation Amendment Act 1997 No. 80 pts 1, 4**

date of assent 5 December 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 12 December 1997 (1997 SL No. 432)

**Building and Integrated Planning Amendment Act 1998 No. 13 ss 1, 2(3), 191 sch**

date of assent 23 March 1998

ss 1–2 commenced on date of assent

remaining provisions commenced 30 March 1998 (1998 SL No. 55)

**Explosives Act 1999 No. 15 ss 1–2, 137 sch 1**

date of assent 22 April 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 11 June 1999 (1999 SL No. 108)

**Police Powers and Responsibilities Act 2000 No. 5 ss 1–2, 373 sch 3**

date of assent 23 March 2000

ss 1–2, 373 commenced on date of assent (see s 2(2))

remaining provisions commenced 1 July 2000 (see s 2(1), (3) and 2000 SL No. 174)

**Nature Conservation and Other Legislation Amendment Act 2000 No. 44 pts 1–2 ss 3(2), 42 sch**

date of assent 25 October 2000

ss 1–2 commenced on date of assent

s 25 (to the extent it inserts pt 4A div 6) commenced 26 October 2001 (automatic commencement under AIA s 15DA(2))

remaining provisions commenced on date of assent

**Environmental Protection and Other Legislation Amendment Act 2000 No. 64 ss 1, 2(2), pt 5**

date of assent 24 November 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2001 (2000 SL No. 350)

**Environmental Legislation Amendment Act 2002 No. 72 s 1, pt 5**

date of assent 13 December 2002

commenced on date of assent

**Aboriginal Cultural Heritage Act 2003 No. 79 ss 1–2, 170 sch 1**

date of assent 6 November 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 16 April 2004 (2004 SL No. 36)

**Environmental Legislation Amendment Act 2003 No. 96 pts 1, 3, s 28 sch**

date of assent 3 December 2003

ss 1–2 commenced on date of assent

pt 3 hdg, ss 16–17, 21, 23, 25 (other than s 25(2) to the extent it ins the def *service facility* and s 25(3)), 28 commenced 19 December 2003 (2003 SL No. 363)  
sch (other than item 5) commenced 3 October 2004 (2004 SL No. 206)  
remaining provisions commenced 4 December 2004 (automatic commencement under AIA s 15DA(2))

**Nature Conservation Amendment Act 2004 No. 14 (this Act is amended, see amending legislation below)**

date of assent 24 June 2004

ss 1, 3 commenced on date of assent

remaining provisions commenced 25 June 2005 (automatic commencement under AIA s 15DA(2))

amending legislation—

**Environmental Protection and Other Legislation Amendment Act 2004 No. 48 pts 1, 10 (amends 2004 No. 14 above)**

date of assent 18 November 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 17 December 2004 (2004 SL No. 315)

**Biodiscovery Act 2004 No. 19 ss 1–2, 134–135**

date of assent 24 August 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 12 November 2004 (2004 SL No. 244)

**Petroleum and Other Legislation Amendment Act 2004 No. 26 ss 1, 2(2), pt 6**

date of assent 12 October 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 31 December 2004 (see s 2(2) and 2004 SL No. 308)

**Environmental Protection and Other Legislation Amendment Act 2004 No. 48 pts 1, 9**

date of assent 18 November 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 17 December 2004 (2004 SL No. 315)

**Statute Law (Miscellaneous Provisions) Act 2004 No. 53**

date of assent 29 November 2004

commenced on date of assent

**Mineral Resources and Other Legislation Amendment Act 2005 No. 8 pts 1, 8**

date of assent 18 March 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)

**Environmental Protection and Other Legislation Amendment Act 2005 No. 53 s 1, pt 9, s 159 sch**

date of assent 18 November 2005  
commenced on date of assent

**Integrated Planning and Other Legislation Amendment Act 2006 No. 11 s 1, pt 9**

date of assent 30 March 2006  
commenced on date of assent

**Nature Conservation Amendment Act 2006 No. 47**

date of assent 10 November 2006  
commenced on date of assent

**Wild Rivers and Other Legislation Amendment Act 2006 No. 59 ss 1, 85 sch**

date of assent 7 December 2006  
commenced on date of assent

**Statute Law (Miscellaneous Provisions) Act 2007 No. 36**

date of assent 29 August 2007  
commenced on date of assent

**Cape York Peninsula Heritage Act 2007 No. 48 ss 1–2, pt 7 div 3**

date of assent 25 October 2007  
ss 1–2 commenced on date of assent  
remaining provisions commenced 2 November 2007 (2007 SL No. 270)

**Environmental Protection and Other Legislation Amendment Act 2007 No. 56 s 1, pt 4**

date of assent 9 November 2007  
commenced on date of assent

**Environmental Protection and Other Legislation Amendment Act (No. 2) 2008 No. 52 pts 1, 6**

date of assent 23 October 2008  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 January 2009 (2008 SL No. 388)

**Greenhouse Gas Storage Act 2009 No. 3 s 1, ch 9 pt 18**

date of assent 23 February 2009  
commenced on date of assent

**Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009 No. 24 ss 1–2, ch 6 pt 4**

date of assent 26 June 2009  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 December 2009 (2009 SL No. 252)

**Sustainable Planning Act 2009 No. 36 ss 1–2, 872 sch 2**

date of assent 22 September 2009  
ss 1–2 commenced on date of assent  
remaining provisions commenced 18 December 2009 (2009 SL No. 281)



**South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010 No. 20 s 1, pt 4A**

date of assent 23 May 2010  
commenced on date of assent

**Geothermal Energy Act 2010 No. 31 ss 1–2(1), 585 sch 2 pt 4**

date of assent 1 September 2010  
ss 1–2 commenced on date of assent  
remaining provisions commenced 2 March 2012 (automatic commencement under AIA s 15DA(2) (2011 SL No. 156 s 2))

**Natural Resources and Other Legislation Amendment Act (No. 2) 2010 No. 52 pts 1, 8**

date of assent 1 December 2010  
ss 1–2 commenced on date of assent  
s 34(1) (to the extent it ins new s 89(1)(e)), 34(2) (to the extent it ins defs *concurrency agency policy, development approval, regional vegetation management code* commenced 2 December 2012 (automatic commencement under AIA s 15DA(2) (2011 SL No. 244 s 2))  
remaining provisions commenced 2 December 2011 (automatic commencement under AIA s 15DA(2))

**Environmental Protection and Other Acts Amendment Act 2011 No. 3 pts 1, 4**

date of assent 4 April 2011  
ss 1–2 commenced on date of assent  
remaining provisions commenced 5 May 2011 (2011 SL No. 49)

