



# **Stock Route Management Act 2002**

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Queensland

# Stock Route Management Act 2002

## Contents

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		Page
<b>Chapter 1</b>	<b>Preliminary</b>	
<b>Part 1</b>	<b>Introduction</b>	
1	Short title .....	9
2	Commencement .....	9
<b>Part 2</b>	<b>Purpose and application of Act</b>	
<b>Division 1</b>	<b>Purpose</b>	
3	Main purpose of Act .....	9
4	How purpose is achieved .....	10
<b>Division 2</b>	<b>Application</b>	
5	Act binds all persons .....	10
6	Relationship with particular Acts .....	10
<b>Part 3</b>	<b>Interpretation</b>	
8	Definitions .....	11
<b>Chapter 3</b>	<b>Stock route network management</b>	
<b>Part 1</b>	<b>Preliminary</b>	
97	Principles of stock route network management .....	11
97A	Stock route map .....	12
<b>Part 2</b>	<b>State stock route network management strategy</b>	
97B	Definition for part .....	13
98	State stock route network management strategy .....	13
99	Preparing strategy .....	14
100	Duration of strategy .....	14
100A	Notice of strategy taking effect .....	14
101	Implementing strategy .....	14
102	Reviewing, amending and renewing strategy .....	15
103	Chief executive must publish copy of strategy .....	15
<b>Part 3</b>	<b>Stock route network management plans</b>	

Contents

---

104	Application of pt 3 .....	15
105	Local governments to adopt stock route network management plan	15
106	Preparing draft plan—matters local government must have regard to	16
107	Preparing draft plan—consultation requirements for particular stock routes .....	17
108	Preparing draft plan—other consultation requirement .....	18
109	Notice of draft plan and consideration of public submissions .....	19
110	Adopting plan .....	20
111	Duration of plan .....	20
112	Implementing plan .....	20
113	Reviewing, amending and renewing plan .....	21
114	Requirements for review, amendment or renewal of plan .....	21
115	Local government must publish, and make available for inspection, copy of plan .....	22
<b>Part 4</b>	<b>Stock route agistment permits</b>	
<b>Division 1</b>	<b>Obtaining permits</b>	
116	Application for permit .....	22
117	Additional information for application .....	24
118	Deciding application .....	24
119	Issuing permit .....	25
120	Duration of permit .....	26
121	Refusing application .....	26
<b>Division 2</b>	<b>Renewing permits</b>	
122	Application for renewal .....	27
123	Deciding application .....	27
124	Issuing renewed permit .....	27
125	Refusing application .....	28
<b>Division 3</b>	<b>Conditions of permits</b>	
126	Conditions that may and must be imposed .....	28
127	Amending conditions .....	29
<b>Division 4</b>	<b>Cancellation of permits</b>	
128	Cancellation—grounds and procedure .....	29
<b>Division 5</b>	<b>Reviewing decisions about permits</b>	
129	Review by chief executive .....	30
<b>Division 6</b>	<b>Replacing permits</b>	
130	Issuing replacement permits after change of conditions or review of decision .....	31

<b>Part 5</b>	<b>Stock route travel permits</b>	
<b>Division 1</b>	<b>Preliminary</b>	
131	Application of pt 5 .....	32
132	Stock movements requiring a stock route travel permit .....	32
133	Stock movements not requiring a stock route travel permit .....	32
<b>Division 2</b>	<b>Obtaining permits</b>	
134	Application for permit .....	33
135	Additional information for application .....	33
136	Deciding application .....	34
137	Issuing permit .....	34
138	Duration of permit .....	35
139	Refusing application .....	35
<b>Division 3</b>	<b>Notice of correct particulars</b>	
140	Permit holder to give notice of correct particulars .....	35
141	Issuing replacement permit on notice of correct particulars .....	36
<b>Division 4</b>	<b>Conditions of permits</b>	
142	Conditions that may and must be imposed .....	37
143	Amending conditions .....	37
<b>Division 5</b>	<b>Cancellation of permits</b>	
144	Cancellation—grounds and procedure .....	38
<b>Division 6</b>	<b>Reviewing decisions about permits</b>	
145	Review by chief executive .....	39
<b>Division 7</b>	<b>Miscellaneous provisions</b>	
146	Issuing replacement permit after change of conditions or review of decision .....	40
147	Rate of travel of stock .....	40
<b>Part 6</b>	<b>Fencing stock routes</b>	
148	Application of pt 6 .....	41
149	Fencing notice .....	41
150	Obligation to build fence .....	42
151	Obligation to maintain fence .....	42
152	Noncompliance with fencing notice or obligation to maintain fence .....	42
153	Amounts payable by landowner .....	43
154	Unpaid amounts are a charge on land .....	43
<b>Part 7</b>	<b>Other provisions about stock route network management</b>	
<b>Division 1</b>	<b>Mustering stock</b>	

Contents

---

155	Application of div 1 .....	43
156	Mustering notice .....	44
157	Obligation to comply with notice .....	44
158	Noncompliance with mustering notice .....	44
159	Amounts payable by permit holder .....	45
<b>Division 2</b>	<b>Pasture on the stock route network</b>	
160	Managing and conserving pasture .....	45
161	Overgrazing on stock route network .....	45
<b>Division 3</b>	<b>Travelling stock facilities and water facility agreements</b>	
162	Travelling stock facilities .....	46
163	Water facility agreements .....	46
164	Register of agreements .....	47
165	Registration of particular agreements .....	48
<b>Division 4</b>	<b>Stray stock</b>	
166	Offence to allow stock to stray .....	49
167	Stray stock may be seized .....	49
168	Notice of seizure .....	49
169	Releasing seized stock .....	50
170	Dealing with seized stock .....	50
171	Application of proceeds of sale .....	51
172	Destroying other stray stock .....	51
<b>Part 8</b>	<b>Other offences about the stock route network</b>	
173	Offences about stock route agistment and travel permits .....	52
174	Grazing stock without permit .....	52
175	Damaging travelling stock facility .....	52
176	Wasting or polluting water .....	53
177	Taking water .....	53
178	Camping .....	53
179	Obstructing movement of stock .....	53
180	Burning or removing pasture .....	54
181	Placing things on the stock route network .....	54
182	Offences about using reserves for travelling stock .....	54
<b>Chapter 4</b>	<b>Matters relating to local governments</b>	
183	Functions of local governments .....	55
184	Minister may direct local government to perform function or obligation	
	55	

---

185	Chief executive may be directed to perform local government's functions 56	
186	Local government to pay chief executive's costs . . . . .	57
187	Minister may require local government to make annual payment	57
187A	Fines payable to local government . . . . .	57
187B	Local government must use amounts received for particular purposes 58	
188	Minister may ask for particular information from local government	58
<b>Chapter 7</b>	<b>Investigation and enforcement</b>	
<b>Part 1</b>	<b>Authorised persons</b>	
244	Appointment and qualifications . . . . .	59
245	Appointment conditions and limit on powers . . . . .	59
246	Issue of identity card . . . . .	60
247	Production or display of identity card . . . . .	60
248	When authorised person ceases to hold office . . . . .	61
249	Resignation . . . . .	61
250	Return of identity card . . . . .	61
<b>Part 2</b>	<b>Powers of authorised persons</b>	
<b>Division 1</b>	<b>Entry to places other than vehicles</b>	
251	Power of entry . . . . .	62
252	Entry with consent . . . . .	62
253	Other entries without warrant . . . . .	63
254	Application for warrant . . . . .	64
255	Issue of warrant . . . . .	64
256	Special warrants . . . . .	65
257	Warrants—procedure before entry . . . . .	66
<b>Division 2</b>	<b>Entry to vehicles</b>	
258	Power of entry . . . . .	67
260	Power to stop vehicles that may be entered . . . . .	67
261	Failure to obey signal . . . . .	67
262	Other powers relating to vehicles that may be entered . . . . .	68
<b>Division 3</b>	<b>Powers for entry to all places</b>	
263	General powers after entering places . . . . .	68
264	Failure to help authorised person . . . . .	69
265	Failure to give information . . . . .	70
<b>Division 4</b>	<b>Seizure</b>	

---

Contents

---

266	Power to seize evidence—entry without consent or warrant . . . .	70
267	Power to seize evidence—entry with consent or warrant . . . . .	70
268	Securing seized things . . . . .	71
269	Offence to tamper with seized things . . . . .	72
270	Powers to support seizure . . . . .	72
271	Receipts for seized things . . . . .	72
272	Return of seized things . . . . .	73
273	Access to seized things . . . . .	73
<b>Division 5</b>	<b>Forfeiture</b>	
275	Forfeiture by authorised person . . . . .	74
276	Forfeiture on conviction . . . . .	74
277	Dealing with forfeited things . . . . .	75
<b>Division 6</b>	<b>Other powers</b>	
278	Power to require name and address . . . . .	75
279	Failure to give name or address . . . . .	75
280	Power to require information . . . . .	76
281	Failure to give information . . . . .	76
282	Power to require production of documents . . . . .	76
283	Failure to produce document . . . . .	77
<b>Part 3</b>	<b>Notice of damage</b>	
284	Application of pt 4 . . . . .	77
285	Requirement to give notice of damage . . . . .	78
<b>Part 4</b>	<b>Other offences</b>	
286	False or misleading statements . . . . .	78
287	False or misleading documents . . . . .	79
288	Obstructing authorised person . . . . .	79
289	Impersonation of authorised person . . . . .	79
<b>Chapter 8</b>	<b>Evidence and legal proceedings</b>	
<b>Part 1</b>	<b>Evidence</b>	
290	Application of pt 1 . . . . .	80
291	Appointments . . . . .	80
292	Signatures . . . . .	80
293	Evidentiary aids . . . . .	80
<b>Part 2</b>	<b>Legal proceedings</b>	
294	Summary proceedings for offences . . . . .	81
<b>Chapter 9</b>	<b>Review of decisions by QCAT</b>	



