



Fisheries (Sustainable Fisheries Strategy) Amendment Bill 2018



Queensland

Fisheries (Sustainable Fisheries Strategy) Amendment Bill 2018

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2018

A Bill

for

An Act to amend the Fisheries Act 1994, the Public Interest Disclosure Act 2010 and the Transport Operations (Marine Safety) Act 1994 for particular purposes

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Fisheries (Sustainable Fisheries Strategy) Amendment Act 2018*. 4
5

Clause 2 Commencement 6

The following provisions commence on a day to be fixed by proclamation— 7
8

(a) part 2, division 3; 9

(b) part 3, division 1; 10

(c) section 71(2); 11

(d) schedule 1. 12

Part 2 Amendment of Fisheries Act 1994 13
14

Division 1 Preliminary 15

Clause 3 Act amended 16

This part and schedule 1 amend the *Fisheries Act 1994*. 17

Division 2	Amendments commencing on assent	1 2
Clause 4	Insertion of new pt 8, div 1A	3
	Part 8, before division 1—	4
	<i>insert</i> —	5
	Division 1A Preliminary	6
	139A Reference to document includes reference to reproductions from electronic document	7 8
	A reference in this part to a document includes a reference to an image or writing—	9 10
	(a) produced from an electronic document; or	11
	(b) not yet produced, but reasonably capable of being produced, from an electronic document, with or without the aid of another article or device.	12 13 14 15
Clause 5	Amendment of s 140A (Functions of inspectors)	16
	Section 140A, from ‘inspections’—	17
	<i>omit, insert</i> —	18
	inspections—	19
	(a) to monitor and enforce compliance with—	20
	(i) this Act; and	21
	(ii) the <i>Biosecurity Act 2014</i> , so far as it relates to fisheries resources or fish habitats; and	22 23 24
	(iii) the Planning Act, so far as it relates to fisheries development; and	25 26

[s 6]

	(b) to facilitate the administration of this Act, including, for example, by helping the chief executive perform the chief executive's functions under this Act.	1 2 3 4
Clause 6	Amendment of s 144 (Production or display of inspector's identity card)	5 6
	Section 144—	7
	<i>insert—</i>	8
	(4) For subsection (2), an inspector does not exercise a power in relation to another person only because the inspector has entered a place as mentioned in section 145(1)(b).	9 10 11 12
	(5) Failure to comply with this section does not affect the validity of the exercise of a power under this Act.	13 14 15
Clause 7	Amendment of s 145 (Entry to places)	16
	Section 145(1)—	17
	<i>insert—</i>	18
	(f) it is premises used for trade or commerce and the entry is made under section 145A.	19 20
Clause 8	Insertion of new s 145A	21
	After section 145—	22
	<i>insert—</i>	23
	145A Entry of premises used for trade or commerce	24
	(1) An inspector may enter premises used for trade or commerce to find out whether this Act is being complied with if—	25 26 27
	(a) the trade or commerce relates to fisheries resources; and	28 29

	(b) any of the following applies—	1
	(i) the occupier of the premises is present;	2
	(ii) a person other than the occupier of the premises is present and conducting activities for the trade or commerce;	3 4 5
	(iii) the premises are otherwise open for entry; and	6 7
	(c) the inspector—	8
	(i) is wearing a body-worn camera that is working; or	9 10
	(ii) if the body-worn camera is not working—has activated an alternative device to record images or sound, or both, for the period of the entry.	11 12 13 14
	(2) Before entering premises under subsection (1), the inspector must give the occupier of the premises at least 20 days notice of the entry unless the giving of notice would defeat the purpose of the entry.	15 16 17 18 19
Clause 9	Replacement of s 146 (Boarding of boats and entry of vehicles)	20 21
	Section 146—	22
	<i>omit, insert—</i>	23
	146 Boarding of boats and entry of vehicles generally	24 25
	(1) An inspector may board a boat or enter a vehicle if the boarding or entry—	26 27
	(a) is made with the consent of the owner or person in control of the boat or vehicle; or	28 29
	(b) is permitted by a warrant; or	30
	(c) is made under subsection (2), (3) or (5).	31

[s 9]

- (2) An inspector may board a boat to find out whether this Act is being complied with. 1
2
- (3) An inspector may enter a vehicle to find out whether this Act is being complied with if the inspector believes, on reasonable grounds, the vehicle— 3
4
5
6
- (a) is being, or has just been, used in connection with a fishing activity; or 7
8
- (b) contains fish being transported for sale or another commercial purpose. 9
10
- (4) Subsection (3) does not apply to— 11
- (a) a caravan; or 12
- (b) another vehicle used, or reasonably expected to be used, predominantly for residential purposes, including for temporary periods. 13
14
15
16
- (5) An inspector may board a boat or enter a vehicle if the inspector suspects, on reasonable grounds— 17
18
- (a) the boat or vehicle is being, or has been, used in the commission of an offence against this Act; or 19
20
21
- (b) the boat or vehicle, or a thing in or on the boat or vehicle, may provide evidence of the commission of an offence against this Act. 22
23
24
- (6) In this section— 25
- fishing activity* means— 26
- (a) taking fish; or 27
- (b) purchasing, selling, possessing or using fishing apparatus regulated under a regulated fishing apparatus declaration. 28
29
30

146A	Exercise of power to board boat or enter vehicle	1
		2
(1)	This section applies to an inspector who may board a boat or enter a vehicle under this division.	3 4
(2)	The inspector may board an unattended boat or enter an unattended vehicle only if, before boarding the boat or entering the vehicle, the inspector takes reasonable steps to advise the owner or person in control of the boat or vehicle of the inspector's intention to board the boat or enter the vehicle.	5 6 7 8 9 10 11
(3)	However, the inspector may enter a secured part of an unattended boat or unattended vehicle only if the owner or person in control of the boat or vehicle consents to the entry or the entry is permitted by a warrant.	12 13 14 15 16
(4)	If the inspector considers it would be more appropriate in the circumstances to do so, the inspector may decide not to board a boat or enter a vehicle and exercise powers under this part from immediately alongside or outside of the boat or vehicle.	17 18 19 20 21 22
(5)	An inspector who acts under subsection (4) is taken to have boarded the boat or entered the vehicle for the exercise of powers under this part.	23 24 25

Clause 10	Amendment of s 148 (Warrants)	26
(1)	Section 148(1), 'or boat'—	27
	<i>omit, insert</i> —	28
	, boat or vehicle	29
(2)	Section 148(4)(b), 'or on the boat'—	30
	<i>omit, insert</i> —	31
	, on the boat or in the vehicle	32
(3)	Section 148(5)(a), from 'the inspector' to 'boat'—	33

[s 11]

omit, insert— 1
a stated inspector or any inspector may, with 2
necessary and reasonable help and force, enter the 3
place, board the boat or enter the vehicle 4

Clause 11 Amendment of s 148A (Monitoring warrants for abalone) 5

(1) Section 148A, after ‘abalone’— 6

insert— 7

or commercial fish 8

(2) Section 148A(4), after ‘the inspector’— 9

insert— 10

or another inspector 11

(3) Section 148A— 12

insert— 13

(6) In this section— 14

commercial fish means fish taken or possessed in 15
trade or commerce. 16

Clause 12 Insertion of new s 148B 17

After section 148A— 18

insert— 19

**148B Monitoring warrants for marine plants or fish 20
habitat 21**

(1) An inspector may apply to a magistrate for a 22
warrant under this section for a place, other than a 23
place or part of a place used exclusively as a 24
person’s residence, if the inspector is satisfied— 25

(a) the place is a part of a direct reasonable 26
route for gaining access to a body of water; 27
and 28

(b) the body of water— 29

-
- (i) includes marine plants or fish habitat; 1
or 2
- (ii) has just been or is about to be used for 3
a fishing activity; and 4
- (c) it is necessary for an inspector to access the 5
body of water to find out if this Act is being 6
complied with in relation to the marine 7
plants or fish habitat or the fishing activity. 8
- (2) The application must be sworn and state the 9
grounds on which the warrant is sought. 10
- (3) The magistrate may refuse to consider the 11
application unless the inspector gives the 12
magistrate all the information the magistrate 13
requires about the application in the way the 14
magistrate requires. 15
- Example—* 16
- The magistrate may require additional information 17
supporting the application to be given by statutory 18
declaration. 19
- (4) The magistrate may issue the warrant only if the 20
magistrate is satisfied— 21
- (a) it is reasonably necessary that the inspector 22
or another inspector should have access to 23
the body of water to find out if this Act is 24
being complied with in relation to marine 25
plants or fish habitat or a fishing activity; 26
and 27
- (b) the place is a part of a direct reasonable 28
route for gaining access to the body of 29
water. 30
- (5) The warrant must state— 31
- (a) that an inspector may, with necessary and 32
reasonable help and force— 33
- (i) enter, and from time to time re-enter, 34
the place; and 35

[s 13]

	(ii) exercise an inspector's powers under this part; and	1 2
	(b) the purpose for which the warrant is sought; and	3 4
	(c) the hours of the day or night when the place may be entered; and	5 6
	(d) any conditions imposed by the magistrate; and	7 8
	<i>Examples of conditions—</i>	9
	1 The magistrate may limit the number of times an inspector may enter the place while the warrant is in force.	10 11 12
	2 The magistrate may require an inspector to give to the magistrate information about the use of the inspector's powers under the warrant.	13 14 15 16
	(e) the date, within 2 months after the warrant's issue, the warrant ends.	17 18
	(6) In this section—	19
	<i>fishing activity</i> means—	20
	(a) taking, possessing or using fisheries resources; or	21 22
	(b) possessing or using fishing apparatus or aquaculture furniture.	23 24
Clause 13	Replacement of s 149 (Warrants—applications made other than in person)	25 26
	Section 149—	27
	<i>omit, insert—</i>	28
	149 Electronic application	29
	(1) An application under section 148, 148A or 148B may be made by phone, fax, email, radio, videoconferencing or another form of electronic communication if the inspector considers it	30 31 32 33