**Environmental Protection and Other Legislation Amendment Act 2011 No. 6 s 1, pt 6, s 142 sch**

date of assent 4 April 2011  
commenced on date of assent

**North Stradbroke Island Protection and Sustainability Act 2011 No. 11 s 1, pt 4 div 2**

date of assent 14 April 2011  
commenced on date of assent

**Aboriginal Land and Torres Strait Islander Land and Other Legislation Amendment Act 2011 No. 26 pts 1, 7, s 189 sch**

date of assent 29 August 2011  
ss 1–2 commenced on date of assent  
s 189 sch amdts 2–8, 11 commenced 9 September 2011 (2011 SL No. 173) (amdts could not be given effect)  
remaining provisions commenced 9 September 2011 (2011 SL No. 173)

**Waste Reduction and Recycling Act 2011 No. 31 ss 1–2(2), ch 16 pt 7**

date of assent 28 October 2011  
ss 1–2 commenced on date of assent  
remaining provisions not yet proclaimed into force (automatic commencement under AIA s 15DA(2) deferred to 29 October 2013 (2012 SL No. 183 s 2))

**Animal Care and Protection and Other Legislation Amendment Act 2012 No. 23 pts 1, 5**

date of assent 21 September 2012  
commenced on date of assent

**Nature Conservation and Other Legislation Amendment Act 2013 No. 18 pts 1, 4**

date of assent 29 April 2013  
ss 1–2 commenced on date of assent  
ss 8, 11, 13 and 17 (to the extent it ins def *ecotourism facility*) commenced 30 June 2013 (2013 SL No. 106)  
remaining provisions commenced on date of assent

**Vegetation Management Framework Amendment Act 2013 No. 24 s 1, pt 3A**

date of assent 23 May 2013  
commenced on date of assent

## 6 List of annotations

This reprint has been renumbered—see table of renumbered provisions in endnote 8.

### Commencement

s 2 om R2 (see RA s 37)

### Act binds all persons

s 3 sub 2004 No. 48 s 158

### Territorial application of Act

s 3A ins 2003 No. 96 s 17  
amd 2004 No. 48 s 159

### How object is to be achieved

s 5 amd 1994 No. 42 ss 3, 2 sch; 2004 No. 48 s 160

### Community participation in administration of Act

s 6 amd 1994 No. 42 s 2 sch

## PART 3—INTERPRETATION

### Division 1—Dictionary

div hdg ins 2000 No. 44 s 4

### Definitions

s 7 Note—s 7 prev contained definitions for this Act. Definitions are now located in the schedule—Dictionary.  
amd 2000 No. 44 s 5(1)

### Division 2—Key definitions

div hdg ins 2000 No. 44 s 6

## PART 4—PROTECTED AREAS

### Division 1—Basic concepts

#### Classes of protected areas to which Act applies

s 14 amd 2000 No. 44 s 7; 2007 No. 48 s 43

**Management of protected areas**

**s 15** amd 1994 No. 42 s 2 sch; 2000 No. 44 s 42 sch; 2007 No. 48 s 44; 2011 No. 11 s 31

**Management principles of national parks (scientific)**

**s 16** sub 1994 No. 42 s 5  
amd 2011 No. 11 s 32

**Management principles of national parks**

**s 17** sub 1994 No. 42 s 5  
amd 2011 No. 11 s 33

**Management principles of national parks (Cape York Peninsula Aboriginal land)**

**s 19AA** ins 2007 No. 48 s 45

**Management principles of national parks (recovery)**

**s 19A** ins 2000 No. 44 s 8  
amd 2011 No. 11 s 34

**Management principles of conservation parks**

**s 20** amd 1994 No. 42 s 2 sch; 2011 No. 11 s 35

**Management principles of resources reserves**

**s 21** amd 2000 No. 44 s 9; 2011 No. 11 s 36

**Management principles of nature refuges**

**s 22** amd 2002 No. 72 s 26

**Prohibition on mining, geothermal activities and GHG storage activities**

**prov hdg** amd 2009 No. 3 s 519(1); 2010 No. 31 s 585 sch 2 pt 4

**s 27** amd 2000 No. 44 s 10; 2004 No. 26 s 274; 2005 No. 53 s 159 sch; 2007 No. 48 s 46; 2009 No. 3 s 519(2); 2010 No. 20 s 41B; 2010 No. 31 s 585 sch 2 pt 4

**Division 2—Protected areas (State land)****Subdivision 1—Preliminary**

**sdiv hdg** ins 2000 No. 44 s 11

**Meaning of *protected area* in division**

**s 28** amd 2000 No. 44 s 12

**Subdivision 2—Dedication, revocation and amalgamation**

**sdiv hdg** ins 2000 No. 44 s 13

**Dedication of protected areas**

**s 29** amd 1994 No. 42 s 2 sch; 2000 No. 44 s 14; 2004 No. 48 s 161; 2011 No. 6 s 102

**Revocation of State forests and timber reserves**

**s 30** amd 1994 No. 42 s 2 sch; 2000 No. 44 s 42 sch; 2004 No. 48 s 162

**Trustees of protected areas**

**s 31** amd 1994 No. 42 ss 6, 2 sch; 1995 No. 57 s 4 sch 1

**Revocation of protected areas**

s 32           amd 1994 No. 42 s 2 sch; 2000 No. 44 s 15; 2004 No. 48 s 163; 2011 No. 11 s 37

**Amalgamation etc. of protected areas**

s 33           amd 1994 No. 42 s 2 sch; 2000 No. 44 s 16; 2004 No. 48 s 164; 2008 No. 52 s 88; 2011 No. 11 s 38

**Subdivision 3—Interests in protected areas**

**sdiv hdg**   ins 2000 No. 44 s 17

**Leases etc. over protected areas**

s 34           sub 1994 No. 42 s 7  
              amd 2000 No. 44 s 18; 2005 No. 53 s 131; 2011 No. 11 s 39

**Chief executive's powers about permitted uses in national parks or national parks (recovery)**

**prov hdg**   amd 2000 No. 44 s 19(1)

s 35           ins 1994 No. 42 s 7  
              amd 1995 No. 40 s 13; 2000 No. 44 ss 19(2)–(5), 39; 2003 No. 96 s 18; 2011 No. 11 s 40; 2013 No. 18 s 8

**Chief executive's powers about permitted uses for existing service facilities in national parks or national parks (recovery)**

s 35A         ins 2013 No. 18 s 9

**Authorities for new national park or national park (recovery)**

s 36           ins 1994 No. 42 s 7  
              amd 1994 No. 81 s 527 sch 5  
              sub 2000 No. 44 s 20  
              amd 2003 No. 96 s 19; 2008 No. 52 s 89; 2011 No. 11 s 41; 2013 No. 18 s 10

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

s 37           ins 1994 No. 42 s 7  
              amd 1995 No. 40 s 14; 2000 No. 44 s 39

**Leases may be granted under Land Act 1994**

**prov hdg**   amd 1994 No. 81 s 527 sch 5

s 38           amd 1994 No. 42 s 8; 1994 No. 81 s 527 sch 5

**Creation of interests in protected areas**

s 39           ins 1994 No. 42 s 9

**Subdivision 4—Environmental impact statements**

**sdiv hdg**   ins 2000 No. 44 s 21

**Application of sdiv 4**

s 39A         ins 2000 No. 44 s 21

**Chief executive may require EIS**

s 39B         ins 2000 No. 44 s 21  
              amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