296	Who may apply for review by QCAT .....	82
<b>Chapter 10</b>	<b>Miscellaneous provisions</b>	
302	Compensation .....	82
303	Advisory committees .....	83
304	Delegation by Minister .....	83
305	Delegation by chief executive .....	84
306	Delegation by local government .....	84
307	Protection from liability .....	84
308	Approved forms .....	85
309	Regulation-making power .....	85
<b>Chapter 11</b>	<b>Repeal, savings and transitional provisions</b>	
<b>Part 1</b>	<b>Repeal</b>	
310	Act repealed .....	86
<b>Part 2</b>	<b>Savings and transitional provisions for Act No. 12 of 2002</b>	
<b>Division 1</b>	<b>Preliminary</b>	
311	Definitions for pt 2 .....	86
<b>Division 2</b>	<b>Savings and transitional provisions</b>	
312	Dissolution of former protection board .....	87
313	Continuing Darling Downs–Moreton Rabbit Board .....	87
314	Members of board of former authority .....	87
315	Employees of former authority .....	88
316	Vesting of former authority's assets, rights and liabilities .....	88
317	Vesting of former authority's pending legal proceedings .....	88
318	Existing permission about animals or plants .....	89
319	Existing permission about travelling or depasturing stock .....	89
320	Application for permission to travel or depasture stock .....	90
321	Application for permission about animals or plants .....	90
322	Barrier fences under former Act .....	91
323	Existing notice to control declared animals or plants .....	91
324	Existing endorsement on register kept under the Land Act or Land Title Act .....	91
325	Existing agreement about water facilities .....	91
326	References to former Act .....	92
327	References to former protection board and former authority ...	92
328	References to former fund .....	92
<b>Part 3</b>	<b>Savings and transitional provisions for repeal of Act No. 30 of 1987</b>	

Contents

---

<b>Division 1</b>	<b>Saving provision</b>	
329	Saving of operation of particular provisions . . . . .	93
<b>Division 2</b>	<b>Transitional provisions</b>	
330	Definitions for div 2 . . . . .	93
331	Application of div 2 . . . . .	94
332	Existing approval continues . . . . .	95
333	Existing authorisation and registration continue . . . . .	95
<b>Part 4</b>	<b>Transitional provisions for Land and Other Legislation Amendment Act 2023</b>	
334	Definitions for part . . . . .	96
335	Existing stock routes declared under regulation . . . . .	96
336	Existing permits and applications for permits . . . . .	96
337	Continuation of State stock route network management strategy	97
338	Continuation of adopted stock route network management plans	97
339	Prescribed local governments without continued stock route network management plans . . . . .	98
340	Application fees . . . . .	99
341	Fines imposed by court after commencement . . . . .	99
<b>Schedule 1</b>	<b>Reviewable decisions and aggrieved persons</b> . . . . .	100
<b>Schedule 3</b>	<b>Dictionary</b> . . . . .	101

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# Stock Route Management Act 2002

**An Act about the management of the stock route network, and for other purposes**

## Chapter 1 Preliminary

### Part 1 Introduction

#### 1 Short title

This Act may be cited as the *Stock Route Management Act 2002*.

#### 2 Commencement

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

### Part 2 Purpose and application of Act

#### Division 1 Purpose

#### 3 Main purpose of Act

The main purpose of this Act is to provide for stock route network management.

#### **4 How purpose is achieved**

The purpose is to be achieved mainly by the following—

- (a) establishing principles of stock route network management;
- (b) providing for stock route network management planning;
- (c) establishing responsibilities for stock route network management;
- (d) constructing and maintaining travelling stock facilities on the stock route network;
- (e) monitoring, surveying and controlling the movement of travelling stock.

### **Division 2 Application**

#### **5 Act binds all persons**

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

#### **6 Relationship with particular Acts**

Subject to subsection (2), this Act does not affect the application of the *Nature Conservation Act 1992* or the *Forestry Act 1959*.

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## Part 3 Interpretation

### 8 Definitions

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

## Chapter 3 Stock route network management

### Part 1 Preliminary

#### 97 Principles of stock route network management

The principles of stock route network management are as follows—

##### **Public awareness**

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

##### **Commitment**

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

##### **Consultation and partnership**

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

### **Management**

- The stock route network must be managed—
  - (a) to ensure it remains available for public use; and
  - (b) to maintain and improve the network's natural resources and travelling stock facilities for use by travelling stock and for other purposes.

### **Payment for use**

- A person who benefits from using the network must pay a reasonable amount for its use.

### **Planning**

- Stock route network management must be consistent at local, regional and State levels to ensure resources for managing the network are used to target management priorities.

### **Monitoring and evaluation**

- Regular monitoring and evaluation of the network's natural resources and travelling stock facilities is necessary to improve stock route network management practices.

## **97A Stock route map**

- (1) The chief executive may certify a map in digital electronic form as the stock route map for the State.
- (2) If the chief executive certifies a map under subsection (1)—
  - (a) the chief executive must publish the map, as the current stock route map for the State, on the department's website; and
  - (b) the map takes effect as the stock route map for the State on the day it is published under paragraph (a).
- (3) A map published under subsection (2)(a) stops having effect as the stock route map for the State if the chief executive publishes another map under the subsection.

- (4) The chief executive must, for each map that stops having effect as the current stock route map for the State under subsection (3), publish the map as a previous stock route map for the State on the department's website.
- (5) A map published under subsection (4) must state the period for which it had effect.

## Part 2                      **State stock route network management strategy**

### **97B    Definition for part**

In this part—

*prescribed local government* means a local government to which part 3 applies.

### **98      State stock route network management strategy**

- (1) The chief executive must have a State stock route network management strategy to direct and coordinate management of the network.
- (2) The strategy may include provision for the following—
  - (a) recognising the network's multiple uses with the main use being for travelling stock;
  - (b) preserving land corridor connections to ensure the integrity and viability of the network;
  - (c) managing natural resources on the network in a sustainable way;
  - (d) maintaining and improving travelling stock facilities on the network;
  - (e) resolving competing and conflicting interests in relation to the network's use;

- (f) seeking community input into the network's management.

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

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

## **99 Preparing strategy**

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

## **100 Duration of strategy**

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

## **100A Notice of strategy taking effect**

The chief executive must, as soon as practicable after a State stock route network management strategy takes effect, notify each prescribed local government of that fact.

## **101 Implementing strategy**

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



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## **102 Reviewing, amending and renewing strategy**

- (1) The chief executive may review, amend or renew a State stock route network management strategy as the chief executive considers appropriate.
- (2) However, the chief executive must review the effectiveness of the strategy at least 6 months before it stops having effect.
- (3) In amending the strategy, the chief executive must have regard to the principles of stock route network management.
- (4) If the chief executive amends or renews the strategy, the chief executive must notify each prescribed local government of the amendment or renewal.

## **103 Chief executive must publish copy of strategy**

- (1) The chief executive must, on or before the day the State stock route network management strategy takes effect, publish a copy of the strategy on the department's website.
- (2) If the chief executive amends or renews the strategy under this part, the chief executive must publish the amended or renewed strategy on the department's website.

# **Part 3                      Stock route network    management plans**

## **104 Application of pt 3**

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

## **105 Local governments to adopt stock route network management plan**

- (1) A local government must, within 1 year after being notified of a State stock route network management strategy taking effect

under section 100A, adopt a stock route network management plan for managing stock routes in its area.

- (2) The plan may include provision for the following—
  - (a) identifying the part of the stock route network in the local government's area;
  - (b) achievable objectives under the plan;
  - (c) strategies, activities and responsibilities for achieving the objectives;
  - (d) strategies to inform the local community about the content of the plan and achievement of the plan's objectives;
  - (e) monitoring implementation of the plan and evaluating its effectiveness;
  - (f) other matters the local government considers appropriate for management of the stock route network in its area.
- (3) The plan must be consistent with—
  - (a) the principles of stock route network management; and
  - (b) the State stock route network management strategy.

## **106 Preparing draft plan—matters local government must have regard to**

- (1) In preparing a draft stock route network management plan, a local government must have regard to the following—
  - (a) the principles of stock route network management;
  - (b) the State stock route network management strategy in relation to which the plan is being prepared;
  - (c) the maintenance of travelling stock facilities and pasture for the needs of travelling stock on the local government's part of the stock route network;
  - (d) the environmental and cultural values of the local government's part of the stock route network;

- 
- (e) the uses, other than in relation to travelling stock, of the local government's part of the stock route network;
  - (f) how the uses mentioned in paragraph (e) may affect the local government's part of the stock route network being used for travelling stock;
  - (g) whether the local government's part of the stock route network needs management for controlled burning or grazing, declared pest treatment, erosion rehabilitation or pasture regeneration;
  - (h) how the integrity of the local government's part of the stock route network can be maintained so that the network is not fragmented;
  - (i) the interests of the local community in the local government's area, including, for example, the interests of landholders, Aboriginal communities, industry groups and members of the public.
- (2) For subsection (1), the local government's part of the stock route network is the part of the network that is in the local government's area.
- (3) In this section—  
*declared pest* see the *Land Act 1994*, schedule 6.