-
- necessary because of— 1
- (a) urgent circumstances; or 2
 - (b) other special circumstances, including, for example, the inspector’s remote location. 3
4
- (2) The application— 5
- (a) may not be made before the inspector prepares the written application under section 148, 148A or 148B; but 6
7
8
 - (b) may be made before the written application is sworn. 9
10
- 149A Additional procedure if electronic application** 11
- (1) For an application made under section 149, the magistrate may issue the warrant (the *original warrant*) only if the magistrate is satisfied— 12
13
14
 - (a) it was necessary to make the application under section 149; and 15
16
 - (b) the way the application was made under section 149 was appropriate. 17
18
 - (2) After the magistrate issues the original warrant— 19
 - (a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the inspector, including, for example, by sending a copy by fax or email, the magistrate must immediately give a copy of the warrant to the inspector; or 20
21
22
23
24
25
 - (b) otherwise— 26
 - (i) the magistrate must tell the inspector the information required to be stated in the warrant under section 148, 148A or 148B; and 27
28
29
30
 - (ii) the inspector must complete a form of warrant, including by writing on it the 31
32

[s 13]

- information mentioned in
subparagraph (i). 1
2
- (3) The copy of the warrant mentioned in subsection 3
(2)(a), or the form of warrant completed under 4
subsection (2)(b) (in either case the *duplicate* 5
warrant), is a duplicate of, and as effectual as, the 6
original warrant. 7
- (4) The inspector must, at the first reasonable 8
opportunity, send to the magistrate— 9
- (a) the written application complying with 10
section 148, 148A or 148B; and 11
- (b) if the inspector completed a form of warrant 12
under subsection (2)(b), the completed form 13
of warrant. 14
- (5) The magistrate must keep the original warrant 15
and, on receiving the documents under subsection 16
(4)— 17
- (a) attach the documents to the original warrant; 18
and 19
- (b) give the original warrant and documents to 20
the clerk of the court of the relevant 21
magistrates court. 22
- (6) Despite subsection (3), if— 23
- (a) an issue arises in a proceeding about 24
whether an exercise of a power was 25
authorised by a warrant issued under this 26
section; and 27
- (b) the original warrant is not produced in 28
evidence; 29
- the onus of proof is on the person relying on the 30
lawfulness of the exercise of the power to prove a 31
warrant authorised the exercise of the power. 32
- (7) This section does not limit section 148, 148A or 33
148B. 34

	(8) In this section—	1
	<i>relevant magistrates court</i> , in relation to a	2
	magistrate, means the court that the magistrate	3
	constitutes under the <i>Magistrates Act 1991</i> .	4
	149B Defect in relation to a warrant	5
	(1) A warrant is not invalidated by a defect in—	6
	(a) the warrant; or	7
	(b) compliance with this division;	8
	unless the defect affects the substance of the	9
	warrant in a material particular.	10
	(2) In this section—	11
	<i>warrant</i> includes a duplicate warrant mentioned	12
	in section 149A(3).	13
Clause 14	Amendment of s 150 (Inspector’s general powers for places, boats and vehicles)	14
	(1) Section 150(1)—	15
	<i>insert—</i>	16
	(fa) produce an image or writing from an	17
	electronic document at the place, on the	18
	boat, or in the vehicle, or, to the extent that	19
	is not practicable, take either or both of the	20
	following to another place to produce an	21
	image or writing from an electronic	22
	document—	23
	(i) a thing containing an electronic	24
	document;	25
	(ii) an article or device reasonably capable	26
	of producing an electronic document;	27
	or	28
	(2) Section 150(1)(h) and (i) and (8), ‘to (g)’—	29
		30

[s 15]

omit, insert— 1

to (h) 2

(3) Section 150(1)(j) and (9), ‘(8)’— 3

omit, insert— 4

(5) 5

(4) Section 150(1)(fa) to (j)— 6

renumber as section 150(1)(g) to (k). 7

(5) Section 150(2) to (5)— 8

omit. 9

(6) Section 150— 10

insert— 11

(2) If an inspector takes from the place, boat or 12
vehicle a thing, article or device for producing an 13
image or writing from an electronic document, the 14
inspector must produce the image or writing from 15
the document and return the thing, article or 16
device to the place, boat or vehicle as soon as 17
practicable. 18

(7) Section 150(6) and (7), ‘subsection (1)(i)’— 19

omit, insert— 20

subsection (1)(j) 21

(8) Section 150(6) to (9)— 22

renumber as section 150(3) to (6). 23

Clause 15 Insertion of new ss 150A–150C 24

After section 150— 25

insert— 26

**150A No tampering with marked or sealed 27
container or thing 28**

A person must not unlawfully break, remove or 29

change a mark or seal placed on a container or 1
other thing by an inspector under section 2
150(1)(c). 3
Maximum penalty—200 penalty units. 4

150B Requirement to comply with help requirement 5

(1) A person who is required by an inspector under 6
section 150(1)(i) to give the inspector reasonable 7
help must comply with the requirement, unless 8
the person has a reasonable excuse. 9

Maximum penalty—200 penalty units. 10

(2) If the person is an individual and the help is 11
required to be given by answering a question or 12
producing a document, it is a reasonable excuse 13
for the person to fail to answer the question or 14
produce the document if complying with the 15
requirement might tend to incriminate the person. 16

(3) Subsection (2) does not apply to a requirement to 17
produce a document that is an authority or other 18
document required to be kept by the person under 19
this Act. 20

150C Requirement to take required action 21

A person who is required by an inspector under 22
section 150(1)(j) to take action in relation to a 23
boat or vehicle must comply with the 24
requirement, unless the person has a reasonable 25
excuse. 26

Maximum penalty—200 penalty units. 27

Clause 16 Amendment of s 165 (Where and how to start appeal) 28

(1) Section 165— 29

insert— 30

[s 17]

	(2A) Also, the person may not appeal if the fisheries resources are returned to the wild under section 159(2).	1 2 3
	(2) Section 165(4), ‘subsection (3)(b)’— <i>omit, insert—</i> subsection (4)(b)	4 5 6
	(3) Section 165(2A) to (5)— <i>renumber</i> as section 165(3) to (6).	7 8
Clause 17	Amendment of s 173 (Power to require production of documents)	9 10
	(1) Section 173(1)— <i>insert—</i> (c) if a document required to be kept by the person under this Act is stored or recorded by means of a device—a document that is a clear written reproduction of the stored or recorded document.	11 12 13 14 15 16 17
	(2) Section 173— <i>insert—</i> (6) For an electronic document, compliance with a requirement under subsection (1) requires the making available or production of a clear written reproduction of the electronic document.	18 19 20 21 22 23
Clause 18	Insertion of new ss 173A and 173B	24
	Part 8, division 4— <i>insert—</i> 173A Power relating to fishing apparatus in water	25 26 27
	(1) This section applies if an inspector suspects, on reasonable grounds, that an offence against this	28 29

Act has been, or is being, committed by a person in relation to fishing apparatus that is in the water.	1 2
(2) The inspector may require the person to haul, pull, draw or reel in the fishing apparatus, or otherwise bring the fishing apparatus onto a boat or land.	3 4 5
(3) When making the requirement, the inspector must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.	6 7 8 9
(4) The person must comply with the requirement, unless the person has a reasonable excuse.	10 11
Maximum penalty—200 penalty units.	12
173B Additional power of police officer for executing warrant	13 14
(1) This section applies to a police officer who—	15
(a) is an inspector exercising powers under a warrant issued under this Act; or	16 17
(b) is helping an inspector, who is not a police officer, exercise powers under a warrant issued under this Act.	18 19 20
(2) If the police officer suspects, on reasonable grounds, the presence of a person places the safety of an inspector or a police officer at risk, the police officer may direct the person—	21 22 23 24
(a) to remain in a stated position at the place or on the boat or in the vehicle where the powers are being exercised, while the police officer or an inspector exercises the powers; or	25 26 27 28 29
(b) to accompany the police officer while the police officer or an inspector exercises the powers; or	30 31 32

[s 19]

	(c) to leave the place, boat or vehicle where the powers are being exercised and not return to the place, boat or vehicle while the police officer or an inspector is exercising the powers.	1 2 3 4 5
	(3) When giving the direction, the police officer must warn the person it is an offence to fail to comply with the direction, unless the person has a reasonable excuse.	6 7 8 9
	(4) A direction given under this section is taken to have been given under the <i>Police Powers and Responsibilities Act 2000</i> for the purposes of section 791 of that Act.	10 11 12 13
	(5) If an inspector who is not a police officer asks a police officer to help exercise powers under a warrant issued under this Act, the inspector must explain to the police officer the powers the police officer has under this section.	14 15 16 17 18
Clause 19	Insertion of new pt 8, div 4A	19
	Part 8—	20
	<i>insert—</i>	21
	Division 4A Obtaining criminal history reports	22 23
	173CPurpose of division	24
	The purpose of this division is to help an inspector to decide whether the inspector’s entry of a place, boat or vehicle under this part would create an unacceptable level of risk to the inspector’s safety.	25 26 27 28 29