**EIS must be considered**

s 39C ins 2000 No. 44 s 21

**Division 3—Protected areas (Aboriginal land and Torres Strait Islander land) and indigenous joint management areas**

div hdg amd 2011 No. 11 s 42

**Subdivision 1—National parks (Aboriginal land) and national parks (Torres Strait Islander land)**

sdiv hdg ins 2007 No. 48 s 47

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

s 40 amd 1994 No. 42 s 2 sch; 2007 No. 48 s 48; 2011 No. 11 s 43; 2011 No. 26 s 113

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

s 41 amd 1994 No. 42 s 2 sch; 2011 No. 26 s 114

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

s 42 amd 1994 No. 42 s 2 sch

**Subdivision 2—National parks (Cape York Peninsula Aboriginal land)**

sdiv hdg ins 2007 No. 48 s 49

**Dedication of national park as national park (Cape York Peninsula Aboriginal land)**

s 42AA ins 2007 No. 48 s 49  
amd 2011 No. 26 s 115

**Dedication of Aboriginal land as national park (Cape York Peninsula Aboriginal land)**

s 42AB ins 2007 No. 48 s 49  
amd 2011 No. 26 s 116

**Dedication of other land as national park (Cape York Peninsula Aboriginal land)**

s 42AC ins 2007 No. 48 s 49  
amd 2011 No. 26 s 117

**Leases etc. over national park (Cape York Peninsula Aboriginal land)**

s 42AD ins 2007 No. 48 s 49  
amd 2011 No. 26 s 118

**Particular powers about permitted uses in national park (Cape York Peninsula Aboriginal land)**

s 42AE ins 2007 No. 48 s 49  
amd 2011 No. 26 s 119; 2013 No. 18 s 11

**Particular powers about permitted uses for existing service facilities in national park (Cape York Peninsula Aboriginal land)**

s 42AEA ins 2013 No. 18 s 12

**Revocation of national park (Cape York Peninsula Aboriginal land)**

s 42AF ins 2011 No. 26 s 120

**Subdivision 3—Indigenous joint management areas**

sdiv hdg ins 2011 No. 11 s 44

**Purpose of sdiv 3**

s 42AG ins 2011 No. 11 s 44

**Declaration of a prescribed protected area as indigenous joint management area**

s 42AH ins 2011 No. 11 s 44

**Declaration of Aboriginal land as indigenous joint management area**

s 42AI ins 2011 No. 11 s 44

**Declaration of other land as an indigenous joint management area**

s 42AJ ins 2011 No. 11 s 44

**Revocation of dedication of protected area or declaration of indigenous joint management areas**

s 42AK ins 2011 No. 11 s 44

**Amalgamation etc. of protected areas that are indigenous joint management areas**

s 42AL ins 2011 No. 11 s 44

**Effect of revocation of prescribed protected area on indigenous joint management area**

s 42AM ins 2011 No. 11 s 44

**Leases etc. over land in indigenous joint management area**

s 42AN ins 2011 No. 11 s 44

**Particular powers about permitted uses on land in particular indigenous joint management areas**

s 42AO ins 2011 No. 11 s 44  
amd 2013 No. 18 s 13

**Particular powers about permitted uses for existing service facilities on land in particular indigenous joint management areas**

s 42AOA ins 2013 No. 18 s 14

**Authorities for new national park or national park (recovery) that is an indigenous joint management area**

s 42AP ins 2011 No. 11 s 44  
amd 2013 No. 18 s 15

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

div 3A (ss 42A–42F) ins 2000 No. 44 s 22

**Conservation agreements**

s 45 amd 1994 No. 42 s 2 sch; 2005 No. 53 s 132; 2009 No. 3 s 520; 2011 No. 26 s 189 sch; 2010 No. 31 s 585 sch 2 pt 4

**Declaration of protected area**

s 46 amd 1994 No. 42 s 2 sch; 1995 No. 57 s 4 sch 1; 2008 No. 52 s 90

**Duration and termination of conservation agreements**

s 47            amd 2008 No. 52 s 91

**Variation or replacement of conservation agreements**

prov hdg    amd 2008 No. 52 s 92(1)

s 48            amd 2008 No. 52 s 92(2)–(3)

**Compulsory declaration of nature refuge**

s 49            amd 1994 No. 42 s 2 sch

**Revocation of protected area**

s 50            amd 1994 No. 42 s 2 sch

**Conservation agreements and covenants binding**

s 51            amd 1994 No. 42 s 10; 2000 No. 44 s 39

**Liability of State**

s 52            ins 1994 No. 42 s 11; 2000 No. 44 s 39

**Proposal to declare World Heritage management area**

s 53            amd 1994 No. 42 s 2 sch; 2004 No. 48 s 165

**Preparation of management plan**

prov hdg    amd 1994 No. 42 s 2 sch

s 54            amd 1994 No. 42 s 2 sch

**Declaration of World Heritage management area**

s 55            amd 1994 No. 42 s 2 sch

**Revocation of World Heritage management area**

s 56            amd 1994 No. 42 s 2 sch; 2004 No. 48 s 166

**Proposal to declare international agreement area**

s 57            amd 1994 No. 42 s 2 sch; 2004 No. 48 s 167

**Preparation of management plan**

prov hdg    amd 1994 No. 42 s 2 sch

s 58            amd 1994 No. 42 s 2 sch

**Declaration of international agreement area**

s 59            amd 1994 No. 42 s 2 sch

**Revocation of international agreement area**

s 60            amd 1995 No. 42 s 2 sch

**Property in cultural and natural resources**

s 61            amd 2000 No. 44 s 23; 2003 No. 79 s 170 sch 1

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

s 62            amd 1994 No. 42 s 12; 1997 No. 8 s 4; 2000 No. 44 s 24; 2004 No. 14 s 4;  
2005 No. 53 s 133; 2007 No. 48 s 49A

**Naming of protected areas**

s 64            amd 1994 No. 42 s 2 sch

**Effect of change in class of protected area**

s 65 amd 1994 No. 42 s 2 sch; 2007 No. 56 s 34

**Cancellation of licences etc.**

s 66 amd 1994 No. 42 s 13

**Compensation when protected area declared**

s 67 sub 1994 No. 42 s 14  
amd 2000 No. 44 s 39

**Preservation of landholders' interests**

s 69 amd 1994 No. 42 s 2 sch

**Unlawful use of certain words**

s 70 sub 1994 No. 42 s 15  
amd 2003 No. 96 s 20

**PART 4A—FOREST RESERVES**

pt hdg ins 2000 No. 44 s 25  
exp 31 December 2025 (see s 70R)

**Division 1—Preliminary**

div hdg ins 2000 No. 44 s 25  
exp 31 December 2025 (see s 70R)