## **107 Preparing draft plan—consultation requirements for particular stock routes**

- (1) This section applies if—
- (a) a local government is preparing a draft stock route network management plan for managing stock routes in its area; and
  - (b) all or part of a stock route in the area is in, on, crosses or is adjacent to a protected area, State-controlled road or waterway.
- (2) The local government must, in preparing the draft plan—
- (a) consult with the interested department for the protected area, State-controlled road or waterway about

requirements under Acts administered by the department that may impact on the use of the stock route for travelling stock; and

- (b) have regard to—
  - (i) the requirements; and
  - (ii) any recommendations of the interested department relating to the requirements.
- (3) In this section—

***interested department***—

- (a) for a protected area—means the department in which the *Nature Conservation Act 1992* is administered; or
- (b) for a State-controlled road—means the department in which the *Transport Infrastructure Act 1994* is administered; or
- (c) for a waterway—means the department in which the *Fisheries Act 1994* is administered.

***protected area*** see the *Nature Conservation Act 1992*, schedule.

***waterway*** see the *Fisheries Act 1994*, schedule 1.

## **108 Preparing draft plan—other consultation requirement**

- (1) This section applies if—
  - (a) a local government is preparing a draft stock route network management plan for managing stock routes in its area; and
  - (b) the chief executive officer of the local government considers a requirement under an Act may impact on the use of 1 or more of the stock routes for travelling stock.
- (2) The local government must, in preparing the draft plan—
  - (a) consult with the department in which the Act is administered about the requirement; and
  - (b) have regard to—

- (i) the requirement; and
  - (ii) any recommendations of the department relating to the requirement.
- (3) This section applies in addition to section 107.

## **109 Notice of draft plan and consideration of public submissions**

- (1) A local government must, as soon as possible after preparing a draft stock route network management plan, give public notice of that fact.
- (2) The notice must—
- (a) be published in at least 1 of the following ways—
    - (i) on a relevant website;
    - (ii) in a regional newspaper circulating generally in the local government's area;
    - (iii) in an electronic version of a newspaper mentioned in subparagraph (ii); and
  - (b) state a website where an online copy of the draft plan may be accessed; and
  - (c) invite the public to make written submissions about the draft plan to the local government within 28 days after the notice is published (the *submission period*).
- (3) The local government must—
- (a) ensure the draft plan is published on the website mentioned in subsection (2)(b) for the entire submission period; and
  - (b) if written submissions are made about the draft plan under subsection (2)(c)—
    - (i) consider the submissions; and
    - (ii) make any amendments to the plan the local government considers appropriate in relation to the submissions.

## **110 Adopting plan**

A local government may adopt a stock route network management plan, by resolution, if—

- (a) sections 106 to 109 have been complied with in relation to the plan; and
- (b) the local government is satisfied the plan complies with section 105(3).

## **111 Duration of plan**

- (1) A local government's stock route network management plan takes effect from the start day stated in the plan.
- (2) The start day must be after the day the plan is adopted but within 1 year after the day the chief executive notifies the local government, under section 100A, about the State stock route network management strategy in relation to which the plan is prepared.
- (3) The plan stops having effect on the earlier of the following—
  - (a) immediately before another stock route network management plan of the local government takes effect under subsection (1);
  - (b) the day that is 1 year after the chief executive notifies the local government, under section 100A, about a new State stock route network management strategy taking effect.
- (4) Also, if the plan is renewed under section 113—
  - (a) the plan stops having effect immediately before the renewed plan takes effect; and
  - (b) subsections (1) and (3) apply to the renewed plan.

## **112 Implementing plan**

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

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### **113 Reviewing, amending and renewing plan**

- (1) A local government may review, amend or renew its stock route network management plan as the chief executive officer of the local government considers appropriate.
- (2) However, the local government must review the effectiveness of the plan at least 3 months before the start of each financial year.
- (3) Also, if the chief executive notifies the local government of an amendment of the State stock route network management strategy under section 102(4), the local government must, within 1 year after receiving the notice—
  - (a) review the plan; and
  - (b) if necessary, amend the plan to ensure it is consistent with the amended strategy.
- (4) Further, if the chief executive notifies the local government of the renewal of the State stock route network management strategy under section 102(4), the local government must renew the plan within 1 year after the local government receives the notice.

### **114 Requirements for review, amendment or renewal of plan**

- (1) This section applies in relation to a local government doing any of the following under section 113—
  - (a) reviewing its stock route network management plan, other than under section 113(2);
  - (b) amending its stock route network management plan, including as a result of a review under section 113(2);
  - (c) renewing its stock route network management plan.
- (2) Sections 107 to 110 apply in relation to the review, amendment or renewal—
  - (a) as if—

- (i) a reference to preparing a draft stock route network management plan were a reference to reviewing, amending or renewing the plan; and
  - (ii) a reference to a stock route network management plan, or a draft stock route network management plan, were a reference to the stock route network management plan the subject of the review, amendment or renewal; and
- (b) with any other necessary changes.

## **115 Local government must publish, and make available for inspection, copy of plan**

- (1) A local government must—
- (a) publish a copy of its stock route network management plan on its website; and
  - (b) keep an electronic copy of the plan available for inspection, free of charge, by the public at the local government's public office.
- (2) A reference in subsection (1) to a local government's stock route network management plan includes a reference to the plan as amended or renewed from time to time under section 113.

# **Part 4 Stock route agistment permits**

## **Division 1 Obtaining permits**

### **116 Application for permit**

- (1) A person may apply to a local government (the *issuing entity*) for a stock route agistment permit for relevant land in the local government's area.



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- (2) However, a person may apply only if—
- (a) the person is a landowner and the owner’s land is adversely affected by drought, fire or flood; or
  - (b) the person is travelling stock under a stock route travel permit and the stock require agistment for—
    - (i) branding, crutching, dipping, drenching, jetting, shearing or trucking; or
    - (ii) spelling to comply with the owner’s obligations under an Act relating to the care or protection of the stock; or
  - (c) both of the following apply—
    - (i) the permit is for either—
      - (A) if the issuing entity is a local government prescribed for section 104—relevant land identified in the issuing entity’s stock route network management plan as land containing more pasture and water than is needed for the use of travelling stock; or
      - (B) otherwise—relevant land the issuing entity is satisfied contains more pasture and water than is needed for the use of travelling stock;
    - (ii) the issuing entity has given notice that a person may apply for a permit for the land.
- (3) A notice mentioned in subsection (2)(c)(ii) must—
- (a) be published in at least 1 of the following ways—
    - (i) on a relevant website;
    - (ii) in a regional newspaper circulating generally in the area in which the land is situated;
    - (iii) in an electronic version of a newspaper mentioned in subparagraph (ii); and
  - (b) identify the land; and

- (c) invite persons to apply for a permit within 7 days after the notice is published.
- (4) The application—
  - (a) may be made in writing, electronically or orally; and
  - (b) must be accompanied by the application fee prescribed by regulation.
- (5) However, the issuing entity may waive payment of the application fee if satisfied the applicant is experiencing financial hardship.
- (6) If the permit is issued, the applicant must pay to the issuing entity the permit fee prescribed under a regulation.

### **117 Additional information for application**

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

### **118 Deciding application**

- (1) The issuing entity must consider and decide whether to grant or refuse the application.
- (2) The issuing entity may grant the application only if—
  - (a) if the issuing entity has a stock route network management plan—the use of the land for agistment is consistent with the plan; and
  - (b) the issuing entity is satisfied—
    - (i) the applicant has not held a stock route agistment permit for the land in the 3 months immediately before the date of the application; and

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- (ii) there is more pasture and water available on the land than is needed for the use of travelling stock; and
  - (iii) the land is not subject to a lease or permit under the Land Act; and
  - (iv) the stock's agistment is not likely to—
    - (A) introduce invasive biosecurity matter onto land in the entity's area; or
    - (B) spread invasive biosecurity matter on the land; or
    - (C) degrade the land; or
    - (D) adversely affect road safety; and
  - (v) the stock to be agisted are not affected by prohibited matter or category 1 or 2 restricted matter under the *Biosecurity Act 2014*.
- (3) Also, if the land is a State-controlled road, the issuing entity may grant the application only if the use of the land for agistment is approved, with or without conditions, by the chief executive of the department responsible for managing State-controlled roads.
- (4) A condition of an approval mentioned in subsection (3) may only be about—
- (a) protecting road transport infrastructure under the *Transport Infrastructure Act 1994*; or
  - (b) road safety.
- (5) In this section—
- invasive biosecurity matter*** means invasive biosecurity matter under the *Biosecurity Act 2014*.

## 119 Issuing permit

- (1) If the issuing entity decides to grant the application, the entity must give the applicant—

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

## 120 Duration of permit

Subject to section 122(4), a stock route agistment permit remains in force, unless it is sooner cancelled, for the term (the *agistment period*), of no more than the following number of days, stated in it—

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

## 121 Refusing application

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

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

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## **Division 2                      Renewing permits**

### **122      Application for renewal**

- (1) The holder of a stock route agistment permit, other than a permit issued for a purpose mentioned in section 116(2)(b), may apply to the issuing entity to renew the permit.
- (2) The application—
  - (a) may be made in writing, electronically or orally; and
  - (b) must be—
    - (i) made before the permit expires; and
    - (ii) accompanied by the renewal application fee prescribed by regulation.
- (3) However, the issuing entity may waive payment of the renewal application fee if satisfied the applicant is experiencing financial hardship.
- (4) The permit remains in force until the applicant has been notified of the issuing entity's decision on the application.
- (5) If the permit is renewed, the applicant must pay to the issuing entity the permit fee prescribed under a regulation.