173D	Definitions for division	1
	In this division—	2
	<i>criminal history</i> , for a person, means the person’s criminal history as defined under the <i>Criminal Law (Rehabilitation of Offenders) Act 1986</i> , other than spent convictions.	3 4 5 6
	<i>spent conviction</i> means a conviction—	7
	(a) for which the rehabilitation period under the <i>Criminal Law (Rehabilitation of Offenders) Act 1986</i> has expired under that Act; and	8 9 10
	(b) that is not revived as prescribed by section 11 of that Act.	11 12
173E	Chief executive may obtain criminal history report	13 14
(1)	This section applies if an inspector suspects, on reasonable grounds, a person—	15 16
	(a) may be present at a place, boat or vehicle when the inspector enters the place, boat or vehicle under this part; and	17 18 19
	(b) may create an unacceptable level of risk to the inspector’s safety.	20 21
(2)	The chief executive may ask the commissioner of the police service for a written report about the criminal history of the person that includes a brief description of the circumstances of a conviction mentioned in the criminal history.	22 23 24 25 26
(3)	The commissioner of the police service must comply with the request.	27 28
(4)	However, the duty to comply applies only to information in the commissioner’s possession or to which the commissioner has access.	29 30 31
(5)	The chief executive must examine the report and identify, to the extent it is reasonably practicable	32 33

[s 20]

	to do so, offences involving conduct, behaviour or circumstances that suggest the person’s presence at the place, boat or vehicle may endanger the inspector’s safety.	1 2 3 4
	(6) The chief executive may give the inspector information in the report about the offences identified under subsection (5).	5 6 7
	(7) The chief executive must ensure the report, and any information in the report given to an inspector in writing, is destroyed as soon as practicable after the report is no longer needed for the purpose for which it was requested.	8 9 10 11 12
Clause 20	Replacement of s 174 (Restraining orders against persistent offenders)	13 14
	Section 174—	15
	<i>omit, insert—</i>	16
	174 Orders against persistent offenders	17
	(1) This section applies if—	18
	(a) a person is convicted of a serious fisheries offence; and	19 20
	(b) the person has been convicted of the same, or a different, serious fisheries offence at least 2 other times in the previous 5 years.	21 22 23
	(2) If the court convicting the person considers it necessary to stop the person from committing further serious fisheries offences, the court may make an order—	24 25 26 27
	(a) prohibiting the person from carrying out a particular activity relating to fishing; or	28 29
	<i>Examples of order under paragraph (a)—</i>	30
	• an order prohibiting a person from fishing	31
	• an order prohibiting a person from possessing fishing apparatus	32 33

-
- (b) prohibiting the person from carrying out a particular activity relating to fishing except in particular circumstances; or 1
2
3
Example of order under paragraph (b)— 4
an order prohibiting a person from fishing unless 5
the person uses a boat installed with vessel 6
tracking equipment that is working properly and 7
the details of which have been given to the chief 8
executive 9
- (c) any other order the court considers appropriate. 10
11
- (3) A person must not contravene an order made under subsection (2). 12
13
Maximum penalty—3,000 penalty units or 2 14
years imprisonment. 15

174A Recovery of particular costs of investigation 16

- (1) This section applies if— 17
- (a) a court convicts a person of an offence against this Act; and 18
19
- (b) the chief executive applies to the court for an order against the person for the payment of particular costs incurred by the State for the investigation of the offence; and 20
21
22
23
- (c) the court finds the costs— 24
- (i) were not, and could not reasonably have been, expected to be incurred for the investigation of the offence; and 25
26
27
- (ii) were reasonably incurred. 28
- (2) The court may order the person to pay the State an amount equal to the costs if it is satisfied it would be just to make the order in the circumstances of the particular case. 29
30
31
32
- (3) In deciding whether to make the order, the court 33

[s 21]

	must have regard to—	1
	(a) the extent to which the person’s conduct during the investigation contributed to the costs being incurred; and	2 3 4
	(b) whether the offence was committed, wholly or partly, for a commercial purpose; and	5 6
	(c) any other relevant matter.	7
(4)	This section does not limit the court’s powers under the <i>Penalties and Sentences Act 1992</i> or another law.	8 9 10
(5)	An application to a court under this section, and any order made by the court on the application, is a judgment in the court’s civil jurisdiction.	11 12 13
(6)	Any issue is to be decided on the balance of probabilities.	14 15
Clause 21	Insertion of new s 181A	16
	After section 181—	17
	<i>insert—</i>	18
	181A Use of body-worn cameras	19
(1)	It is lawful for an inspector to use a body-worn camera to record images or sounds while the inspector is exercising a power under this part.	20 21 22
(2)	Use of a body-worn camera by an inspector under subsection (1) includes use that is—	23 24
	(a) inadvertent or unexpected; or	25
	(b) incidental to use while exercising the inspector’s power.	26 27
(3)	Subsection (1) does not affect an ability the inspector has at common law or under fisheries legislation or another Act to record images or sounds.	28 29 30 31

	(4) To remove any doubt, it is declared that subsection (1) is a provision authorising the use by an inspector of a listening device, for the purposes of the <i>Invasion of Privacy Act 1971</i> , section 43(2)(d).	1 2 3 4 5
Clause 22	Insertion of new s 216A	6
	After section 216—	7
	<i>insert</i> —	8
	216AImmunity from prosecution	9
	(1) An inspector is not liable to be prosecuted for an offence against this Act for anything done or omitted to be done—	10 11 12
	(a) under the direction of the Minister or chief executive; or	13 14
	(b) in the exercise of a power or performance of a function under this Act.	15 16
	(2) A person acting under the direction of the Minister, chief executive or an inspector is not liable to be prosecuted for an offence against this Act for anything done or omitted to be done under the direction.	17 18 19 20 21
Clause 23	Replacement of s 217A (Authority to disclose personal information)	22 23
	Section 217A—	24
	<i>omit, insert</i> —	25
	217AExchange of information with prescribed government entity	26 27
	(1) The chief executive may enter into an arrangement (an <i>information-sharing arrangement</i>) with a prescribed government entity for the purpose of sharing or exchanging information—	28 29 30 31 32

[s 23]

- (a) held by the chief executive or the prescribed government entity; or 1
2
 - (b) to which the chief executive or the prescribed government entity has access. 3
4
- (2) An information-sharing arrangement may relate only to information that helps— 5
6
 - (a) the chief executive or an inspector perform functions under this Act; or 7
8
 - (b) the prescribed government entity, or a person employed or engaged by the entity, perform functions under a law of the State, another State or the Commonwealth. 9
10
11
12
- (3) Under an information-sharing arrangement, the chief executive and the prescribed government entity are, despite another Act or law, authorised to— 13
14
15
16
 - (a) ask for and receive information held by the other party to the arrangement or to which the other party has access; and 17
18
19
 - (b) disclose information to the other party. 20
- (4) However, the information may be used by the chief executive or the prescribed government entity only for the purpose for which it was given under the arrangement. 21
22
23
24
- (5) In this section— 25
prescribed government entity means— 26
 - (a) the chief executive of a department; or 27
 - (b) an entity of, or representing, the Commonwealth or another State. 28
29

217BConfidentiality of information 30

- (1) This section applies to a person who— 31
 - (a) is, or has been, any of the following— 32

-
- (i) the chief executive; 1
- (ii) an inspector; 2
- (iii) a public service employee; 3
- (iv) a local government or prescribed entity; 4
5
- (v) an officer or employee of a local government or prescribed entity; 6
7
- (vi) an officer or employee of the Commonwealth or another State; 8
9
- (vii) a person to whom an entity mentioned in subparagraph (iv), (v) or (vi) has subdelegated, under this Act, a function or power delegated to the entity under this Act; and 10
11
12
13
14
- (b) obtains confidential information about another person in administering, or performing functions or exercising powers under, this Act. 15
16
17
18
- (2) The person must not use or disclose the confidential information unless the use or disclosure is— 19
20
21
- (a) in the performance of a function or exercise of a power under this Act; or 22
23
- (b) with the consent of the person to whom the information relates; or 24
25
- (c) otherwise required or permitted by law. 26
- Maximum penalty—50 penalty units. 27
- (3) In this section— 28
- confidential information***— 29
- (a) means any information that— 30
- (i) could identify an individual; or 31

[s 24]

	(ii) is about a person's current financial position or financial background; or	1 2
	(iii) would be likely to damage the commercial activities of a person to whom the information relates; but	3 4 5
	(b) does not include—	6
	(i) information that is publicly available; or	7 8
	(ii) statistical or other information that could not reasonably be expected to result in the identification of the individual to whom it relates.	9 10 11 12
	<i>prescribed entity</i> means an entity prescribed under—	13 14
	(a) section 222(1)(b); or	15
	(b) section 21(1)(c), as in force before its repeal by the <i>Fisheries (Sustainable Fisheries Strategy) Amendment Act 2018</i> .	16 17 18
Clause 24	Insertion of new ss 222 and 222A	19
	After section 221A—	20
	<i>insert—</i>	21
	222 Delegations	22
	(1) The chief executive may delegate the chief executive's functions under this Act to an appropriately qualified—	23 24 25
	(a) public service employee; or	26
	(b) officer or employee of a local government or an entity prescribed by regulation; or	27 28
	(c) officer or employee of the Commonwealth or another State.	29 30
	(2) If a function of the chief executive is delegated to	31

an officer or employee of an entity, the officer or
employee may subdelegate the function to
another appropriately qualified officer or
employee of the same entity.

- (3) In this section—
functions include powers.

222A Electronic notices for authority holders

- (1) The chief executive or an inspector may give a
notice or other document to the holder of an
authority under this Act by electronic
communication to an electronic address of the
holder if the holder—

(a) gave the address to the chief executive for
the purpose of communicating with the
holder; and

(b) has not asked the chief executive to
discontinue use of the address.

Examples of an electronic address—

an email address or mobile phone number

- (2) This section does not limit the *Electronic
Transactions (Queensland) Act 2001*.