**Purpose of pt 4A and its achievement**

s 70A ins 2000 No. 44 s 25  
amd 2007 No. 36 s 2 sch  
exp 31 December 2025 (see s 70R)

**Definitions for pt 4A**

s 70B ins 2000 No. 44 s 25  
def *SEQ horse riding trail network* ins 2008 No. 52 s 93  
def *unallocated State land* ins 2007 No. 36 s 2 sch  
exp 31 December 2025 (see s 70R)

**SEQ horse riding trail network**

s 70BA ins 2008 No. 52 s 94  
exp 31 December 2025 (see s 70R)

**Division 2—Dedication and revocation**

div hdg ins 2000 No. 44 s 25  
exp 31 December 2025 (see s 70R)

**Dedication of forest reserves**

s 70C ins 2000 No. 44 s 25  
amd 2002 No. 72 s 27  
exp 31 December 2025 (see s 70R)

**Naming of forest reserves**

s 70D ins 2000 No. 44 s 25  
exp 31 December 2025 (see s 70R)



**Revocation of forest reserves**

**s 70E** ins 2000 No. 44 s 25  
amd 2004 No. 48 s 168; 2011 No. 6 s 142 sch; 2011 No. 26 s 189 sch (amdt  
could not be given effect)  
exp 31 December 2025 (see s 70R)

**Division 3—Management of forest reserves**

**div hdg** ins 2000 No. 44 s 25  
exp 31 December 2025 (see s 70R)

**Subdivision 1—Management principles of forest reserves**

**sdiv 1 (s 70F)** ins 2000 No. 44 s 25  
exp 31 December 2025 (see s 70R)

**Subdivision 2—Management**

**sdiv 2 (ss 70G–70I)** ins 2000 No. 44 s 25  
exp 31 December 2025 (see s 70R)

**Division 4—Progression to protected area**

**div hdg** ins 2000 No. 44 s 25  
exp 31 December 2025 (see s 70R)

**Subdivision 1—Review of forest reserves**

**sdiv hdg** ins 2000 No. 44 s 25  
exp 31 December 2025 (see s 70R)

**Review**

**s 70J** ins 2000 No. 44 s 25  
exp 31 December 2025 (see s 70R)

**Review of impact of horse riding trails**

**s 70JA** ins 2008 No. 52 s 95  
exp 31 December 2025 (see s 70R)

**Assessment by independent scientific advisory committee**

**s 70JB** ins 2008 No. 52 s 95  
exp 31 December 2025 (see s 70R)

**Subdivision 2—Proposed protected areas**

**sdiv hdg** ins 2000 No. 44 s 25  
exp 31 December 2025 (see s 70R)

**Designation**

**s 70K** ins 2000 No. 44 s 25  
amd 2008 No. 52 s 96  
exp 31 December 2025 (see s 70R)

**Effect of designation**

**s 70L** ins 2000 No. 44 s 25  
exp 31 December 2025 (see s 70R)

**When designation ends**

**s 70M** ins 2000 No. 44 s 25  
exp 31 December 2025 (see s 70R)

**Register of proposed protected areas**

s 70N ins 2000 No. 44 s 25  
exp 31 December 2025 (see s 70R)

**Amendment of designation**

s 70O ins 2000 No. 44 s 25  
exp 31 December 2025 (see s 70R)

**Division 5—Miscellaneous provisions**

div hdg ins 2000 No. 44 s 25  
exp 31 December 2025 (see s 70R)

**References to State forest or timber reserve in other legislation**

s 70P ins 2000 No. 44 s 25  
exp 31 December 2025 (see s 70R)

**References to Land Act reserves in other legislation**

s 70Q ins 2000 No. 44 s 25  
exp 31 December 2025 (see s 70R)

**Prohibition on mining, geothermal activities and GHG storage activities in forest reserves**

prov hdg amd 2009 No. 3 s 521(1); 2010 No. 31 s 585 sch 2 pt 4  
s 70QA ins 2004 No. 26 s 275  
amd 2009 No. 3 s 521(2); 2010 No. 31 s 585 sch 2 pt 4  
exp 31 December 2025 (see s 70R)

**Division 6—Expiry of pt 4A**

div 6 (s 70R) ins 2000 No. 44 s 25  
sub 2005 No. 53 s 134  
exp 31 December 2025 (see s 70R)

**Classes of wildlife to which Act applies**

s 71 amd 2004 No. 14 s 5

**Management principles of international wildlife**

s 74 amd 2004 No. 48 s 169; 2011 No. 6 s 142 sch; 2011 No. 26 s 189 sch (amdt  
could not be given effect)

**Native wildlife may be prescribed as extinct in the wild wildlife**

s 76 sub 2004 No. 14 s 6

**Native wildlife may be prescribed as endangered wildlife**

s 77 sub 2004 No. 14 s 6

**Native wildlife may be prescribed as vulnerable wildlife**

s 78 sub 2004 No. 14 s 6

**Native wildlife may be prescribed as rare wildlife**

s 78A ins 2004 No. 14 s 6  
exp 25 June 2010 (see s 78A(3))

**Native wildlife may be prescribed as near threatened wildlife**

s 79 sub 2004 No. 14 s 6

**Native wildlife may be prescribed as least concern wildlife**

s 80 sub 2004 No. 14 s 6

**Property in protected animals**

s 83 amd 1994 No. 42 s 2 sch; 2000 No. 44 s 39; 2004 No. 48 s 170

**Property in protected plants**

s 84 amd 1994 No. 42 s 2 sch; 2000 No. 44 s 39; 2004 No. 48 s 171; 2004 No. 14 s 7

**Property in newly protected animals**

s 85 ins 1994 No. 42 s 16

**Preservation of existing property rights**

s 86 ins 1994 No. 42 s 16  
amd 2000 No. 44 s 39

**Restrictions on taking protected animal and keeping or use of unlawfully taken protected animal**

s 88 amd 1994 No. 42 s 17; 2000 No. 44 s 26  
sub 2004 No. 48 s 172  
amd 2004 No. 14 s 7A (amd 2004 No. 48 s 191); 2005 No. 53 s 135; 2007 No. 36 s 2 sch; 2011 No. 6 s 142 sch; 2011 No. 26 s 189 sch (amdt could not be given effect)

**Restriction on keeping or use of lawfully taken protected animal**

s 88A ins 2004 No. 48 s 172  
amd 2005 No. 53 s 136

**Offence to keep or use native wildlife reasonably suspected to have been unlawfully taken**

s 88B ins 2004 No. 48 s 172  
amd 2005 No. 53 s 137

**Restrictions relating to flying-foxes and flying-fox roosts**

s 88C ins 2007 No. 56 s 35

**Restriction on taking etc. particular protected plants**

prov hdg amd 2004 No. 14 s 8(1)  
s 89 amd 1994 No. 42 s 18; 2000 No. 44 s 27; 2003 No. 96 s 28 sch; 2004 No. 14 s 8(2); 2005 No. 53 s 138; 2007 No. 56 s 36; 2010 No. 52 s 34