### **123      Deciding application**

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

### **124      Issuing renewed permit**

- (1) If the issuing entity decides to grant the application, the entity must give the applicant—

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

### **125 Refusing application**

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

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

## **Division 3 Conditions of permits**

### **126 Conditions that may and must be imposed**

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

## **127 Amending conditions**

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

## **Division 4 Cancellation of permits**

### **128 Cancellation—grounds and procedure**

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

- (ii) the grounds for the cancellation;
  - (iii) the facts and circumstances that are the basis for the grounds;
  - (iv) that the permit holder may ask the chief executive to review the decision;
  - (v) how to ask for a review; and
- (b) refund to the holder the amount of the permit fee less the amount that would have been payable for the term of the permit before it was cancelled.
- (3) The cancellation has effect immediately the notice is given.

## **Division 5                    Reviewing decisions about permits**

### **129    Review by chief executive**

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



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- (iii) for a decision mentioned in subsection (1)(c)—to amend the conditions in the way requested by the applicant or in the way decided by the chief executive and stated in the notice; or
  - (iv) for a decision mentioned in subsection (1)(d)—to re-issue the permit subject to the reasonable conditions, if any, the chief executive decides.
- (3) The chief executive must, within 14 days after being asked to review the decision, give to the permit holder and the issuing entity—
- (a) the notice; and
  - (b) if the chief executive decides to confirm the decision or change the conditions other than in the way asked by the permit holder—an information notice about the chief executive’s decision.
- (4) The issuing entity must comply with the notice.
- (5) A request to review a decision under this section does not stay the operation of the decision.

## **Division 6                      Replacing permits**

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

- (1) An issuing entity may, by written notice, require the holder of a stock route agistment permit to return the permit to the entity, within a stated reasonable period, for amendment under a decision made under section 127(4) or 129(2)(b)(ii) to (iv).
- (2) The holder must comply with the notice unless the holder has a reasonable excuse.  
Maximum penalty—50 penalty units.
- (3) On receiving the permit, the issuing entity must issue a replacement permit, incorporating the amendments, to the holder.

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

## **Part 5                      Stock route travel permits**

### **Division 1                Preliminary**

#### **131      Application of pt 5**

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

#### **132      Stock movements requiring a stock route travel permit**

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

Maximum penalty—50 penalty units.

#### **133      Stock movements not requiring a stock route travel permit**

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

- (a) for not more than 1 day; and
- (b) in clear daylight hours; and
- (c) for animal husbandry or property management purposes; and

- (d) between parcels of land having common ownership or worked as a single unit.

*Editor's note—*

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

## Division 2            Obtaining permits

### 134    Application for permit

- (1) The owner of stock, or a person acting on the owner's behalf, may apply to a local government (the *issuing entity*) for a stock route travel permit.
- (2) The application—
  - (a) may be made in writing, electronically or orally; and
  - (b) must be accompanied by the application fee prescribed by regulation.
- (3) However, the issuing entity may waive payment of the application fee if satisfied the applicant is experiencing financial hardship.
- (4) If the permit is issued, the applicant must pay to the issuing entity the permit fee prescribed under a regulation.

### 135    Additional information for application

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

### **136 Deciding application**

- (1) The issuing entity must consider and decide whether to grant or refuse the application.
- (2) The issuing entity may grant the application only if satisfied—
  - (a) the relevant land on which the stock are to travel contains enough pasture and water for the stock; and
  - (b) the stock's travel is not likely to spread—
    - (i) a declared pest on land in the entity's area; or
    - (ii) a notifiable disease; and
  - (c) the stock's rate of travel will be at least the rate stated for the stock under the permit, having regard to the condition of the stock; and
  - (d) the stock's travel is not likely to have an adverse effect on road safety.
- (3) Also, if the application is for travelling stock on land in another local government's area, the issuing entity may grant the application only if the other local government has given the issuing entity written consent.
- (4) In addition, if the relevant land is a State-controlled road, the issuing entity may grant the application only if the use of the land to travel stock is approved, with or without conditions, by the chief executive of the department responsible for managing State-controlled roads.
- (5) A condition of an approval mentioned in subsection (4) may only be about—
  - (a) protecting road transport infrastructure under the *Transport Infrastructure Act 1994*; or
  - (b) road safety.

### **137 Issuing permit**

- (1) If the issuing entity decides to grant the application, the entity must give the applicant—

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

### **138 Duration of permit**

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

### **139 Refusing application**

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

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

## **Division 3 Notice of correct particulars**

### **140 Permit holder to give notice of correct particulars**

- (1) This section applies if, because of a change in circumstances, any of the following particulars contained in a stock route travel permit is no longer correct—
- (a) the permit holder's name and contact address or telephone number;
  - (b) the name of the person in charge of the stock during the travel;

- (c) the number, type and age of the stock;
  - (d) the stock's brands and earmarks registered under the *Brands Act 1915* and other marks identifying ownership;
  - (e) the proposed destination of the stock;
  - (f) the proposed route for the travel;
  - (g) the estimated period of the travel;
  - (h) the number of persons engaged to control the stock during the travel;
  - (i) other information prescribed under a regulation.
- (2) The permit holder must, as soon as practicable after the change happens, give notice of the correct particular to the issuing entity for the permit.

Maximum penalty—50 penalty units.

#### **141 Issuing replacement permit on notice of correct particulars**

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

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## **Division 4                      Conditions of permits**

### **142      Conditions that may and must be imposed**

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

### **143      Amending conditions**

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

- (5) If the issuing entity refuses to amend the conditions, the entity must give the holder a review notice about the decision.

## **Division 5                      Cancellation of permits**

### **144      Cancellation—grounds and procedure**

- (1) The issuing entity may cancel a stock route travel permit if satisfied—
- (a) the permit was issued because of a materially false or misleading representation or document, made either orally or in writing; or
  - (b) the permit holder has not complied with a condition of the permit; or
  - (c) the relevant land can no longer provide enough pasture or water for travelling stock.
- (2) If the issuing entity decides to cancel a stock route travel permit, the entity must—
- (a) give the permit holder a written notice stating the following—
    - (i) that the permit is cancelled;
    - (ii) the grounds for the cancellation;
    - (iii) the facts and circumstances that are the basis for the grounds;
    - (iv) that the permit holder may ask the chief executive to review the decision;
    - (v) how to ask for a review; and
  - (b) for a permit to travel stock for more than 100km—refund to the holder the amount of the permit fee less the amount that would have been payable for the distance travelled by the stock before the permit was cancelled.
- (3) The cancellation has effect immediately the notice is given.



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## **Division 6                      Reviewing decisions about permits**

### **145      Review by chief executive**

- (1) This section applies if the chief executive is asked to review an issuing entity's decision to—
  - (a) refuse to issue a stock route travel permit; or
  - (b) impose conditions on a stock route travel permit; or
  - (c) refuse to amend conditions on a stock route travel permit as requested by the permit holder; or
  - (d) cancel a stock route travel permit.
- (2) The chief executive must, by written notice—
  - (a) confirm the decision; or
  - (b) revoke the decision and direct the issuing entity—
    - (i) for a decision mentioned in subsection (1)(a)—to issue the permit subject to the reasonable conditions, if any, the chief executive decides; or
    - (ii) for a decision mentioned in subsection (1)(b)—to remove the conditions or amend them in the way decided by the chief executive and stated in the notice; or
    - (iii) for a decision mentioned in subsection (1)(c)—to amend the conditions in the way requested by the applicant or in the way decided by the chief executive and stated in the notice; or
    - (iv) for a decision mentioned in subsection (1)(d)—to re-issue the permit subject to the reasonable conditions, if any, the chief executive decides.
- (3) The chief executive must, within 7 days after being asked to review the decision, give to the permit holder and the issuing entity—
  - (a) the notice; and

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

## **Division 7                      Miscellaneous provisions**

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

- (1) An issuing entity may, by written notice, require the holder of a stock route travel permit to return the permit to the entity within a stated reasonable period for amendment under a decision made under section 143(4) or 145(2)(b)(ii) to (iv).
- (2) The holder must comply with the notice unless the holder has a reasonable excuse.  
  
Maximum penalty—50 penalty units.
- (3) On receiving the permit, the issuing entity must issue a replacement permit, incorporating the amendments, to the holder.
- (4) The issuing entity must give the chief executive a copy of each replacement permit it issues.
- (5) The amendment of the permit does not depend on it being replaced under this section.

### **147      Rate of travel of stock**

- (1) The person in charge of stock being driven on foot under a stock route travel permit must, unless the permit states otherwise, ensure the stock travel towards their destination at a rate not less than 10km a day.  
  
Maximum penalty—50 penalty units.

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

## Part 6                      Fencing stock routes

### 148      Application of pt 6

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

*land* does not include State-controlled land.

### 149      Fencing notice

- (1) The local government may, by written notice (a *fencing notice*) given to the landowner, require the owner to build a stock-proof fence on the boundary of the land to prevent stock on the land entering a part of the network.
- (2) The fencing notice must—
  - (a) state the reasonable period in which the owner must build the fence; and

- (b) be accompanied by or include an information notice about the local government's decision to give the notice.

### **150 Obligation to build fence**

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

Maximum penalty—400 penalty units.

### **151 Obligation to maintain fence**

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

Maximum penalty—400 penalty units.

### **152 Noncompliance with fencing notice or obligation to maintain fence**

- (1) This section applies if the landowner does not—
  - (a) comply with the fencing notice; or
  - (b) maintain the fence in a stock-proof condition.
- (2) The chief executive officer of the local government may enter the owner's land at any reasonable time to build or complete the building of the fence, or do anything necessary to make the fence stock-proof.
- (3) Before entering the owner's land, the chief executive officer must give the owner at least 7 days written notice stating the following—
  - (a) that the chief executive officer intends to enter the land;
  - (b) the purpose of the intended entry;
  - (c) the date of the intended entry;
  - (d) the intended stay.