Clause 25 Insertion of new pt 12, div 11

Part 12—

insert—

Division 11 Transitional provisions for Fisheries (Sustainable Fisheries Strategy) Amendment Act 2018

[s 25]

Subdivision 1 Preliminary	1
266 Definitions for division	2
In this division—	3
<i>amendment Act</i> means the <i>Fisheries (Sustainable Fisheries Strategy) Amendment Act 2018</i> .	4 5
<i>former</i> , for a provision of this Act, means the provision as in force before the commencement of the provision in which the term is used.	6 7 8
<i>new</i> , for a provision of this Act, means the provision as in force on the commencement of the provision in which the term is used.	9 10 11
Subdivision 2 Provisions for amendments commencing on assent	12 13 14
267 Application of new section 165	15
Section 165(3) does not apply in relation to fisheries resources seized under this Act before the commencement.	16 17 18
268 Orders under former section 174	19
(1) This section applies if—	20
(a) before the commencement, the chief executive made an application to the District Court for an order under former section 174; and	21 22 23 24
(b) at the commencement, the application has not been decided.	25 26
(2) The District Court may continue to hear and decide the application under former section 174 as	27 28

	if the amendment Act had not been enacted.	1
	269 Orders under new section 174	2
	(1) A court convicting a person of a serious fisheries offence may make an order under new section 174 in relation to the person only if the offence was committed after the commencement.	3 4 5 6
	(2) Subsection (1) does not prevent a court from considering serious fisheries offences committed by the person before the commencement for applying new section 174(1)(b).	7 8 9 10
	270 Orders under new section 174A	11
	Section 174A applies only to a person convicted of an offence against this Act committed after the commencement.	12 13 14
Clause 26	Amendment of schedule (Dictionary)	15
	(1) Schedule, definition <i>serious fisheries offence</i> — <i>omit.</i>	16 17
	(2) Schedule— <i>insert—</i>	18 19
	<i>body-worn camera</i> means a device—	20
	(a) worn on clothing or otherwise secured on a person; and	21 22
	(b) designed to be used to—	23
	(i) record images; or	24
	(ii) record images and sounds.	25
	<i>drainage feature</i> means a drainage feature within the meaning given by the <i>Water Act 2000</i> , schedule 4, definition <i>drainage feature</i> , paragraph (b).	26 27 28 29

[s 26]

- electronic document*** means a document of a type 1
under the *Acts Interpretation Act 1954*, schedule 2
1, definition *document*, paragraph (c). 3
- serious fisheries offence*** means— 4
- (a) an offence against any of the following 5
provisions— 6
- (i) section 77(1) or (2); 7
- (ii) section 78; 8
- (iii) section 79; 9
- (iv) section 79A; 10
- (v) section 80; 11
- (vi) section 81(1); 12
- (vii) section 82; 13
- (viii) section 89C; 14
- (ix) section 90(1); 15
- (x) section 118(4); 16
- (xi) section 176(1); 17
- (xii) section 182(1); or 18
- (b) an offence against section 219(2) committed 19
by a person acting under an authority in 20
relation to a provision mentioned in 21
paragraph (a); or 22
- (c) another fisheries offence prescribed by 23
regulation to be a serious fisheries offence. 24
- (3) Schedule, definition *waterway*, after ‘watercourse’— 25
insert— 26
, drainage feature 27

Division 3	Amendments commencing by proclamation	1 2
Clause 27	Amendment of s 3 (Particular purposes of Act)	3
	Section 3(2), after ‘circumstances’—	4
	<i>insert</i> —	5
	, having regard to ensuring access to the fisheries resources is allocated in a way that maximises the potential economic, social and cultural benefits to the community	6 7 8 9
Clause 28	Amendment of s 3A (How particular purposes are to be primarily achieved)	10 11
	(1) Section 3A(1)—	12
	<i>omit, insert</i> —	13
	(1) The main purpose of this Act is to be primarily achieved by providing for—	14 15
	(a) the management and protection of fish habitats; and	16 17
	(b) the management of commercial, charter, recreational and indigenous fishing; and	18 19
	(c) the management of aquaculture.	20
	(1A) The main purpose of this Act is to be achieved, so far as is practicable—	21 22
	(a) in consultation with, and having regard to the views and interests of, all persons involved in commercial, charter, recreational or indigenous fishing and the community generally; and	23 24 25 26 27
	(b) using a transparent and responsive approach to the management of access to fisheries resources.	28 29 30

[s 29]

- (2) Section 3A(1A) to (3)— 1
renumber as section 3A(2) to (4). 2

- Clause 29 Amendment of s 4 (Definitions)** 3
Section 4, ‘the schedule’— 4
omit, insert— 5
schedule 1 6

- Clause 30 Omission of s 9 (Meaning of *quota*)** 7
Section 9— 8
omit. 9

- Clause 31 Replacement of pts 2 and 3** 10
Parts 2 and 3— 11
omit, insert— 12

Part 2 Functions of Minister 13

Division 1 Harvest strategies 14

Subdivision 1 Preliminary 15

15 Definitions for division 16

In this division— 17

approved harvest strategy policy means the 18
document called ‘Queensland Harvest Strategy 19
Policy’— 20

(a) approved by the Minister; and 21

(b) published on the department’s website. 22

-
- public notice* means a notice published— 1
- (a) in a newspaper circulating generally 2
throughout Queensland; and 3
 - (b) on the department’s website. 4

Subdivision 2 Harvest strategy 5

16 Approval of harvest strategy 6

- (1) The Minister may approve a harvest strategy 7
prepared by the chief executive if the Minister is 8
satisfied— 9
 - (a) the harvest strategy is consistent with the 10
main purpose of this Act; and 11
 - (b) this subdivision has been complied with for 12
the harvest strategy. 13
- (2) As soon as practicable but no more than 3 months 14
after the chief executive gives the Minister a 15
harvest strategy prepared under this subdivision, 16
the Minister must— 17
 - (a) approve the harvest strategy; or 18
 - (b) approve the harvest strategy subject to stated 19
changes being made to the strategy; or 20
 - (c) decide not to approve the harvest strategy. 21
- (3) If the Minister approves the harvest strategy 22
(including subject to stated changes being made), 23
a copy of the approved harvest strategy must be 24
published on the department’s website. 25
- (4) The Minister must give public notice of the 26
Minister’s decision under subsection (2) within 27
14 days after the decision is made. 28
- (5) The public notice must state— 29
 - (a) the reasons for the Minister’s decision; and 30

[s 31]

- (b) if the Minister approves the harvest strategy 1
(including subject to stated changes being 2
made)—that a copy of the approved harvest 3
strategy is available on the department’s 4
website. 5
- 17 Preparation and notice of draft harvest 6
strategy 7**
- (1) The chief executive may prepare a harvest 8
strategy complying with section 19 for a fishery. 9
 - (2) In preparing the draft harvest strategy, the chief 10
executive must comply with the approved harvest 11
strategy policy. 12
 - (3) The chief executive must give public notice of the 13
draft harvest strategy stating— 14
 - (a) the fishery to which the draft harvest 15
strategy applies; and 16
 - (b) that a copy of the draft harvest strategy is 17
available for inspection, without charge— 18
 - (i) during normal business hours at each 19
office of the department; and 20
 - (ii) on the department’s website; and 21
 - (c) that written submissions may be made to the 22
chief executive about the draft harvest 23
strategy within a stated reasonable period of 24
at least 28 days after the notice is published 25
on the department’s website. 26
- 18 Preparation and submission of final harvest 27
strategy 28**
- (1) This section applies if the chief executive 29
prepares a draft harvest strategy for a fishery 30
under section 17. 31
 - (2) The chief executive must prepare a final harvest 32

-
- strategy complying with section 19 for the fishery. 1
2
- (3) The final harvest strategy must be prepared 3
having regard to each submission made about the 4
draft harvest strategy within the period stated in 5
the public notice. 6
- (4) The chief executive must give the Minister— 7
- (a) the final harvest strategy; and 8
- (b) a written report about— 9
- (i) the submissions made about the draft 10
harvest strategy within the period 11
stated in the public notice, including, 12
whether any changes were made to the 13
draft harvest strategy because of any of 14
the submissions; and 15
- (ii) other consultation undertaken by the 16
chief executive in preparing the draft or 17
final harvest strategy. 18
- 19 Content of harvest strategy 19**
- (1) The draft and final harvest strategy must state— 20
- (a) the fishery to which it applies; and 21
- (b) the ecological, economic and social 22
objectives for the fishery; and 23
- (c) the allocation of access to fisheries 24
resources for the fishery— 25
- (i) to each fishing sector; and 26
- (ii) to another purpose or group of persons 27
(if any); and 28
- (d) a framework for the management of the 29
fishery, including— 30
- (i) the targets and limits for maintaining 31
fisheries resources at levels that 32

[s 31]

achieve the ecological, economic and social objectives for the fishery; and	1 2
(ii) the triggers for when action must be taken under this Act to ensure the ecological, economic and social objectives for the fishery are being achieved; and	3 4 5 6 7
(iii) how the performance of the fishery against the matters mentioned in subparagraphs (i) and (ii) is to be measured; and	8 9 10 11
(iv) action that must be taken under this Act to ensure the ecological, economic and social objectives for the fishery are being achieved.	12 13 14 15
(2) The draft and final harvest strategy may also—	16
(a) state when the performance of the fishery must be assessed under section 25; or	17 18
(b) state when the harvest strategy must be reviewed under section 26, which must be at least once every 5 years; or	19 20 21
(c) provide for other matters for achieving the main purpose of this Act.	22 23
Subdivision 3 Amendment of harvest strategy	24 25
20 Amendment of harvest strategy	26
(1) The Minister may approve an amendment of an approved harvest strategy prepared by the chief executive if the Minister is satisfied—	27 28 29
(a) the harvest strategy, as amended, would be consistent with the main purpose of this Act; and	30 31 32