**Restriction on using particular protected plants**

prov hdg amd 2004 No. 14 s 9(1)  
s 90 ins 1994 No. 42 s 19  
amd 2000 No. 44 ss 28, 39; 2004 No. 14 s 9(2)–(3); 2005 No. 53 s 139; 2007 No. 56 s 37

**Restriction on release etc. of international and prohibited wildlife**

prov hdg amd 2004 No. 53 s 2 sch  
s 91 amd 2000 No. 44 s 29; 2004 No. 48 s 173; 2005 No. 53 s 140

**Restriction on breeding etc. hybrids of protected animals**

**prov hdg** amd 2004 No. 53 s 2 sch

**s 92** amd 1994 No. 42 s 2 sch

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

**s 93** amd 1994 No. 42 s 20; 2012 No. 23 s 14

**Payment of conservation value**

**s 95** amd 2004 No. 48 s 174; 2011 No. 6 s 142 sch; 2011 No. 26 s 189 sch (amdt could not be given effect)

**Restriction on taking etc. of native wildlife in areas of major interest and critical habitats**

**s 97** amd 2000 No. 44 s 30; 2005 No. 53 s 141

**Additional restriction on hunting native ducks or native quails**

**s 97A** ins 2006 No. 47 s 3

**Division 7—Provisions for landholders**

**div hdg** sub 2004 No. 48 s 175

**Offence to trespass—general**

**s 99** amd 2000 No. 44 s 31

**Division 8—Captive breeding agreements and captive breeding for conservation**

**div hdg** ins 2004 No. 48 s 176

**Subdivision 1—Preliminary**

**Main purpose of div 8 and its achievement**

**s 100A** ins 2004 No. 48 s 176

amd 2011 No. 6 s 142 sch; 2011 No. 26 s 189 sch (amdt could not be given effect)

**Subdivision 2—Captive breeding agreements**

**Minister's power to enter into captive breeding agreement**

**s 100B** ins 2004 No. 48 s 176

amd 2011 No. 6 s 142 sch; 2011 No. 26 s 189 sch (amdt could not be given effect)

**Things a captive breeding agreement may provide for**

**s 100C** ins 2004 No. 48 s 176

**Required provisions for captive breeding agreement**

**s 100D** ins 2004 No. 48 s 176

**Restriction on the taking, under a captive breeding agreement, of wildlife in the wild**

**s 100E** ins 2004 No. 48 s 176

**Additional provisions for termination of captive breeding agreement**

**s 100F** ins 2004 No. 48 s 176

**Obligation to surrender protected wildlife on termination of captive breeding agreement**

**s 100G** ins 2004 No. 48 s 176

**Definitions**

- s 101** sub 1993 No. 50 s 86 sch 3  
def *protected area* amd 2011 No. 6 s 142 sch; 2011 No. 26 s 189 sch (amdt could not be given effect)

**Issue of order**

- s 102** amd 2004 No. 14 s 10

**Notice of order**

- s 104** amd 1994 No. 42 s 2 sch

**Duration of order**

- s 105** amd 1994 No. 42 s 2 sch

**Suspension of licences etc.**

- s 107** amd 1994 No. 42 s 2 sch

**Compensation**

- s 108** amd 1994 No. 42 s 21

**PART 7—MANAGEMENT AND CONSERVATION PLANS**

- pt hdg** sub 1994 No. 42 s 2 sch

**Meaning of *landholder* in part**

- s 110** prev s 110 om 1994 No. 42 s 28  
pres s 110 ins 1994 No. 42 s 22

**Management plans**

- prov hdg** sub 1994 No. 42 s 23(1)  
**s 111** amd 1994 No. 42 ss 23(2)–(3), 2 sch; 2000 No. 44 ss 32, 39; 2005 No. 53 s 142; 2007 No. 48 s 50; 2007 No. 56 s 38; 2011 No. 11 s 45; 2011 No. 26 s 121

**Conservation plans**

- prov hdg** sub 1994 No. 42 24(1)  
**s 112** amd 1994 No. 42 s 24(2)–(6); 1995 No. 40 s 15; 2004 No. 48 s 177

**Notice of proposal to prepare draft plan**

- s 113** amd 1994 No. 42 s 2 sch

**Preparation of draft plan**

- s 114** amd 1994 No. 42 s 2 sch

**Notice of preparation of draft plan**

- s 115** amd 1994 No. 42 ss 25, 2 sch

**Submissions to be considered when preparing final plans**

- s 116** sub 1994 No. 42 s 26

**Final management plans**

- s 117** ins 1994 No. 42 s 26  
amd 2005 No. 42 s 52 sch 1

**Final conservation plans**

- s 118** ins 1994 No. 42 s 26

**Approval of final plan**

s 119      amd 1994 No. 42 s 27

**Implementation of approved plan**

s 120      amd 1994 No. 42 s 2 sch; 2007 No. 48 s 51; 2011 No. 11 s 46; 2011 No. 26 s 122

**Plan replaces interim or declared management intent**

s 121      sub 1994 No. 42 s 29

**Conservation plans and regulations prevail over planning schemes**

s 122      sub 1994 No. 42 s 30

**Local governments' decisions to be consistent with plans**

s 123      ins 1994 No. 42 s 30  
            amd 1995 No. 40 s 16

**Procedures applying to amending plans**

prov hdg      amd 2007 No. 56 s 39(1)

s 124      amd 1994 No. 42 s 2 sch; 1995 No. 40 s 17; 2007 No. 56 s 39(2)  
            sub 2011 No. 3 s 21

**Review of plans**

s 125      amd 1994 No. 42 s 31

**Compensation**

s 126      sub 1994 No. 42 s 32

**Appointment of conservation officers**

s 127      amd 1994 No. 42 s 33; 2000 No. 5 s 373 sch 3; 2011 No. 6 s 142 sch

**Minister may inquire into suitability of proposed appointees**

s 129      ins 1994 No. 42 s 34  
            amd 2003 No. 96 s 28 sch

**Identity cards**

s 130      amd 2000 No. 5 s 373 sch 3

**Advisory committees**

s 132      amd 1994 No. 42 s 2 sch

**Committees for protected areas in Cape York Peninsula Region**

s 132A      ins 2007 No. 48 s 52

**Chief executive to keep register**

s 133      amd 1994 No. 42 s 2 sch; 2000 No. 44 s 33; 2002 No. 72 s 28; 2004 No. 48 s 178; 2007 No. 48 s 53