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### **153 Amounts payable by landowner**

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

### **154 Unpaid amounts are a charge on land**

- (1) If the owner does not pay to the local government an amount payable under section 153, the unpaid amount is a charge on the land as if it were overdue rates under the *Local Government Act 2009*.
- (2) If the land in relation to which the unpaid amount was incurred is part only of a parcel of land owned by the owner, the amount is a charge on the parcel of land.
- (3) This section is in addition to any other remedy the local government has for recovery of the unpaid amount.

## **Part 7 Other provisions about stock route network management**

### **Division 1 Mustering stock**

#### **155 Application of div 1**

This division applies if the chief executive officer of a local government reasonably believes it is necessary to muster

stock on relevant land in its area to monitor compliance with—

- (a) a stock route agistment permit; or
- (b) a stock route travel permit.

### **156 Mustering notice**

- (1) The local government may, by written notice (a *mustering notice*) given to the permit holder, require the holder to muster the holder's stock on the land.
- (2) The mustering notice must—
  - (a) state the reasonable period in which the holder must muster the stock; and
  - (b) be accompanied by or include an information notice about the local government's decision to give the notice.

### **157 Obligation to comply with notice**

The holder must comply with the mustering notice unless the holder has a reasonable excuse.

Maximum penalty—50 penalty units.

### **158 Noncompliance with mustering notice**

- (1) If the holder does not comply with the mustering notice, the chief executive officer of the local government may enter the land at any reasonable time and muster the stock.
- (2) However, if the land is subject to a lease under the Land Act, the chief executive officer of the local government may enter the land only if—
  - (a) the landowner consents to the entry; or
  - (b) the chief executive officer of the local government has given the landowner at least 24 hours written notice of the intended entry.

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- (3) The notice must state the purpose and date of the intended entry.

### **159 Amounts payable by permit holder**

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

## **Division 2 Pasture on the stock route network**

### **160 Managing and conserving pasture**

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

### **161 Overgrazing on stock route network**

- (1) This section applies if the chief executive officer of a local government reasonably believes, because of the number of stock on land within which a part of the network in the local government's area is fenced or otherwise enclosed, sufficient pasture will not be available for travelling stock on the network.
- (2) The local government may, by written notice given to the landowner, require the owner to reduce the number of stock on the land.
- (3) The notice must—
- (a) state the reasonable number to which the stock are to be reduced and the reasonable period in which the reduction must be made; and

- (b) be accompanied by or include an information notice for the decision to give the notice.
- (4) The owner must comply with the notice unless the owner has a reasonable excuse.  
Maximum penalty—400 penalty units.
- (5) This section does not limit the chief executive officer's powers under section 149.

### **Division 3                      Travelling stock facilities and water facility agreements**

#### **162      Travelling stock facilities**

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

#### **163      Water facility agreements**

- (1) The chief executive, a local government and a landowner may enter into an agreement (a *water facility agreement*) about any of the following—
  - (a) supplying water to the land from a water facility under the local government's control;
  - (b) supplying water to the stock route network from a water facility owned by the landowner;
  - (c) watering travelling stock at the owner's water facilities;
  - (d) maintaining water facilities under the local government's control;



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

## **164 Register of agreements**

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

- (b) on payment of the fee that is reasonable but not more than the actual cost, take extracts from, or obtain a copy of details in, the register.

## 165 Registration of particular agreements

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

***registrar of titles*** means the registrar of titles under the Land Title Act.

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## **Division 4                      Stray stock**

### **166      Offence to allow stock to stray**

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

Maximum penalty—

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

### **167      Stray stock may be seized**

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

### **168      Notice of seizure**

- (1) The chief executive officer must give the owner of the seized stock written notice of the seizure.
- (2) If the owner's name is not known, the notice must be given to the owner by publishing the notice in at least 1 of the following ways—
  - (a) on a relevant website;
  - (b) in a regional newspaper circulating generally in the area in which the stock were found;
  - (c) in an electronic version of a newspaper mentioned in paragraph (b).
- (3) The notice must state that the stock—
  - (a) must be claimed within 3 days after the notice is given;  
and

- (b) if not claimed within the 3 days—may be sold or disposed of.

### **169 Releasing seized stock**

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

- (a) satisfies the chief executive officer the person is entitled to possession of the stock; and
- (b) pays the chief executive officer's reasonable costs of—
  - (i) seizing, removing and holding the stock; and
  - (ii) giving the notice.

### **170 Dealing with seized stock**

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

## **171 Application of proceeds of sale**

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

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

## **172 Destroying other stray stock**

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

## **Part 8**                      **Other offences about the stock route network**

### **173**      **Offences about stock route agistment and travel permits**

- (1) A person must not, without reasonable excuse, contravene a condition of a stock route agistment permit that applies to the person.

Maximum penalty—50 penalty units.

- (2) A person must not, without reasonable excuse, contravene a condition of a stock route travel permit that applies to the person.

Maximum penalty—50 penalty units.

- (3) The drover of stock moved under a stock route travel permit must, unless the drover has a reasonable excuse, immediately produce the permit, or a copy of it, to an authorised person for inspection if the authorised person asks for it to be produced for inspection.

Maximum penalty—10 penalty units.

### **174**      **Grazing stock without permit**

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

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

Maximum penalty—50 penalty units.

### **175**      **Damaging travelling stock facility**

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

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Maximum penalty—50 penalty units.

(2) In subsection (1)—

*damage* includes hinder the usual operation of the facility.

### **176 Wasting or polluting water**

A person must not, without reasonable excuse—

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

Maximum penalty—50 penalty units.

### **177 Taking water**

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

Maximum penalty—50 penalty units.

### **178 Camping**

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

Maximum penalty—50 penalty units.

### **179 Obstructing movement of stock**

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

*Examples of obstructing the movement of travelling stock—*

- 1 building a fence, locking a gate or using vehicles or animals to prevent stock movement
- 2 making noise to alarm stock

Maximum penalty—50 penalty units.

### **180 Burning or removing pasture**

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

Maximum penalty—50 penalty units.

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

*Example of removing pasture—*

cutting and baling pasture for hay

Maximum penalty—50 penalty units.

### **181 Placing things on the stock route network**

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

*Examples of thing—*

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

Maximum penalty—50 penalty units.

- (2) In subsection (1)—

*harm* includes obstruct or otherwise interfere with.

### **182 Offences about using reserves for travelling stock**

- (1) This section applies to a person in charge of travelling stock if the person travels the stock—
- (a) on a reserve for travelling stock for which there is an owner; or
  - (b) on a part of the stock route network fenced in with land for which there is an owner.



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

Maximum penalty—50 penalty units.

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

Maximum penalty—50 penalty units.

## **Chapter 4      Matters relating to local governments**

### **183      Functions of local governments**

The functions of each local government under this Act are—

- (a) to manage the part of the stock route network in its area in accordance with this Act and the principles of stock route network management; and
- (b) to control the movement of travelling stock on the part of the stock route network in its area.

### **184      Minister may direct local government to perform function or obligation**

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

*Example of a local government not performing its functions or obligations—*

a local government does not prepare, implement or review a stock route network management plan under this Act

- (2) The Minister may, by written notice given to the local government, direct it to perform the function or obligation.
- (3) However, before giving a notice under subsection (2), the Minister must consult with the local government and consider the local government's views about the performance of the function or obligation.
- (4) The notice must state the following—
  - (a) the function or obligation the Minister believes the local government is not performing;
  - (b) what action the Minister requires the local government to take to perform the function or obligation;
  - (c) the date by which the stated action must be taken.
- (5) The local government must comply with the direction.

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

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

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**186 Local government to pay chief executive's costs**

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

**187 Minister may require local government to make annual payment**

- (1) The Minister may, by written notice, for a financial year, require a local government to pay an amount to the chief executive for services provided or to be provided by the chief executive for stock route network management in the local government's area.
- (2) The amount must not be more than the maximum amount fixed under a regulation for the local government.
- (3) In recommending the maximum amount, the Minister must have regard to the nature and extent of the services provided or to be provided by the chief executive in the local government's area.
- (4) The notice must state the period in which the amount required under the notice must be paid.
- (5) The local government must pay the amount to the chief executive in the stated period.

**187A Fines payable to local government**

- (1) This section applies if, in proceedings brought by a local government for an offence against this Act, the court imposes a fine.
- (2) The fine must be paid to the local government's operating fund, unless the court orders the fine to be paid to a particular person.

**187B Local government must use amounts received for particular purposes**

- (1) This section applies if a local government receives an amount—
  - (a) as an application fee under section 116(4)(b), 122(2)(b)(ii) or 134(2)(b); or
  - (b) as a permit fee for a stock route agistment permit or stock route travel permit; or
  - (c) under a water facility agreement; or
  - (d) in payment of a fine under section 187A.
- (2) The local government must use the amount for the administration, maintenance or improvement of the stock route network in its area.
- (3) For subsection (2), the administration of the stock route network in the local government's area includes deciding applications under sections 116, 122 and 134 relating to stock routes in the area.

**188 Minister may ask for particular information from local government**

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

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## Chapter 7 Investigation and enforcement

### Part 1 Authorised persons

#### 244 Appointment and qualifications

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

#### 245 Appointment conditions and limit on powers

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

*signed notice* means a notice signed by the chief executive or chief executive officer of a local government.

## **246 Issue of identity card**

- (1) An appointing authority must issue an identity card to each authorised person appointed by it.
- (2) The identity card must—
  - (a) contain a recent photo of the authorised person; and
  - (b) contain a copy of the authorised person's signature; and
  - (c) identify the person as an authorised person under this Act; and
  - (d) state whether the authorised person is appointed by the chief executive or chief executive officer of a local government; and
  - (e) state an expiry date for the card.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

## **247 Production or display of identity card**

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

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## 248 When authorised person ceases to hold office

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

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

## 249 Resignation

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

## 250 Return of identity card

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

Maximum penalty—10 penalty units.