-
- (b) this subdivision has been complied with for 1
the amendment. 2
- (2) As soon as practicable but no more than 3 months 3
after the chief executive gives the Minister an 4
amendment of an approved harvest strategy 5
prepared under this subdivision, the Minister 6
must— 7
- (a) approve the amendment; or 8
- (b) approve the amendment subject to stated 9
changes being made to the amendment; or 10
- (c) decide not to approve the amendment. 11
- (3) If the Minister approves the amendment 12
(including subject to stated changes being made), 13
a copy of the approved amendment, and a copy of 14
the approved harvest strategy including the 15
amendment, must be published on the 16
department’s website. 17
- (4) The Minister must give public notice of the 18
Minister’s decision under subsection (2) within 19
14 days after the decision is made. 20
- (5) The public notice must state— 21
- (a) the reasons for the Minister’s decision; and 22
- (b) if the Minister approves the amendment 23
(including subject to stated changes being 24
made)—that a copy of the approved 25
amendment, and a copy of the approved 26
harvest strategy including the approved 27
amendment, is available on the department’s 28
website. 29

21 Preparation and notice of draft amendment 30

- (1) The chief executive may prepare an amendment 31
of an approved harvest strategy. 32
- (2) In preparing the draft amendment, the chief 33

[s 31]

- executive must comply with the approved harvest strategy policy. 1
2
- (3) The chief executive must give public notice of the draft amendment stating— 3
4
- (a) the approved harvest strategy to which the amendment applies; and 5
6
- (b) that a copy of the draft amendment is available for inspection, without charge— 7
8
- (i) during normal business hours at each office of the department; and 9
10
- (ii) on the department’s website; and 11
- (c) that written submissions may be made to the chief executive about the draft amendment within a stated reasonable period of at least 28 days after the notice is published on the department’s website. 12
13
14
15
16
- (4) Subsection (3) does not apply to a minor amendment to— 17
18
- (a) correct an error in the approved harvest strategy; or 19
20
- (b) make a change other than a change of substance. 21
22
- 22 Preparation and submission of final amendment** 23
24
- (1) This section applies if the chief executive prepares an amendment of an approved harvest strategy under section 21. 25
26
27
- (2) The chief executive may prepare a final amendment of the harvest strategy. 28
29
- (3) The final amendment must be prepared having regard to each submission made about the draft amendment within the period stated in the public notice. 30
31
32
33

(4) The chief executive must give the Minister—	1
(a) the final amendment; and	2
(b) a written report about—	3
(i) the submissions made about the draft amendment within the period stated in the public notice, including, whether any changes were made to the draft amendment because of any of the submissions; and	4 5 6 7 8 9
(ii) other consultation undertaken by the chief executive in preparing the draft or final amendment.	10 11 12
Subdivision 4 Implementation of harvest strategy	13 14
23 Action under Act must be consistent with harvest strategy	15 16
(1) The chief executive or another person involved in the administration of this Act must not make a decision or do another thing under this Act that is inconsistent with an approved harvest strategy.	17 18 19 20
(2) Subsection (1) does not apply to a person acting under a direction given under section 24.	21 22
24 Ministerial direction about action inconsistent with harvest strategy	23 24
(1) The Minister may direct the chief executive or another person involved in the administration of this Act to make a decision or do another thing under this Act that is inconsistent with an approved harvest strategy if—	25 26 27 28 29

[s 31]

- | | | |
|---|---|----------------|
| (a) | the chief executive or other person is authorised to make the decision or do the thing under this Act; and | 1
2
3 |
| (b) | the Minister is satisfied making the decision or doing the thing is consistent with the main purpose of this Act. | 4
5
6 |
| (2) | The chief executive or other person must comply with the direction. | 7
8 |
| (3) | The direction remains in force for 3 months after it is given. | 9
10 |
| (4) | The Minister must give public notice of the direction within 14 days after the direction is given. | 11
12
13 |
| (5) | The public notice must state— | 14 |
| (a) | the direction and to whom it has been given; and | 15
16 |
| (b) | the reasons for the direction; and | 17 |
| (c) | the period for which the direction remains in force. | 18
19 |
|
Subdivision 5 Reviews relating to harvest strategy | |
20
21 |
|
25 Assessment of performance of fishery | |
22 |
| (1) | The chief executive must assess the performance of a fishery against the approved harvest strategy for the fishery. | 23
24
25 |
| (2) | The assessment must be conducted— | 26 |
| (a) | if the harvest strategy states when the assessment must be conducted—at the stated time; or | 27
28
29 |
| (b) | otherwise—annually. | 30 |

-
- (3) The chief executive must give the Minister a written report about the assessment within 21 days after completing the assessment. 1
2
3
 - (4) The report must state the action the chief executive considers should be taken to address any concerns about the performance of the fishery against the harvest strategy. 4
5
6
7
 - (5) Unless the Minister directs otherwise within 21 days after the Minister is given the report, the chief executive must take the action mentioned in subsection (4) as soon as practicable after the 21 days have passed. 8
9
10
11
12

26 Review of harvest strategy 13

- (1) The chief executive must review each approved harvest strategy to assess whether it is achieving the main purpose of this Act in an appropriate and effective way. 14
15
16
17
- (2) The review must be conducted— 18
 - (a) if the harvest strategy states when the review must be conducted—at the stated time; or 19
20
 - (b) otherwise—within 5 years after the harvest strategy was approved by the Minister or, if applicable, the last time the harvest strategy was reviewed. 21
22
23
24
- (3) The chief executive must give the Minister a written report about the review within 21 days after completing the review. 25
26
27
- (4) The report must state the action the chief executive considers should be taken to address any concerns about the harvest strategy, including, for example— 28
29
30
31
 - (a) whether the harvest strategy should be amended and, if so, how; and 32
33

[s 31]

- (b) whether the Minister should issue a direction under section 24 or make a reallocation decision under division 2.

Division 2 Resource reallocation

27 Reallocation decision

- (1) The Minister may decide to reallocate access to fisheries resources for a fishery if the Minister is satisfied the reallocation is necessary to maximise the potential economic, social and cultural benefits to the community.
- (2) The Minister may make a decision under subsection (1) (a *reallocation decision*) on application by a person (including, for example, the chief executive of a department) or on the Minister's own initiative.
- (3) For making a reallocation decision, the Minister must obtain, and have regard to, advice about the reallocation from—
- (a) the chief executive; and
 - (b) the applicant for the reallocation, if any; and
 - (c) representatives of the affected fishing sectors; and
 - (d) any advisory committee or other body established by the Minister under section 29 to help the Minister make the decision; and
 - (e) other entities the Minister considers appropriate.
- (4) If the Minister makes a reallocation decision, the chief executive must give public notice of the decision within 14 days after the decision is made.
- (5) The public notice must state—

-
- (a) the reallocation decision; and 1
- (b) the reasons for the reallocation decision; and 2
- (c) if known, the action proposed to be taken 3
under this Act to implement the reallocation 4
decision. 5
- (6) In this section— 6
- reallocation*, in relation to access to fisheries 7
resources, means a reallocation of the entitlement 8
to take the fisheries resources— 9
- (a) from a fishing sector to another fishing 10
sector; or 11
- (b) from a fishing sector to another purpose or 12
group of persons; or 13
- (c) from a purpose or group of persons to a 14
fishing sector or another purpose or group of 15
persons. 16
- 28 Chief executive to implement reallocation 17
decision 18**
- (1) The chief executive must take all necessary steps 19
to give effect to a reallocation decision, including, 20
for example— 21
- (a) preparing an amendment of an approved 22
harvest strategy and giving it to the Minister 23
for approval under division 1; or 24
- (b) making or amending a declaration under 25
part 5, division 1. 26
- (2) In acting under subsection (1), the chief executive 27
may advise the Minister of, and seek the 28
Minister’s approval for, alternative ways to give 29
effect to the Minister’s decision. 30

Division 3 Ministerial advisory bodies 31

[s 31]

29 Minister may establish advisory bodies	1
The Minister may establish an advisory committee or other body to help the Minister in the administration of this Act.	2 3 4
Part 3 Shark control program	5
30 Management of shark control program	6
(1) The chief executive must establish and manage a shark control program for the coastal waters of the State the chief executive considers necessary or desirable.	7 8 9 10
(2) The shark control program may be established and managed despite the main purpose of this Act under section 3(1).	11 12 13
(3) To remove any doubt, it is declared that it is not a function of the chief executive to establish or manage the shark control program other than to the extent mentioned in subsection (1).	14 15 16 17
31 Exclusion zone	18
(1) A person must not, without a reasonable excuse, be in the exclusion zone for shark control apparatus.	19 20 21
Maximum penalty—200 penalty units.	22
<i>Note—</i>	23
The locations of shark control apparatus are available on the department’s website.	24 25
(2) Subsection (1) does not apply to a person who is authorised, in writing, by the chief executive or an inspector to be in the exclusion zone for shark control apparatus for—	26 27 28 29

	(a) installing, repairing or maintaining the apparatus; or	1 2
	(b) freeing animals, persons or things caught in the apparatus.	3 4
	(3) Also, subsection (1) does not apply to a person on a boat that transits through the exclusion zone for shark control apparatus—	5 6 7
	(a) in a straight line or in the most appropriate or direct route, taking into account the circumstances of the waters; and	8 9 10
	(b) without stopping.	11
	(4) In this section—	12
	<i>exclusion zone</i> , for shark control apparatus, means the area within 20m of the shark control apparatus.	13 14 15
	<i>shark control apparatus</i> means any thing placed in or near water by the chief executive as part of the shark control program, including, for example—	16 17 18 19
	(a) a net or line; and	20
	(b) a buoy, float, hook, sinker or other thing connected to or otherwise associated with a net or line.	21 22 23
Clause 32	Renumbering of s 23 (Accepted development requirements for Planning Act)	24 25
	Section 23—	26
	<i>renumber</i> as section 32.	27
Clause 33	Replacement of pt 5, divs 1–2	28
	Part 5, divisions 1 to 2—	29
	<i>omit, insert</i> —	30