**Records to be maintained by registrar**

s 134      amd 1994 No. 42 s 35; 2011 No. 26 s 189 sch

**Chief executive may inquire into applications**

s 135      amd 2003 No. 96 s 28 sch; 2004 No. 48 s 179; 2005 No. 53 s 143

**Confidentiality of information**

s 136      amd 1994 No. 42 s 36; 2000 No. 44 s 39

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

prov hdg    sub 1994 No. 42 s 2 sch

s 137      amd 1994 No. 42 s 2 sch

**Compensation not payable**

s 138      ins 1994 No. 42 s 37

**Annual report**

s 139      amd 2002 No. 72 s 29

**Delegation by chief executive**

s 141      sub 1994 No. 42 s 38

amd 2000 No. 44 s 39; 2007 No. 48 s 54; 2013 No. 18 s 16

**Protection from liability**

s 142      amd 1994 No. 42 s 2 sch

**Immunity from prosecution**

s 143      ins 1994 No. 42 s 39

**Power to stop and search vehicles etc.**

s 144      amd 1994 No. 42 s 40

**Entry and search—evidence of offences**

s 146      amd 1994 No. 42 s 2 sch

**General powers of conservation officer in relation to places**

s 147      amd 1994 No. 42 s 2 sch; 2000 No. 44 s 39

**Monitoring warrants**

s 148      amd 2011 No. 6 s 103

**Offence related warrants**

s 149      prev s 149 om 1994 No. 42 s 2 sch

pres s 149 amd 2011 No. 6 s 104

**Conservation officer may require name and address**

s 151      sub 1994 No. 42 s 41

**Power to require information from certain persons**

s 152      sub 1994 No. 42 s 42

**General powers for seized things**

s 152A     ins 2004 No. 48 s 180

amd 2011 No. 26 s 189 sch

**Offence to tamper with seized thing**

s 152B     ins 2004 No. 48 s 180

**Other powers of conservation officers**

s 154      amd 2000 No. 5 s 373 sch 3

**Court may order compensation**

s 156 ins 1994 No. 42 s 43

**Acts repealed**

s 158 prev s 158 om R1 (see RA s 40)

**Acts amended**

s 159 prev s 159 om R1 (see RA s 40)

**PART 10—LEGAL PROCEEDINGS**

**Division 1—Proceedings and offences generally**

div hdg ins 2003 No. 96 s 21

**Evidentiary provisions**

s 160 amd 1994 No. 42 s 2 sch; 2004 No. 53 s 2 sch; 2004 No. 48 s 181

**Meaning of *repealed Act* in Division**

s 161 prev s 161 exp 19 December 1994 (see s 180(1))

**Executive officers must ensure corporation complies with Act**

s 162 prev s 162 exp 19 December 1994 (see s 180(1))  
pres s 162 ins 1994 No. 42 s 44

**Honorary protectors**

s 163 prev s 163 exp 19 December 1994 (see s 180(1))

**Indictable and summary offences**

s 164 prev s 164 exp 19 December 1994 (see s 180(1))  
pres s 164 sub 1994 No. 42 s 45  
amd 2003 No. 96 s 22; 2004 No. 48 s 182; 2007 No. 56 s 40

**Management plans may be prepared for existing National Parks**

s 164A ins 1994 No. 42 s 48  
exp 19 December 1994 (see s 180(1))

**Proceedings for indictable offences**

s 165 prev s 165 sub 1994 No. 42 s 49  
exp 19 December 1994 (see s 180(1))  
pres s 165 ins 1994 No. 42 s 45  
amd 2004 No. 48 s 183

**Division 2—Protected wildlife**

div hdg om R2 (see RA s 37)

**Limitation on who may summarily hear indictable offence proceedings**

s 166 prev s 166 exp 19 December 1994 (see s 180(1))  
pres s 166 ins 1994 No. 42 s 45

**Limitation on time for starting summary proceedings**

s 167 prev s 167 om 1994 No. 42 s 2 sch  
pres s 167 ins 1994 No. 42 s 45  
amd 2000 No. 44 s 39; 2011 No. 6 s 142 sch; 2011 No. 26 s 189 sch (amdt  
could not be given effect)



**Keeping of protected animals**

s 168 prev s 168 exp 19 December 1994 (see s 180(1))

**Licences etc. in relation to protected wildlife**

s 169 prev s 169 exp 19 December 1994 (see s 180(1))

**Newly prohibited animal**

s 169A ins 1994 No. 42 s 51  
exp 19 December 1994 (see s 180(1))

**Division 3—General**

div hdg exp 19 December 1995 (see s 180(1))

**Photographs and fingerprints of offenders**

prov hdg sub 1994 No. 42 s 2 sch

s 170 om 2000 No. 5 s 373 sch 3

**Numbering and renumbering of Act**

s 172 ins 1994 No. 42 s 52

om R1 (see RA s 37)

**Division 2—Proceedings for declarations and enforcement orders**

div hdg ins 2003 No. 96 s 23

**Subdivision 1—Preliminary**

div hdg ins 2003 No. 96 s 23

**Definitions for div 2**

s 173A ins 2003 No. 96 s 23

def *nominated offence* amd 2004 No. 48 s 184

**Subdivision 2—Declarations**

sdiv 2 (ss 173B–173C) ins 2003 No. 96 s 23

**Subdivision 3—Enforcement orders**

sdiv 3 (ss 173D–173M) ins 2003 No. 96 s 23

**Subdivision 4—General procedural provision**

sdiv 4 (s 173N) ins 2003 No. 96 s 23

**Division 3—Judicial review of administrative decisions**

div 3 (s 173O) ins 2003 No. 96 s 23

**Division 4—Stay of decisions by QCAT**

div 4 (s 173OA) ins 2009 No. 24 s 897

**PART 11—MISCELLANEOUS****Chief executive's general powers**

s 173P ins 2004 No. 48 s 185

**Publication of notice for revocation under s 30, 32, 56 or 70E or particular amalgamations under s 33**

s 173Q ins 2004 No. 48 s 185

**Provision for stock grazing in particular national parks**

s 173R ins 2007 No. 56 s 41

**Permit for grazing stock in particular protected areas for emergency drought relief**

s 173S ins 2013 No. 24 s 71B

**Application of Statutory Instruments Act**

s 174 sub 1994 No. 42 s 46; 1995 No. 57 s 4 sch 1  
amd 2000 No. 44 ss 34, 39

**Chief executive may make codes of practice**

s 174A ins 2000 No. 44 s 35

**Operation of 2005 SL No. 138**

s 174AA ins 2006 No. 11 s 99  
AIA s 20A applies (see s 174AA(4))  
exp 31 March 2006 (see s 174AA(3))

**Regulation-making power**

prov hdg sub 2000 No. 44 s 36(1)  
s 175 amd 1994 No. 42 s 47; 1995 No. 57 s 4 sch 1; 2000 No. 44 s 36(2); 2003 No.  
96 ss 24, 28 sch; 2004 No. 48 s 186; 2005 No. 53 s 159 sch; 2011 No. 6 s  
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**PART 12—SAVINGS AND TRANSITIONAL**

pt hdg prev pt 12 hdg om R1 (see RA s 39)

**Meaning of *commencing day* in Part**

s 176 exp 19 December 1995 (see s 180(2))

**Fauna refuges**

s 177 ins 1994 No. 42 s 50  
exp 19 December 1995 (see s 177(4))