## **Part 2 Powers of authorised persons**

### **Division 1 Entry to places other than vehicles**

#### **251 Power of entry**

- (1) An authorised person may enter a place, other than a vehicle, if—
  - (a) its occupier consents to the entry; or
  - (b) it is a public place and the entry is made when it is open to the public; or
  - (c) the entry is authorised by a warrant; or
  - (d) it is a permit holder's place of business and is—
    - (i) open for carrying on the business; or
    - (ii) otherwise open for entry; or
    - (iii) required to be open for inspection under the permit.
- (2) For the purpose of asking the occupier of a place for consent to enter, an authorised person may, without the occupier's consent or a warrant—
  - (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
  - (b) enter part of the place the authorised person reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

#### **252 Entry with consent**

- (1) This section applies if an authorised person intends to ask an occupier of a place to consent to the authorised person or another authorised person entering the place under section 251(1)(a).



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

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

## **253 Other entries without warrant**

- (1) This section applies if—
  - (a) an authorised person is intending to enter a place under section 251(1)(d); and
  - (b) the occupier of the place is present at the place.

- (2) Before entering the place, the authorised person must do or make a reasonable attempt to do the following—
  - (a) comply with section 247(1);
  - (b) tell the occupier the purpose of the entry;
  - (c) tell the occupier the authorised person is permitted under this Act to enter the place without the occupier's consent or warrant.

## **254 Application for warrant**

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

*Example—*

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

## **255 Issue of warrant**

- (1) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—
  - (a) there is a particular thing or activity (the *evidence*) that may provide evidence of an offence against this Act; and
  - (b) the evidence is at the place, or, within the next 7 days, may be at the place.
- (2) The warrant must state—
  - (a) that a stated authorised person may, with necessary and reasonable help and force—

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- (i) enter the place and any other place necessary for entry; and
  - (ii) exercise the authorised person's powers under this part; and
  - (b) the offence for which the warrant is sought; and
  - (c) the evidence that may be seized under the warrant; and
  - (d) the hours of the day or night when the place may be entered; and
  - (e) the date, within 14 days after the warrant's issue, the warrant ends.

## 256 Special warrants

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

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

## **257 Warrants—procedure before entry**

- (1) This section applies if an authorised person named in a warrant issued under this part for a place is intending to enter the place under the warrant.

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- (2) Before entering the place, the authorised person must do or make a reasonable attempt to do the following things—
- (a) comply with section 247(1);
  - (b) give the person a copy of the warrant or if the entry is authorised by a facsimile warrant or warrant form mentioned in section 256(6), a copy of the facsimile warrant or warrant form;
  - (c) tell the person the authorised person is permitted by the warrant to enter the place;
  - (d) give the person an opportunity to allow the authorised person immediate entry to the place without using force.
- (3) However, the authorised person need not comply with subsection (2) if the authorised person believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

## **Division 2                    Entry to vehicles**

### **258    Power of entry**

An authorised person may enter a vehicle if the person in control of the vehicle consents to the entry.

### **260    Power to stop vehicles that may be entered**

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

### **261    Failure to obey signal**

- (1) A person must not, without reasonable excuse, disobey a signal given under section 260.

Maximum penalty—50 penalty units.

- (2) It is a reasonable excuse for the person to disobey the signal if—
  - (a) to immediately obey the signal would have endangered the person or someone else; or
  - (b) the person obeys the signal as soon as it is practicable to obey it.

## **262 Other powers relating to vehicles that may be entered**

- (1) If an authorised person may enter a vehicle under this part, the authorised person may require the person in control of the vehicle—
  - (a) to give the authorised person reasonable help to enter the vehicle; or
  - (b) to bring the vehicle to a stated place and remain in control of the vehicle for a reasonable period to allow the authorised person to exercise a power under this part.
- (2) When making a requirement under subsection (1), the authorised person must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.
- (3) A person must not, without reasonable excuse, fail to comply with the requirement.

Maximum penalty—50 penalty units.

## **Division 3 Powers for entry to all places**

### **263 General powers after entering places**

- (1) This section applies to an authorised person who, under this part, may enter or has entered a place.
- (2) However, if an authorised person enters a place to ask the occupier's consent to enter premises, this section applies to

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the authorised person only if the consent is given or the entry is otherwise authorised.

- (3) For monitoring or enforcing compliance with this Act, the authorised person may do any of the following—
- (a) search any part of the place;
  - (b) inspect, measure, test, photograph or film any part of the place or anything at the place;
  - (c) mark or seal a container or other thing at the place;
  - (d) open a container if the authorised person considers it is necessary for exercising a power under this part;
  - (e) take a thing, or a sample of or from a thing, at the place for analysis or testing;
  - (f) take extracts from, or make copies of, a document at the place;
  - (g) take into the place the equipment, persons or materials the authorised person reasonably requires for exercising a power under this part;
  - (h) require the occupier of the place, or a person at the place, to give the authorised person—
    - (i) reasonable help to exercise the authorised person's powers under paragraphs (a) to (g); or
    - (ii) information to help the authorised person ascertain whether the Act is being complied with.
- (4) When making a requirement mentioned in subsection (3)(h), the authorised person must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.

## **264 Failure to help authorised person**

- (1) A person required to give reasonable help under section 263(3)(h)(i) must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

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

### **265 Failure to give information**

- (1) A person required to give information under section 263(3)(h)(ii) must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

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

## **Division 4 Seizure**

### **266 Power to seize evidence—entry without consent or warrant**

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

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

### **267 Power to seize evidence—entry with consent or warrant**

- (1) This section applies if an authorised person enters a place under this part with the necessary consent of a person or with a warrant.
- (2) If the authorised person enters a place with the necessary consent, the authorised person may seize a thing at the place if—



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

## 268 Securing seized things

Having seized a thing, an authorised person may—

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

*Examples of restricting access to a thing—*

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

## **269 Offence to tamper with seized things**

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

Maximum penalty—100 penalty units.

## **270 Powers to support seizure**

- (1) To enable a thing to be seized, an authorised person may require the person in control of it—
  - (a) to take it to a stated reasonable place by a stated reasonable time; and
  - (b) if necessary, to remain in control of it at the stated place for a stated reasonable period.
- (2) The requirement—
  - (a) must be made by notice in the approved form; or
  - (b) if for any reason it is not practicable to give the notice, may be made orally and confirmed by notice in the approved form as soon as practicable.
- (3) A further requirement may be made under this section about the thing if it is necessary and reasonable to make the further requirement.
- (4) A person of whom a requirement is made under subsection (1) or (3) must comply with the requirement unless the person has a reasonable excuse.

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

## **271 Receipts for seized things**

- (1) As soon as practicable after an authorised person seizes a thing, the authorised person must give a receipt for it to the person from whom it was seized.

- (2) However, if for any reason it is not practicable to comply with subsection (1), the authorised person must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.
- (3) The receipt must describe generally each thing seized and its condition.
- (4) This section does not apply to a thing if it is impracticable or would be unreasonable to give the receipt, given the thing's nature, condition and value.

## **272 Return of seized things**

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

## **273 Access to seized things**

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

## **Division 5                      Forfeiture**

### **275      Forfeiture by authorised person**

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

*Example for subsection (2)(b)—*

The owner of the thing has migrated to another country.

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

### **276      Forfeiture on conviction**

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

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## **277 Dealing with forfeited things**

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

## **Division 6 Other powers**

### **278 Power to require name and address**

- (1) This section applies if—
  - (a) an authorised person finds a person committing an offence against this Act; or
  - (b) an authorised person finds a person in circumstances that lead, or has information that leads, the authorised person to reasonably suspect the person has just committed an offence against this Act.
- (2) The authorised person may require the person to state the person's name and residential address.
- (3) When making the requirement, the authorised person must warn the person it is an offence to fail to state the person's name or residential address unless the person has a reasonable excuse.
- (4) The authorised person may require the person to give evidence of the correctness of the stated name or residential address if the authorised person reasonably suspects the stated name or address is false.

### **279 Failure to give name or address**

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

Maximum penalty—40 penalty units.

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

### **280 Power to require information**

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

### **281 Failure to give information**

- (1) A person of whom a requirement is made under section 280 must comply with the requirement unless the person has a reasonable excuse.  
Maximum penalty—40 penalty units.
- (2) It is a reasonable excuse for a person not to give the information if giving the information might tend to incriminate the person.

### **282 Power to require production of documents**

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

- (a) a document issued to the person under this Act; or
  - (b) a document required to be kept by the person under this Act.
- (2) The authorised person may keep the document to copy it.
  - (3) The authorised person must return the document to the person as soon as practicable after copying it.

### **283 Failure to produce document**

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

Maximum penalty—40 penalty units.

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

## **Part 3 Notice of damage**

### **284 Application of pt 4**

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

## **285 Requirement to give notice of damage**

- (1) The authorised person must promptly give written notice of the damage to the person who appears to the authorised person to be the owner or person in possession of the thing.
- (2) If for any reason it is not practicable to comply with subsection (1), the authorised person must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.
- (3) The notice must state—
  - (a) the particulars of the damage; and
  - (b) that the person who suffered the damage may claim compensation under section 302.
- (4) If the authorised person believes the damage was caused by a latent defect in the thing or other circumstances beyond the control of the authorised person, or person acting under the direction or authority of the authorised person, the authorised person may state the belief in the notice.

## **Part 4 Other offences**

### **286 False or misleading statements**

- (1) A person must not state anything to an authorised person that the person knows is false or misleading in a material particular.  
Maximum penalty—40 penalty units.
- (2) In a proceeding for an offence against subsection (1), it is enough to state the statement made was ‘false or misleading’ to the person’s knowledge, without specifying which.