[s 33]

Division 1	Chief executive declarations	1 2
Subdivision 1	Fisheries declarations	3
33	Power to make declarations	4
(1)	The chief executive may make the declarations mentioned in this subdivision (each a <i>fisheries declaration</i>).	5 6 7
(2)	A fisheries declaration may be made to protect things that are not fish.	8 9
	<i>Example—</i>	10
	A declaration may regulate taking or possessing fish in an area to protect dugong in the area.	11 12
(3)	A fisheries declaration made under this subdivision is subordinate legislation.	13 14
34	Regulated fish declaration	15
	A fisheries declaration (a <i>regulated fish declaration</i>) may regulate the taking, purchase, sale, possession or use of particular fish.	16 17 18
	<i>Examples of matters that may be regulated under a regulated fish declaration—</i>	19 20
1	A limit may be placed on the size or number of a species or type of fish that may be taken, purchased, sold, used or possessed.	21 22 23
2	The taking, possessing or selling of fish of a particular species or type may be prohibited.	24 25
3	The fish may be regulated by way of fillet size or other form in which they may be possessed after they are taken.	26 27 28

35 Regulated waters declaration	1
(1) A fisheries declaration (a <i>regulated waters declaration</i>) may regulate all or any of the following in particular waters—	2 3 4
(a) the taking or possessing of fish;	5
(b) engaging in stated activities;	6
(c) using or possessing a boat, aquaculture furniture, fishing apparatus or anything else.	7 8
(2) However, a regulated waters declaration does not apply to an activity authorised by a development approval unless the declaration expressly states that it applies to the activity.	9 10 11 12
36 Other fisheries declarations	13
(1) A fisheries declaration (a <i>regulated fishing apparatus declaration</i>) may regulate the purchase, sale, possession or use of particular fishing apparatus.	14 15 16 17
(2) A fisheries declaration (a <i>regulated fishing method declaration</i>) may regulate how fish may be taken.	18 19 20
Subdivision 2 Quota declarations	21
37 Quota declaration	22
(1) The chief executive may make a declaration (a <i>quota declaration</i>) about the total quota entitlement for a fishery or part of a fishery.	23 24 25
(2) A regulation may provide for the proportion of the total quota entitlement allocated for each quota authority for the fishery or part of the fishery.	26 27 28
(3) The total quota entitlement, and the quota entitlement for a quota authority, may be by	29 30

[s 33]

reference to 1 or more of the following— 1

(a) an amount of fish; 2

(b) an amount of effort; 3

(c) another matter prescribed by regulation. 4

(4) A quota declaration made under this subdivision 5

is subordinate legislation. 6

Subdivision 3 Other declarations 7

38 Urgent declaration 8

The chief executive may make a fisheries 9
declaration or a quota declaration (in either case 10
an *urgent declaration*) under this subdivision if 11
the chief executive is satisfied that urgent action is 12
needed— 13

(a) to deal with a significant threat to fisheries 14
resources or a fish habitat; or 15

(b) to deal with a significant threat caused by 16
fishing to a thing that is not fish; or 17

(c) for another emergency. 18

39 Authorising declaration 19

(1) This section applies if— 20

(a) any of the following happens— 21

(i) a natural disaster, accident or other 22
event; 23

(ii) the chief executive makes an urgent 24
declaration; and 25

(b) the chief executive is satisfied— 26

(i) because of the event or declaration, 27
holders of particular authorities are 28

prevented from doing things authorised under the authorities for a temporary period to an extent that their entitlement under the authorities is significantly decreased; and	1 2 3 4 5
(ii) urgent action is needed to authorise the doing of a stated thing for the temporary period to maintain continuous access to fisheries resources or to offset the decrease in entitlement; and	6 7 8 9 10 11
(iii) authorising the doing of the stated thing for the temporary period—	12 13
(A) does not create an unacceptable risk to fisheries resources or fish habitat; and	14 15 16
(B) is consistent with the principles of ecologically sustainable development.	17 18 19
(2) The chief executive may make a declaration (an <i>authorising declaration</i>) that authorises holders of the particular authorities to do the stated thing for the temporary period.	20 21 22 23
<i>Examples of what an authorising declaration may authorise—</i>	24 25
1 taking of stated fish in a stated area as if the particular authorities authorised the taking of the fish in the area	26 27 28
2 using stated fishing apparatus in a stated fishery under the particular authorities despite a regulated fishing apparatus declaration	29 30 31
40 Making urgent declaration or authorising declaration	32 33
(1) The chief executive makes an urgent declaration or authorising declaration by publishing it on the	34 35

[s 33]

- department's website. 1
- (2) The urgent declaration or authorising declaration 2
must— 3
- (a) state whether it is an urgent declaration or 4
an authorising declaration; and 5
- (b) outline the reason for making the 6
declaration; and 7
- (c) be signed by the chief executive. 8
- (3) The chief executive must take all reasonable steps 9
to ensure persons who may be affected by the 10
urgent declaration or authorising declaration are 11
made aware of the declaration. 12
- Examples of steps the chief executive may take—* 13
- 1 publishing notice of the declaration (or a copy of 14
the declaration) in relevant newspapers or on social 15
media 16
- 2 electronically communicating notice of the 17
declaration (or a copy of the declaration) to holders 18
of relevant authorities, including, for example, by 19
email or SMS 20
- (4) The *Statutory Instruments Act 1992*, sections 49, 21
50 and 51 apply to an urgent declaration or 22
authorising declaration as if it were subordinate 23
legislation. 24
- 41 Duration of urgent declaration or authorising 25
declaration 26**
- (1) The chief executive must repeal an urgent 27
declaration or authorising declaration as soon as 28
practicable after the chief executive is satisfied 29
the reason for making it no longer exists. 30
- (2) Unless it is earlier repealed, the urgent declaration 31
or authorising declaration expires 3 months after 32
it is made. 33
- (3) However, if the urgent declaration or authorising 34

declaration is inconsistent with a regulation or a 1
declaration under subdivision 1 or 2, the urgent 2
declaration or authorising declaration expires 21 3
days after it is made unless it is earlier repealed. 4

**Subdivision 4 Relationships between 5
regulations and 6
declarations 7**

**42 Relationships between regulations and 8
declarations 9**

- (1) If there is an inconsistency between a regulation 10
and a declaration under subdivision 1 or 2, the 11
regulation prevails to the extent of the 12
inconsistency. 13
- (2) If there is an inconsistency between a declaration 14
under subdivision 3 and a regulation or a 15
declaration under subdivision 1 or 2, the 16
declaration under subdivision 3 prevails to the 17
extent of the inconsistency. 18
- (3) If there is an inconsistency between an urgent 19
declaration and an authorising declaration, the 20
urgent declaration prevails to the extent of the 21
inconsistency. 22
- (4) If there is an inconsistency between 2 or more 23
urgent declarations, the more recently made 24
urgent declaration prevails to the extent of the 25
inconsistency. 26
- (5) If there is an inconsistency between 2 or more 27
authorising declarations, the more recently made 28
authorising declaration prevails to the extent of 29
the inconsistency. 30

[s 33]

Division 2	Compensation for particular regulatory amendment	1 2 3
Subdivision 1	Right to compensation in particular circumstances	4 5
43	Right to compensation	6
(1)	This section applies to a person if—	7
(a)	the person is, other than because of a temporary transfer, the holder of an authority (the <i>eligible authority</i>) that—	8 9 10
(i)	is a licence, or a quota authority or another authority to which a quota entitlement applies; and	11 12 13
(ii)	authorises the taking of fish for trade or commerce in a fishery described under a regulation as a commercial fishery; and	14 15 16 17
(b)	a regulation, or a fisheries declaration or quota declaration other than an urgent declaration, is amended (the <i>relevant amendment</i>); and	18 19 20 21
(c)	because of the relevant amendment, an entitlement to take fisheries resources that the person had under the eligible authority immediately before the relevant amendment commences is lost or reduced.	22 23 24 25 26
(2)	Subject to sections 44 and 48D, the person is entitled to be paid compensation by the State for the value of the loss or reduction.	27 28 29
(3)	However, the compensation is only payable if, under subdivision 2, a claim for the compensation	30 31

has been made and the chief executive has
decided to grant the claim. 1
2

(4) This section does not prevent a regulation,
fisheries declaration or quota declaration
providing for payment of compensation for the
making, amendment or repeal of an urgent
declaration. 3
4
5
6
7

(5) In this section— 8
amend, in relation to a regulation, fisheries
declaration or quota declaration, includes— 9
10
(a) make; and 11
(b) repeal. 12

44 Limits to compensation payable 13

(1) The entitlement under section 43 arises only if the
cause, or one of the causes, of the loss or reduction
was— 14
15
16

(a) a reallocation, under the relevant
amendment, of the entitlement to take
fisheries resources to persons who do not
hold an authority to which section 43
applies; or 17
18
19
20
21

(b) a restriction or prohibition, under the
relevant amendment, of the exercise of the
entitlement in an area, if the purpose of the
restriction or prohibition was to protect a
thing that is not fish. 22
23
24
25
26

(2) Compensation is not payable for the loss or
reduction if— 27
28

(a) compensation under section 43 has already
been paid for the loss or reduction to a
previous or another holder of the eligible
authority; or 29
30
31
32

[s 33]