**Transitional regulations**

s 178 om 2000 No. 44 s 42 sch

**References to conservation plans**

s 179 ins 1994 No. 42 s 52  
exp 19 December 1995 (see s 180(2))

**Expiry of Part**

s 180 ins 1994 No. 42 s 52  
exp 19 December 1995 (see s 180(2))

**Division 1—Savings and transitional provisions for Act No. 20 of 1992**

div hdg prev div 1 hdg exp 19 December 1995 (see s 180(2))  
pres div 1 hdg ins 2004 No. 48 s 187

**References to repealed Acts**

s 181 amd 1995 No. 57 s 4 sch 1

**References to Crown land under Act**

s 182 ins 1995 No. 57 s 4 sch 1

**Authorities under former Act about national parks**

s 183 ins 2000 No. 44 s 37

**Division 2—Savings and transitional provisions for Nature Conservation and Other Legislation Amendment Act 2000**

div hdg prev div 2 hdg exp 19 December 1994 (see s 180(1))  
pres div 2 hdg ins 2004 No. 48 s 188

**Provision to allow beekeeping in particular former forest reserves until 2025**

s 184 ins 2004 No. 48 s 188  
exp beginning 1 January 2025 (see s 184(3))

**Provision to allow horse riding in particular former forest reserves until 24 November 2013**

s 184A ins 2005 No. 53 s 144  
exp 23 November 2013 (see s 184A(3))

**Provision for stock grazing permits for former SEQFA forest reserves**

s 184B ins 2005 No. 53 s 144

**Provision for commercial activity permits for former forest reserves**

s 185 ins 2004 No. 48 s 188

**Division 3—Transitional provision for the Nature Conservation Amendment Act 2004**

div hdg ins 2004 No. 14 s 12 (amd 2004 No. 48 s 193(2))

**Abolition of class of rare wildlife**

s 186 ins 2004 No. 14 s 12 (amd 2004 No. 48 s 193(3))

**Division 4—Updating of references**

div hdg ins 1995 No. 57 s 4 sch 1  
om 2000 No. 44 s 42 sch

**SCHEDULE—DICTIONARY**

Note—definitions for this Act were originally located in s 7  
prev sch 1 om R1 (see RA s 40)

pres sch ins 2000 No. 44 s 38

def *Aboriginal land* reloc from s 7 2000 No. 44 s 5(3)

def *Aboriginal people* om 1994 No. 42 s 4(1)

def *Aboriginal tradition* om 1994 No. 42 s 4(1)

def *Aborigine* om 1994 No. 42 s 4(1)

def *animal* reloc from s 7 2000 No. 44 s 5(3)

def *appliance* ins 1994 No. 42 s 4(2)

amd 1999 No. 15 s 137 sch 1

reloc from s 7 2000 No. 44 s 5(3)

def *area of major interest* reloc from s 7 2000 No. 44 s 5(3)

def *Australia* reloc from s 7 2000 No. 44 s 5(3)

def *authorised person* ins 2005 No. 53 s 145(1)

def *authorised purpose* reloc from s 7 2000 No. 44 s 5(3)

def *biological diversity* reloc from s 7 2000 No. 44 s 5(3)

def *boat* reloc from s 7 2000 No. 44 s 5(3)

Endnotes

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- def *buy* reloc from s 7 2000 No. 44 s 5(3)
- def *captive breeding agreement* ins 2004 No. 48 s 189(2)
- def *carcass* reloc from s 7 2000 No. 44 s 5(3)
- def *chief executive* om 1994 No. 42 s 4(1)
- def *CITES* reloc from s 7 2000 No. 44 s 5(3)
  - amd 2003 No. 96 s 25(3)
- def *common wildlife* reloc from s 7 2000 No. 44 s 5(3)
  - om 2004 No. 14 s 13(1)
- def *conservation* reloc from s 7 2000 No. 44 s 5(3)
- def *conservation agreement* reloc from s 7 2000 No. 44 s 5(3)
  - sub 2008 No. 52 s 97(1)–(2)
- def *conservation covenant* reloc from s 7 2000 No. 44 s 5(3)
- def *conservation officer* reloc from s 7 2000 No. 44 s 5(3)
- def *conservation park* reloc from s 7 2000 No. 44 s 5(3)
- def *conservation plan* sub 1994 No. 42 s 4(1)–(2)
  - reloc from s 7 2000 No. 44 s 5(3)
- def *conservation value* reloc from s 7 2000 No. 44 s 5(3)
- def *conviction* ins 1994 No. 42 s 4(2)
  - reloc from s 7 2000 No. 44 s 5(3)
- def *coordinated conservation area* reloc from s 7 2000 No. 44 s 5(3)
- def *court* ins 2003 No. 96 s 25(2)
- def *critical habitat* reloc from s 7 2000 No. 44 s 5(3)
- def *Crown land* om 1995 No. 57 s 4 sch 1
- def *cultural resources* reloc from s 7 2000 No. 44 s 5(3)
- def *ecologically sustainable use* reloc from s 7 2000 No. 44 s 5(3)
- def *ecotourism facility* ins 2013 No. 18 s 17
- def *EIS* ins 2000 No. 44 s 5(2)
  - reloc from s 7 2000 No. 44 s 5(3)
- def *endangered wildlife* reloc from s 7 2000 No. 44 s 5(3)
- def *enforcement order* ins 2003 No. 96 s 25(2)
- def *executive officer* reloc from s 7 2000 No. 44 s 5(3)
- def *extinct in the wild wildlife* ins 2004 No. 14 s 13(2)
- def *fee* ins 1994 No. 42 s 4(2)
  - reloc from s 7 2000 No. 44 s 5(3)
- def *forest reserve* ins 2008 No. 52 s 97(2)
- def *geothermal tenure* ins 2010 No. 31 s 585 sch 2 pt 4
- def *GHG authority* ins 2009 No. 3 s 522(1)
- def *habitat* reloc from s 7 2000 No. 44 s 5(3)
- def *honorary protector* reloc from s 7 2000 No. 44 s 5(3)
- def *hovercraft* reloc from s 7 2000 No. 44 s 5(3)
- def *indigenous joint management area* ins 2011 No. 11 s 47
- def *indigenous landholder* ins 2011 No. 11 s 47
- def *indigenous land use agreement* ins 2007 No. 48 s 55
- def *indigenous management agreement* ins 2007 No. 48 s 55
- def *indigenous to Australia* amd 1994 No. 42 s 4(3)
- def *indigenous to Queensland* amd 1994 No. 42 s 4(4)
  - reloc from s 7 2000 No. 44 s 5(3)
  - om 2004 No. 48 s 189(1)