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## 287 False or misleading documents

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

Maximum penalty—40 penalty units.

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

## 288 Obstructing authorised person

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

Maximum penalty—50 penalty units.

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

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

- (3) In this section—

*obstruct* includes assault and threaten to obstruct.

## 289 Impersonation of authorised person

A person must not pretend to be an authorised person.

Maximum penalty—50 penalty units.

## **Chapter 8      Evidence and legal proceedings**

### **Part 1              Evidence**

#### **290      Application of pt 1**

This part applies to a proceeding under this Act.

#### **291      Appointments**

It is not necessary to prove the following—

- (a) the chief executive's appointment;
- (b) the appointment of the chief executive officer of a local government;
- (c) an authorised person's appointment.

#### **292      Signatures**

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

#### **293      Evidentiary aids**

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

- (a) a stated document is one of the following things made, given, issued or kept under this Act—
  - (i) an appointment, approval or decision;
  - (ii) a notice, direction or requirement;
  - (iii) a permit;

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

## Part 2                      Legal proceedings

### 294      Summary proceedings for offences

- (1) A proceeding for an offence against this Act must be taken in a summary way under the *Justices Act 1886*.
- (2) The proceeding must start within—
  - (a) 1 year after the commission of the offence; or

- (b) 1 year after the commission of the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

## **Chapter 9      Review of decisions by                                  QCAT**

### **296      Who may apply for review by QCAT**

An aggrieved person for a reviewable decision may apply, as provided under the QCAT Act, to QCAT for a review of the decision.

*Note—*

Aggrieved persons and reviewable decisions are in schedule 1.

## **Chapter 10      Miscellaneous provisions**

### **302      Compensation**

- (1) This section applies if a person incurs loss or damage because of the exercise or purported exercise of a power under this Act, other than section 170 or 172.
- (2) The person is entitled to be paid the reasonable compensation because of the loss or damage that is agreed between the compensating entity and the person, or failing agreement, decided by a court.
- (3) Compensation may be claimed and ordered to be paid in a proceeding—
  - (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or

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- (b) for an offence against this Act brought against the person claiming compensation.
  - (4) A court may order compensation to be paid only if satisfied it is just to make the order in the circumstances of the particular case.
  - (5) A regulation may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to make the order.
  - (6) In this section—

*compensating entity* means, for loss or damage incurred because of the exercise or purported exercise of a power by—

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

### **303 Advisory committees**

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

### **304 Delegation by Minister**

- (1) The Minister may delegate the Minister's powers under this Act to an appropriately qualified public service officer.
- (2) However, the Minister may not delegate the Minister's power to—

- (a) require a local government to pay an amount under section 187; or
- (b) establish an advisory committee under section 303.

### **305 Delegation by chief executive**

- (1) The chief executive may delegate the chief executive's powers under this Act to any of the following persons—
  - (a) the chief executive officer of a local government;
  - (b) an officer of the department, or other person, the chief executive considers is appropriately qualified to exercise the power.
- (2) The chief executive officer of a local government may subdelegate to an appropriately qualified person a power delegated to the chief executive officer under subsection (1).
- (3) A delegation of a power under subsection (1) to an officer of the department may permit the subdelegation of the power to an appropriately qualified person.

### **306 Delegation by local government**

A local government may delegate its powers under this Act as if this Act were a local government Act as defined under the *Local Government Act 2009*.

### **307 Protection from liability**

- (1) This section applies to each of the following persons (a *relevant person*)—
  - (a) the Minister;
  - (b) the chief executive;
  - (c) an officer or employee of the department;
  - (d) the chief executive officer of a local government;
  - (e) an officer or employee of a local government;

- (f) an authorised person;
  - (g) a person helping an authorised person at the authorised person's direction.
- (2) A relevant person is not civilly liable to someone for an act done, or an omission made, honestly and without negligence under this Act.
- (3) If subsection (1) prevents a civil liability attaching to a relevant person, the liability attaches instead to—
- (a) for a relevant person mentioned in subsection (1)(a), (b) or (c), an authorised person appointed by the chief executive or a person helping the authorised person at the authorised person's direction—the State; or
  - (b) for a relevant person mentioned in subsection (1)(d) or (e), an authorised person appointed by the chief executive officer of a local government or a person helping the authorised person at the authorised person's direction—the local government.
- (4) In this section—
- civil liability* includes liability for the payment of costs ordered to be paid in a proceeding for an offence against this Act.

### **308 Approved forms**

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

### **309 Regulation-making power**

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

## Chapter 11      Repeal, savings and transitional provisions

### Part 1              Repeal

#### 310      Act repealed

*The Rural Lands Protection Act 1985* is repealed.

### Part 2              Savings and transitional provisions for Act No. 12 of 2002

#### Division 1          Preliminary

#### 311      Definitions for pt 2

In this part—

*commencement* means the day section 310 commences.

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

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

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

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



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## **Division 2                    Savings and transitional provisions**

### **312    Dissolution of former protection board**

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

### **313    Continuing Darling Downs–Moreton Rabbit Board**

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

### **314    Members of board of former authority**

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

[s 315]

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- (a) the term of the member's appointment under the former Act ends;
- (b) the office becomes vacant under section 227.

### **315 Employees of former authority**

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

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

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

### **317 Vesting of former authority's pending legal proceedings**

- (1) This section applies to a legal proceeding that—
  - (a) was taken by or against a following entity before the commencement—
    - (i) the former authority;
    - (ii) a member of the board of the former authority in the person's capacity as a member of the former authority; and

- (b) has not been finished before the commencement.
- (2) From the commencement, the proceeding may be continued and finished by or against the rabbit board.

### **318 Existing permission about animals or plants**

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

### **319 Existing permission about travelling or depasturing stock**

- (1) This section applies to a permission given under the former Act, and in force immediately before the commencement, allowing a person to travel or depasture stock.

[s 320]

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- (2) From the commencement, the permission continues in force, subject to this Act, as if it were a stock route travel permit or stock route agistment permit.

### **320 Application for permission to travel or depasture stock**

- (1) This section applies to an application, under the former Act, for a permission to travel or depasture stock that is not finally decided before the commencement.
- (2) The application may be decided as if it were an application for a stock route travel permit or stock route agistment permit.

### **321 Application for permission about animals or plants**

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

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**322 Barrier fences under former Act**

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

**323 Existing notice to control declared animals or plants**

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

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

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

**325 Existing agreement about water facilities**

- (1) This section applies to an agreement between a local government and an owner of land about a matter mentioned in section 163(1) if the agreement was—
  - (a) entered into under another Act; and

- (b) in force immediately before the commencement.
- (2) From the commencement, the agreement is taken to be a water facility agreement entered into under this Act.
- (3) Subject to subsection (4), the agreement's conditions continue to apply.
- (4) Unless the agreement is sooner terminated, it expires 4 years after the commencement or, if the agreement provides for an earlier expiration day, on the earlier expiration day.
- (5) The chief executive for lands who made, under the former Act, section 60, an endorsement about the agreement on a register kept under the Land Act or Land Title Act must—
  - (a) remove the endorsement; and
  - (b) make a record of the application of this section for the effective and efficient operation of the register.

### **326 References to former Act**

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

### **327 References to former protection board and former authority**

In an Act or document, if the context permits—

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

### **328 References to former fund**

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

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*former fund* means the Rural Lands Protection Fund established under the former Act.

## Part 3 Savings and transitional provisions for repeal of Act No. 30 of 1987

### Division 1 Saving provision

#### 329 Saving of operation of particular provisions

Each of the following provisions is declared to be a law to which the *Acts Interpretation Act 1954*, section 20A applies—

- (a) the *Timber Utilisation and Marketing Act 1987*, section 43;
- (b) division 2.

### Division 2 Transitional provisions

#### 330 Definitions for div 2

In this division—

*associated brand*, for an existing authorisation, means a brand registered under section 22(1)(a)(ii) of the repealed Act for use by a person to brand timber that is chemically treated under the authorisation.

*existing approval* means an approval of a preservative treatment for timber under section 15 of the repealed Act, whether the approval was given on the TUMA chief executive's own volition or because of an application under section 16 of that Act.

***existing authorisation*** means an authorisation under section 22(1)(a)(i) of the repealed Act to chemically treat timber using a preservative treatment for which there is an existing approval.

***preservative treatment*** means a preservative treatment under section 6 of the repealed Act.

***repealed Act*** means the repealed *Timber Utilisation and Marketing Act 1987*.

*Note—*

The repealed Act was repealed under the *Geothermal Energy Act 2010*, section 387.

***TUMA chief executive*** means the chief executive of the department in which the repealed Act was administered.

### 331 Application of div 2

This division applies if—

- (a) an existing approval for a preservative treatment was in force immediately before the repeal of the repealed Act; and
- (b) an existing authorisation had been granted to a person to use the preservative treatment; and
- (c) the existing authorisation and registration of the associated brand were in force immediately before the repeal of the repealed Act; and
- (d) the person to whom the existing authorisation was granted is not—
  - (i) a registered operator under the *Environmental Protection Act 1994* for carrying out chemical treatment of timber to which the authorisation relates; or
  - (ii) acting under a registration certificate under that Act for carrying out the treatment.



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**332 Existing approval continues**

- (1) The existing approval continues in force until 31 July 2011 unless it is sooner cancelled.
- (2) For this section, sections 17(1) and 18(a) and (b) of the repealed Act continue to apply as if the repealed Act had not been repealed.