(b)	compensation is payable for a similar loss or reduction of an entitlement under another Act or law of the State, another State or the Commonwealth.	1 2 3 4
45	No general right to compensation	5
(1)	To remove any doubt, it is declared that, other than as provided for under section 43, no one has an entitlement under or in relation to this Act to claim or to be paid an amount from the State for or in connection with—	6 7 8 9 10
(a)	the making, amendment or repeal of a regulation or declaration; or	11 12
(b)	something previously permitted under a regulation or declaration becoming prohibited or regulated because of an amendment to the regulation or declaration.	13 14 15 16
(2)	Subsection (1) applies whether the amount is claimed as compensation, reimbursement or otherwise.	17 18 19
Subdivision 2	Claiming and payment of compensation	20 21
46	Application of subdivision	22
	This subdivision applies for a claim for compensation under section 43.	23 24
47	Requirements for making claim	25
(1)	The claim must—	26
(a)	be made in writing to the chief executive; and	27 28

-
- (b) be signed by all holders of the eligible authority; and 1
2
- (c) state each of the following— 3
- (i) the entitlement to take fisheries resources the subject of the claim; 4
5
- (ii) the ground under section 44(1) on which the claim is made; 6
7
- (iii) the amount of the compensation claimed; 8
9
- (iv) how the claimant has worked out the amount. 10
11
- (2) The claim must be made within 6 months after the day the relevant amendment commences. 12
13
- 48 Chief executive may require claimant to give further information** 14
15
- (1) The chief executive may, by written notice to the claimant, require the claimant to give the chief executive within a stated reasonable period— 16
17
18
- (a) additional information about, or a document relating to, the claim; or 19
20
- (b) a statutory declaration verifying information included in the claim or additional information required under paragraph (a). 21
22
23
- (2) The notice may be given at any time before the claim is decided. 24
25
- (3) If the claimant does not comply with the requirement within the following period, the claimant is taken to have withdrawn the claim— 26
27
28
- (a) generally—the period stated in the notice; 29
- (b) if, within the period stated in the notice, the chief executive agrees in writing to a longer 30
31

[s 33]

period to comply with the requirement—the 1
longer period. 2

48A Deciding claim 3

- (1) Subject to sections 48B and 48C, the chief 4
executive must, within a reasonable period after 5
the making of the claim, decide— 6
- (a) to grant or refuse the claim; and 7
- (b) if the chief executive decides to grant the 8
claim—the amount of the compensation 9
payable. 10
- (2) If the chief executive decides to refuse the claim 11
or decides an amount of compensation that is less 12
than the amount claimed or agreed to by the 13
claimant, the chief executive must give the 14
claimant an information notice for the decision. 15
- (3) In deciding what is a reasonable period for 16
subsection (1), the chief executive must have 17
regard to— 18
- (a) whether the chief executive may need to 19
give a notice under section 48 or obtain 20
other information or evidence under section 21
48B; and 22
- (b) the period that may be needed to consider 23
the information or document the subject of 24
the notice or the information or evidence 25
that may need to be obtained. 26

**48B Chief executive may obtain information or 27
evidence from other persons** 28

- (1) Before making the decision under section 48A, 29
the chief executive may obtain from a person 30
other than the claimant the further information or 31
evidence the chief executive considers necessary 32
to make the decision. 33

-
- (2) If the chief executive obtains further information 1
or evidence under subsection (1) and the chief 2
executive proposes to act on the information or 3
evidence adversely to the claimant— 4
- (a) the chief executive must give the claimant a 5
written notice stating— 6
- (i) the further information or evidence; 7
and 8
- (ii) that the claimant may respond in 9
writing to the further information or 10
evidence within a stated reasonable 11
period after the giving of the notice; 12
and 13
- (b) the chief executive must not make the 14
decision unless the claimant has given the 15
response or the following period has 16
ended— 17
- (i) generally—the period stated in the 18
notice; 19
- (ii) if, within the period stated in the 20
notice, the chief executive agrees in 21
writing to a longer period for the giving 22
of the response—the longer period. 23

48C Amount of compensation that may be decided 24

- (1) The amount of compensation decided may only 25
be for— 26
- (a) either— 27
- (i) if the eligible authority continued in 28
force after the relevant 29
commencement—the difference 30
between its market value immediately 31
before the relevant commencement and 32
its market value immediately after the 33
relevant commencement; or 34

[s 33]

- (ii) if, under the relevant amendment, the eligible authority ended—its market value immediately before the relevant commencement; and
- (b) the loss, for no more than 3 years from the relevant commencement, of probable taxable income from fishing lost or reduced because of the lost or reduced entitlement to take fisheries resources the subject of the claim.
- (2) In working out the market value immediately before the relevant commencement, any reduction in the value of the eligible authority caused by the making, or the prospect of the making, of the relevant amendment must be disregarded.
- (3) In working out the lost or reduced fishing income, regard may be had only to income from fishing under the eligible authority as stated in taxation returns lodged by the claimant and relevant notices of assessment accompanying the claim or given to the chief executive by or for the claimant.
- (4) Subsection (5) applies if the chief executive considers—
- (a) a ground on which the claim is made was not the sole cause of the loss or reduction claimed; and
- (b) the other cause or causes of the loss or reduction were not causes for which compensation may be claimed under subdivision 1.
- (5) The chief executive may reduce the amount worked out under subsection (1) to reflect the other cause or causes.
- (6) In this section—
- relevant commencement* means when the relevant amendment commenced.

	<i>taxable income</i> means taxable income under the	1
	<i>Income Tax Assessment Act 1997</i> (Cwlth).	2
	48D Restriction on payment if someone other than	3
	the claimant has a registered interest in the	4
	eligible authority	5
	(1) This section applies if—	6
	(a) the claim and an amount of compensation	7
	has been decided under this subdivision; and	8
	(b) a person other than the claimant has a	9
	registered interest in the eligible authority.	10
	(2) The chief executive must not pay the claimant the	11
	amount unless the other person has agreed in	12
	writing to the chief executive making the	13
	payment.	14
Clause 34	Replacement of s 49 (Authorities that may be issued	15
	under Act)	16
	Section 49—	17
	<i>omit, insert—</i>	18
	49 Authorities that may be issued	19
	(1) The chief executive may issue the following	20
	authorities under this Act—	21
	(a) a licence;	22
	(b) a permit;	23
	(c) a quota authority;	24
	(d) a resource allocation authority;	25
	(e) another authority prescribed by regulation.	26
	(2) A regulation may provide that an authority of a	27
	particular kind may or may not be issued for a	28
	stated activity or thing.	29

[s 35]

Clause 35	Amendment of s 52 (Things authorised by authorities)	1
	Section 52(1) and (2), ‘management plan’—	2
	<i>omit, insert—</i>	3
	declaration	4
Clause 36	Amendment of s 55 (Consideration of application for issue of authority)	5
	Section 55(2), ‘management plan’—	6
	<i>omit, insert—</i>	7
	declaration	8
Clause 37	Amendment of s 58 (Consideration of application for renewal of authority (other than permit))	10
	Section 58(2), ‘management plan’—	11
	<i>omit, insert—</i>	12
	declaration	13
Clause 38	Amendment of s 61 (Conditions imposed on issue or renewal—general)	15
	(1) Section 61(1)(a)—	16
	<i>omit, insert—</i>	17
	(a) for an authority, other than a permit, for a fishery or a part of a fishery for which no quota declaration is in force—a condition fixing a quota entitlement for the authority; and	18
		19
		20
		21
		22
		23
	(2) Section 61(1)(d)—	24
	<i>omit.</i>	25
	(3) Section 61(3)—	26
	<i>omit, insert—</i>	27

	(3)	In fixing a quota entitlement for an authority, the chief executive must comply with any relevant regulation or declaration.	1 2 3
	(3A)	If the chief executive imposes a condition on an authority, the chief executive must give the holder of the authority an information notice for the decision to impose the condition.	4 5 6 7
	(4)	Section 61(9), from ‘subsection (8)’ to ‘or management plan’— <i>omit, insert—</i> subsection (9) does not prevent a regulation	8 9 10 11
	(5)	Section 61(3A) to (9)— <i>renumber</i> as section 61(4) to (10).	12 13
Clause 39	Amendment of s 63 (Amendment of authority)		14
		Section 63(4)(e)— <i>omit.</i>	15 16
Clause 40	Amendment of s 65 (Transfer of authority (other than permit))		17 18
	(1)	Section 65(1), ‘or management plan’— <i>omit.</i>	19 20
	(2)	Section 65(2)— <i>renumber</i> as section 65(3).	21 22
	(3)	Section 65— <i>insert—</i>	23 24
	(2)	A transfer, or purported transfer, of an authority is of no effect unless the transfer is registered under section 65B.	25 26 27

[s 41]

Clause 41	Amendment of s 65C (Temporary transfers)	1
	(1) Section 65C(2)(a)—	2
	<i>omit, insert—</i>	3
	(a) may, subject to paragraphs (b) and (c), be fixed by reference to the happening of a stated event; and	4 5 6
	<i>Example for paragraph (a)—</i>	7
	If the authority is subject to a quota entitlement, the start or end of the period may be fixed by reference to the start or end of the period to which the quota entitlement applies.	8 9 10 11
	(2) Section 65C(2)(ca)—	12
	<i>omit.</i>	13
Clause 42	Amendment of s 65D (Effect of temporary transfer)	14
	(1) Section 65D(2)(b), ‘management plan’—	15
	<i>omit, insert—</i>	16
	declaration	17
	(2) Section 65D(6)(c), ‘temporary quota transfer’—	18
	<i>omit, insert—</i>	19
	temporary transfer of a quota authority	20
Clause 43	Insertion of new s 68AC	21
	After section 68AB—	22
	<i>insert—</i>	23
	68AC Suspension of quota entitlement for investigation	24 25
	(1) This section applies if—	26
	(a) an inspector starts an investigation under part 9 relating to the holder of a quota authority contravening an information	27 28 29