- def **interest** reloc from s 7 2000 No. 44 s 5(3)  
amd 2009 No. 3 s 522(2); 2010 No. 31 s 585 sch 2 pt 4
- def **interfere with** reloc from s 7 2000 No. 44 s 5(3)
- def **interim conservation order** reloc from s 7 2000 No. 44 s 5(3)
- def **interim enforcement order** ins 2003 No. 96 s 25(2)
- def **international agreement area** reloc from s 7 2000 No. 44 s 5(3)
- def **international wildlife** reloc from s 7 2000 No. 44 s 5(3)
- def **in the wild** amd 1997 No. 80 s 44  
reloc from s 7 2000 No. 44 s 5(3)
- def **Island custom** om 1994 No. 42 s 4(1)
- def **keep** reloc from s 7 2000 No. 44 s 5(3)
- def **land** reloc from s 7 2000 No. 44 s 5(3)
- def **landholder** sub 1995 No. 57 s 4 sch 1  
reloc from s 7 2000 No. 44 s 5(3)  
amd 2005 No. 8 s 88; 2011 No. 26 s 123(3)
- def **land trust** ins 2007 No. 48 s 55  
om 2011 No. 26 s 123(1)
- def **least concern wildlife** ins 2004 No. 14 s 13(2)
- def **management plan** sub 1994 No. 42 s 4(1)–(2)  
reloc from s 7 2000 No. 44 s 5(3)
- def **mining interest** reloc from s 7 2000 No. 44 s 5(3)  
amd 2007 No. 36 s 2 sch
- def **national park** reloc from s 7 2000 No. 44 s 5(3)
- def **national park (Aboriginal land)** reloc from s 7 2000 No. 44 s 5(3)
- def **national park (Cape York Peninsula Aboriginal land)** ins 2007 No. 48 s 55
- def **national park (recovery)** ins 2013 No. 18 s 17
- def **national park (scientific)** reloc from s 7 2000 No. 44 s 5(3)
- def **national park (Torres Strait Islander land)** reloc from s 7 2000 No. 44 s 5(3)
- def **native wildlife** sub 1994 No. 42 s 4(1)–(2)  
reloc from s 7 2000 No. 44 s 5(3)
- def **natural resources** amd 1994 No. 42 s 2 sch  
reloc from s 7 2000 No. 44 s 5(3)
- def **nature** reloc from s 7 2000 No. 44 s 5(3)
- def **nature-based** reloc from s 7 2000 No. 44 s 5(3)  
amd 2004 No. 19 s 135
- def **nature refuge** reloc from s 7 2000 No. 44 s 5(3)
- def **near threatened wildlife** ins 2004 No. 14 s 13(2)
- def **nominated offence** ins 2003 No. 96 s 25(2)
- def **North Stradbroke Island Region** ins 2011 No. 11 s 47
- def **official name** ins 1994 No. 42 s 4(2)  
reloc from s 7 2000 No. 44 s 5(3)
- def **person** ins 2003 No. 96 s 25(2)
- def **place** reloc from s 7 2000 No. 44 s 5(3)
- def **planning scheme** amd 1998 No. 13 s 191 sch  
reloc from s 7 2000 No. 44 s 5(3)  
amd 2009 No. 36 s 872 sch 2

Endnotes

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- def **plant** reloc from s 7 2000 No. 44 s 5(3)
- def **premises** reloc from s 7 2000 No. 44 s 5(3)
- def **prescribed protected area** ins 2011 No. 11 s 47
- def **presumed extinct wildlife** reloc from s 7 2000 No. 44 s 5(3)  
om 2004 No. 14 s 13(1)
- def **procaryote** ins 1994 No. 42 s 4(2)  
reloc from s 7 2000 No. 44 s 5(3)
- def **prohibited wildlife** reloc from s 7 2000 No. 44 s 5(3)
- def **protect** reloc from s 7 2000 No. 44 s 5(3)
- def **protected animal** amd 1994 No. 42 s 2 sch  
reloc from s 7 2000 No. 44 s 5(3)  
amd 2004 No. 14 s 13(3)
- def **protected area** reloc from s 7 2000 No. 44 s 5(3)
- def **protected plant** amd 1994 No. 42 s 2 sch  
reloc from s 7 2000 No. 44 s 5(3)  
amd 2004 No. 14 s 13(3)
- def **protected wildlife** reloc from s 7 2000 No. 44 s 5(3)  
sub 2004 No. 14 s 13(1)–(2)
- def **protista** ins 1994 No. 42 s 4(2)  
reloc from s 7 2000 No. 44 s 5(3)
- def **rare wildlife** reloc from s 7 2000 No. 44 s 5(3)
- def **regeneration plan** ins 2000 No. 44 s 5(2)  
reloc from s 7 2000 No. 44 s 5(3)
- def **registrar** reloc from s 7 2000 No. 44 s 5(3)  
sub 2003 No. 96 s 25(1)–(2)
- def **resources reserve** reloc from s 7 2000 No. 44 s 5(3)
- def **sell** reloc from s 7 2000 No. 44 s 5(3)
- def **SEQ horse riding trail network** ins 2008 No. 52 s 97(2)
- def **service facility** ins 2003 No. 96 s 25(2)
- def **special conservation officer** reloc from s 7 2000 No. 44 s 5(3)
- def **species** reloc from s 7 2000 No. 44 s 5(3)
- def **State** ins 2004 No. 48 s 189(2)
- def **State land** ins 1995 No. 57 s 4 sch 1  
reloc from s 7 2000 No. 44 s 5(3)  
amd 2004 No. 48 s 189(3); 2005 No. 53 s 145(2); 2009 No. 3 s 522(3);  
2010 No. 31 s 585 sch 2 pt 4
- def **take** reloc from s 7 2000 No. 44 s 5(3)
- def **threatened wildlife** reloc from s 7 2000 No. 44 s 5(3)  
amd 2004 No. 14 s 13(4)
- def **threatening process** reloc from s 7 2000 No. 44 s 5(3)
- def **Torres Strait Islander** om 1994 No. 42 s 4(1)
- def **unnatural hybrid** reloc from s 7 2000 No. 44 s 5(3)
- def **use** reloc from s 7 2000 No. 44 s 5(3)  
amd 2004 No. 48 s 189(4)
- def **vulnerable wildlife** reloc from s 7 2000 No. 44 s 5(3)
- def **waters** reloc from s 7 2000 No. 44 s 5(3)
- def **wild by nature** sub 1994 No. 42 s 4(1)–(2)  
reloc from s 7 2000 No. 44 s 5(3)

- def *wilderness* reloc from s 7 2000 No. 44 s 5(3)  
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     amd 2007 No. 56 s 42  
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- amd 1994 No. 37 s 244 sch 2  
 om R1 (see RA s 40)

## 7 Forms notified or published in the gazette

Lists of forms are no longer included in reprints. Now see the separate forms document published on the website of the Office of the Queensland Parliamentary Counsel at <[www.legislation.qld.gov.au](http://www.legislation.qld.gov.au)> under Information—Current annotations. This document is updated weekly and the most recent changes are marked with a change bar.

## 8 Table of renumbered provisions

under the Reprints Act 1992 s 43 as required by the Nature Conservation Act 1992 s 172  
 [Reprint No. 1]

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