**333 Existing authorisation and registration continue**

- (1) The existing authorisation and registration of the associated brand continue in force until 31 July 2011 unless—
  - (a) the authorisation and registration are sooner cancelled; or
  - (b) the existing approval for the preservative treatment to which the authorisation relates is sooner cancelled.
- (2) However, if registration of an associated brand is suspended under section 24 of the repealed Act as applied under subsection (3)(a)(i), the registration is suspended during the period of the suspension under the applied section.
- (3) For this section, the following provisions continue to apply as if the repealed Act had not been repealed—
  - (a) the following provisions of the repealed Act—
    - (i) section 24, other than subsection (1)(b);
    - (ii) section 28(a) and (d), to the extent it relates to a brand registered under section 22(1)(a) of that Act;
    - (iii) section 29, other than subsection (1)(e) and (f);
    - (iv) sections 30 and 32;
    - (v) section 36(2), (5), (6), (6A), (7), (8), (9) and (12);
    - (vi) sections 38, 39, 40, 41, 44(1), 49 and 53(1) and (3);
    - (vii) section 6, to the extent it contains definitions relevant to the provisions mentioned in subparagraphs (i) to (vi);

- (b) the repealed *Timber Utilisation and Marketing Regulation 1998*, section 10 and schedule 4.

## Part 4

# Transitional provisions for Land and Other Legislation Amendment Act 2023

### 334 Definitions for part

In this part—

*continued strategy* see section 337(1).

*first map publication day* means the day a stock route map is first published by the chief executive under section 97A(2)(a).

*former*, in relation to a provision of this Act, means the provision as in force immediately before the commencement.

*new*, in relation to a provision of this Act, means the provision as in force on the commencement.

### 335 Existing stock routes declared under regulation

- (1) This section applies to a road or route that, immediately before the commencement, was declared under a regulation to be a stock route.
- (2) The road or route continues as a stock route under this Act until the first map publication day.

### 336 Existing permits and applications for permits

- (1) The first publication of a stock route map by the chief executive under section 97A(2)(a) does not affect any of the following—
  - (a) the effect of an existing permit under chapter 3;

- 
- (b) a local government deciding an existing permit application under this Act;
  - (c) the effect of a permit, granted in relation to an existing permit application, under chapter 3.
- (2) A permit mentioned in subsection (1)(a) or (c) applies to land for which the permit is granted even if—
- (a) immediately before the first map publication day, the land or a part of the land is relevant land only because it is a road or route to which section 335 applies; and
  - (b) on the first map publication day, the land or part is not identified as a stock route on the stock route map.
- (3) In this section—

*existing permit application* means an application for a stock route agistment permit or stock route travel permit, or the renewal of a stock route agistment permit, made but not decided before the first map publication day.

*existing permit* means a stock route agistment permit or stock route travel permit that is in effect on the first map publication day.

### **337 Continuation of State stock route network management strategy**

- (1) The State stock route network management strategy kept by the chief executive under former section 98 (the *continued strategy*) continues as the State stock route network management strategy under new section 98.
- (2) The chief executive is not required to comply with section 100A in relation to the continued strategy.

### **338 Continuation of adopted stock route network management plans**

- (1) This section applies to a local government's stock route network management plan if—

- (a) the plan was adopted under former chapter 3, part 3 after the continued strategy took effect; and
- (b) immediately before the commencement, the plan—
  - (i) was in effect; and
  - (ii) complied with former section 107.
- (2) The plan continues as the local government's stock route network management plan under new section 105.
- (3) New section 111(2) does not apply in relation to the plan.

**339 Prescribed local governments without continued stock route network management plans**

- (1) This section applies to a prescribed local government that does not have a stock route network management plan that is continued under section 338.
- (2) If the prescribed local government had started preparing a stock route network management plan under former chapter 3, part 3 after the continued strategy took effect—
  - (a) the local government must continue to prepare the plan under former chapter 3, part 3; and
  - (b) former chapter 3, part 3 continues to apply in relation to the local government as if the *Land and Other Legislation Amendment Act 2023* had not been enacted; and
  - (c) if the plan is adopted under former chapter 3, part 3—
    - (i) the plan is taken to be the local government's stock route network management plan under new section 105; and
    - (ii) new section 111(2) does not apply in relation to the plan.
- (3) If subsection (2) does not apply to the prescribed local government—
  - (a) the local government must adopt a stock route network management plan under new chapter 3, part 3; and

- (b) for paragraph (a), the local government is taken to have been notified of the continued strategy taking effect under section 100A on the commencement.

*Note—*

Under section 105(1), the local government must adopt a stock route network management plan within 1 year after the notification.

### **340 Application fees**

An application fee mentioned in section 116(4)(b), 122(2)(b)(ii) or 134(2)(b) (each a *relevant fee provision*) applies only to an application made after the relevant fee provision commences.

### **341 Fines imposed by court after commencement**

Section 187A applies to a fine imposed by a court for an offence against this Act after the commencement, regardless of when the offence was committed or the proceeding for the offence was started.

## **Schedule 1      Reviewable decisions and                                  aggrieved persons**

section 296 and schedule 3, definitions *aggrieved person* and  
*reviewable decision*

### **Reviewable decision**

Confirming issuing entity's decision about a stock route agistment permit or amending the permit conditions other than in the way asked by the permit holder (section 129(2))

Confirming issuing entity's decision about a stock route travel permit or amending the permit conditions other than in the way asked by the permit holder (section 145(2))

Giving a landowner a fencing notice (section 149(1))

Giving a permit holder a mustering notice (section 156(1))

Requiring a landowner to reduce the number of stock on the owner's land (section 161(2))

### **Aggrieved person**

The applicant or permit holder

The applicant or permit holder

The landowner

The permit holder

The landowner

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## Schedule 3 Dictionary

### section 8

***aggrieved person***, for a reviewable decision, means a person stated opposite the decision in schedule 1.

***agistment period*** see section 120.

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

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

*Example of standing—*

a person's classification level in the public service

***approved form*** means a form approved under section 308.

***area***, of a local government, means the local government's local government area.

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

***chief executive for lands*** means—

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

***fee*** includes a tax.

***fencing notice*** see section 149.

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

***information notice*** means a notice complying with the QCAT Act, section 157(2).

***issuing entity***, for—

(a) a stock route agistment permit—see section 116(1); or

(b) a stock route travel permit—see section 134(1).

**land** means land above high-water mark, and includes—

(a) the airspace above the land; and

(b) Queensland waters on the land.

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

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

**mustering notice** see section 156.

**obstruct** includes hinder, resist and attempt to obstruct.

**owner**—

(a) of land, means—

(i) for freehold land—the registered proprietor; or

(ii) for land that is held from the State for an estate or interest less than fee simple and for which the interest is recorded in a register mentioned in the Land Act, section 276—the person recorded in the register as the registered holder of the interest; or

(iii) for a mining claim or lease under the *Mineral Resources Act 1989*—the holder of the claim or lessee; or

(iv) for land subject to a lease under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*—the lessee; or

(v) for land subject to a GHG injection and storage lease under the *Greenhouse Gas Storage Act 2009*—the holder of the lease; or

(vi) for land subject to a geothermal production lease under the *Geothermal Energy Act 2010*—the holder of the lease; or

(vii) for a road, stock route or other land under a local government's control—the local government; or



- 
- (viii) for a conservation park under the *Nature Conservation Act 1992* for which there are trustees—the trustees; or
- (ix) for State-controlled land—the State; and
- (b) for a thing that has been seized under chapter 7, part 2, includes a person who would be entitled to possession of the thing had it not been seized.

***permit*** means a permit issued under this Act.

***place*** includes land, premises and a vehicle.

***place of seizure*** see section 268.

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

***prescribed local government***, for chapter 3, part 2, see section 97B.

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

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

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

***regional newspaper*** see the *Financial Accountability Act 2009*, section 88H(2).

***relevant land*** means—

- (a) for chapter 3, part 4—
- (i) a stock route; or
  - (ii) a reserve for travelling stock; or
  - (iii) a road under local government control; or
- (b) otherwise—
- (i) a stock route; or
  - (ii) a reserve for travelling stock; or

(iii) a road or other land under local government control; or

(iv) unallocated State land adjoining land mentioned in subparagraph (i), (ii) or (iii).

**relevant website**, for the publication of a notice by a local government or the chief executive officer of a local government, means—

- (a) the local government's website; or
- (b) another website the chief executive officer of the local government considers appropriate, having regard to the nature of the information contained in the notice.

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

**reviewable decision** means a decision stated in schedule 1.

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

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

**road** includes an area—

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

**State-controlled land** means the following—

- (a) unallocated State land;
- (b) a reserve under the Land Act for which there is no trustee;
- (c) a national park (scientific), national park, national park (Aboriginal land), national park (Torres Strait Islander land) or resources reserve under the *Nature Conservation Act 1992*;

- (d) a conservation park under the *Nature Conservation Act 1992*, that, under that Act, is not placed under the management of trustees;
- (e) a State forest or timber reserve under the *Forestry Act 1959*;
- (f) a State-controlled road.

***State-controlled road*** means a road or land, or part of a road or land, declared to be a State-controlled road under the *Transport Infrastructure Act 1994*, section 23.

*Editor's note—*

*Transport Infrastructure Act 1994*, section 23 (Declaration of State-controlled roads) was renumbered as section 24 under the *Transport Infrastructure Act 1994*, section 491.

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

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

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

***stock route*** means—

- (a) a road or route that is ordinarily used for travelling stock; or
- (b) another road or route identified as a stock route on the stock route map.

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

***stock route map*** means the map published by the chief executive as the current stock route map for the State under section 97A(2)(a).

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

***stock route network management plan***, for a local government, means the local government's stock route network management plan under chapter 3, part 3.

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

***stray stock*** means stock that have—

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

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

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

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

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

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

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

***water facility agreement*** see section 163(1).