-
- requirement about the quantity of fisheries resources taken under the quota entitlement for the authority; and
- (b) the chief executive is satisfied it is necessary to suspend a part of the quota entitlement for the quota authority to ensure the quota entitlement is not, or does not continue to be, contravened.
- (2) The chief executive may, by written notice to the holder of the quota authority, suspend a stated part of the quota entitlement for the authority for a stated period.
- (3) The stated period—
- (a) must not end more than 6 months after the day the investigation is started; and
- (b) must end on or before the end of the period to which the quota entitlement applies.
- (4) If the chief executive suspends a part of the quota entitlement for the quota authority, the quota entitlement is taken to be the amount of the quota entitlement originally granted by the quota authority less the stated part that has been suspended.
- (5) If the investigation ends before the stated period ends and a proceeding for an offence against this Act is not started against the holder of the quota authority—
- (a) the chief executive must cancel the suspension by written notice to the holder of the authority; and
- (b) the quota entitlement for the authority is taken to be the amount of the quota entitlement originally granted by the authority.
- (6) If a proceeding for an offence against this Act
-

[s 44]

	against the holder of the quota authority is started	1
	before the stated period ends and the period to	2
	which the quota entitlement applies has not	3
	ended, the chief executive may, by written notice	4
	to the holder of the authority, suspend a stated part	5
	of the quota entitlement for a further period	6
	ending at the earlier of the following—	7
	(a) the end of the period to which the quota	8
	entitlement applies;	9
	(b) when the proceeding is decided.	10
	(7) A notice under subsection (2) or (6) must be an	11
	information notice.	12
	(8) In this section—	13
	<i>information requirement</i> means—	14
	(a) an information requirement under section	15
	118(1); or	16
	(b) a requirement to give the chief executive	17
	information under a condition of an	18
	authority.	19
Clause 44	Amendment of s 68B (Suspension or cancellation of	20
	authority by court)	21
	(1) Section 68B(2), ‘and any quota relating to the authority’—	22
	<i>omit.</i>	23
	(2) Section 68B(3)—	24
	<i>omit.</i>	25
	(3) Section 68B(4)(b)(i), ‘under a regulation or a management	26
	plan’—	27
	<i>omit, insert—</i>	28
	by regulation	29
	(4) Section 68B(7), ‘or management plan’—	30
	<i>omit.</i>	31

-
- (5) Section 68B(4) to (7)— 1
renumber as section 68B(3) to (6). 2

Clause 45 Insertion of new s 68C 3

After section 68B— 4

insert— 5

68C Effect of suspension on entitlement 6

If an authority has been suspended, it does not 7
authorise the holder of the authority to do 8
anything during the period of the suspension other 9
than possess fishing apparatus the holder is 10
entitled to possess under section 52(1) or (2). 11

**Clause 46 Amendment of s 69A (Effect of suspension on issue or 12
transfer of another authority)** 13

Section 69A— 14

insert— 15

- (4) If a part of a quota entitlement for a quota 16
authority has been suspended under section 17
68AC, the chief executive may not accept an 18
application— 19
- (a) to issue another quota authority, or register a 20
transfer of another quota authority, to the 21
holder of the quota authority to which the 22
suspended quota entitlement applies, if the 23
other quota authority would give the holder 24
an entitlement to take fisheries resources the 25
holder would otherwise be authorised to 26
take under the suspended quota entitlement; 27
or 28
- (b) to register a transfer of the quota authority to 29
which the suspended quota entitlement 30
applies to another person during the period 31
of the suspension. 32

[s 47]

Clause 47	Amendment of s 69B (Further fees continue to be payable for suspended authority)	1 2
	(1) Section 69B, heading, ‘for suspended authority’—	3
	<i>omit, insert—</i>	4
	despite suspension	5
	(2) Section 69B(1), after ‘authority’—	6
	<i>insert—</i>	7
	, or a quota entitlement for a quota authority,	8
	(3) Section 69B(2), after ‘authority’—	9
	<i>insert—</i>	10
	or quota authority to which the suspended quota entitlement applies	11 12
	(4) Section 69B(3), after ‘authority’—	13
	<i>insert—</i>	14
	, or quota authority to which the suspended quota entitlement applies,	15 16
Clause 48	Insertion of new pt 5, div 4, sdiv 1 hdg	17
	Before section 77—	18
	<i>insert—</i>	19
	Subdivision 1 Fisheries management generally	20 21
Clause 49	Amendment of s 77A (Exemptions for contravention of regulated fishing apparatus declaration)	22 23
	(1) Section 77A(1)(d), ‘under a regulation or management plan’—	24 25
	<i>omit, insert—</i>	26
	by regulation or declared by a declaration	27

-
- (2) Section 77A— 1
insert— 2
(4) In this section— 3
stowed and secured has the meaning prescribed 4
by regulation. 5

- Clause 50 Replacement of s 79 (Quota offences)** 6
Section 79— 7
omit, insert— 8
79 Quota offences 9
A person must not unlawfully contravene the 10
quota entitlement for a quota authority. 11
Maximum penalty—2,000 penalty units. 12

- Clause 51 Insertion of new s 80** 13
After section 79A— 14
insert— 15
80 Vessel tracking 16
(1) This section applies in relation to— 17
(a) an authority prescribed by regulation as an 18
authority to which this section applies; and 19
(b) each boat (a *relevant boat*) prescribed by 20
regulation for the authority for this section. 21
(2) The holder of, or another person acting under, the 22
authority must ensure— 23
(a) each relevant boat used under the authority 24
has approved vessel tracking equipment for 25
the boat installed on it, in the way 26
prescribed by regulation; and 27

[s 51]

- (b) the approved vessel tracking equipment is working properly during the periods prescribed by regulation. 1
2
3
Maximum penalty—1,000 penalty units. 4
- (3) A person must not interfere with the operation of approved vessel tracking equipment installed on a relevant boat. 5
6
7
Maximum penalty—1,000 penalty units. 8
- (4) A regulation may prescribe requirements that apply if the approved vessel tracking equipment installed on a relevant boat is malfunctioning during a period mentioned in subsection (2)(b). 9
10
11
12
- (5) If the requirements prescribed under subsection (4) are complied with for a relevant boat on which approved vessel tracking equipment is malfunctioning, the holder or other person who is required to comply with subsection (2)(b) in relation to the boat is taken to have complied with the subsection. 13
14
15
16
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18
19
- (6) In this section— 20
malfunction, of approved vessel tracking equipment, means a failure of the equipment— 21
22
(a) to work entirely; or 23
(b) to send details of the location of the boat on which it is installed to the chief executive at the intervals stated in the approval for the equipment. 24
25
26
27
working properly, for approved vessel tracking equipment, means the equipment sends details of the location of the boat on which it is installed to the chief executive at the intervals stated in the approval for the equipment. 28
29
30
31
32

Clause 52	Amendment of s 82 (Offence to do prescribed act)	1
	Section 82, ‘under a regulation or management plan’—	2
	<i>omit, insert</i> —	3
	by regulation or declared by a declaration	4
Clause 53	Amendment of s 87 (Interference etc. with aquaculture activity or fishing apparatus)	5
	Section 87(2), definition <i>interfere with</i> , paragraph (b)—	6
	<i>omit, insert</i> —	7
	(b) for fishing apparatus—	8
	(i) the removal of fisheries resources; and	9
	(ii) haul, pull, draw or reel in, or otherwise bring out of water; and	10
	(iii) damage, destroy, mark, remove and trample.	11
		12
		13
		14
Clause 54	Insertion of new pt 5, div 4, sdiv 2	15
	After section 88B—	16
	<i>insert</i> —	17
	Subdivision 2 Trafficking in priority fish	18
	89 Definitions for subdivision	19
	In this subdivision—	20
	<i>commercial quantity</i> , of priority fish, means the quantity of the fish, which must be at least 5 times the recreational limit or at least 5 times the weight equivalent of the recreational limit for the fish, prescribed by regulation.	21
		22
		23
		24
		25
	<i>engages in a trafficking activity</i> see section 89B.	26
	<i>priority fish</i> see section 89A.	27

[s 54]

recreational limit, for fish, means the maximum quantity of the fish that a recreational fisher, within the meaning of a regulation under this Act, may possess under a regulated fish declaration.

89A Meaning of *priority fish*

- (1) A *priority fish* is a fish of any of the following species or group of species—
- (a) barramundi;
 - (b) black jewfish;
 - (c) coral trout;
 - (d) mud crab;
 - (e) Murray cod;
 - (f) prawn;
 - (g) ray;
 - (h) redthroat emperor;
 - (i) sea cucumber;
 - (j) shark;
 - (k) snapper;
 - (l) spanish mackerel;
 - (m) tropical rocklobster;
 - (n) another species or group of species prescribed by regulation under subsection (2).
- (2) The Minister may recommend to the Governor in Council the making of a regulation to prescribe a species or group of species of fish as priority fish if the Minister is satisfied—
- (a) there has been—
 - (i) a significant increase in contraventions of this Act relating to the taking,

possessing, using or selling of the species or group; or	1 2
(ii) a significant increase in demand for the species or group that is likely to cause a significant increase in contraventions of this Act as mentioned in subparagraph (i); and	3 4 5 6 7
(b) prompt action is required to declare the species or group to be priority fish to prevent contraventions or further contraventions of this Act as mentioned in paragraph (a)(i).	8 9 10 11 12
89B When a person <i>engages in a trafficking activity</i> for priority fish	13 14
(1) For this subdivision, a person <i>engages in a trafficking activity</i> for a priority fish if—	15 16
(a) a commercial quantity of the priority fish—	17
(i) has been unlawfully taken; or	18
(ii) has been lawfully taken but not reported to the chief executive as required under this Act, including, for example, by an information requirement; and	19 20 21 22 23
(b) the person knows, or ought reasonably to know, the fish was unlawfully taken, or lawfully taken but not reported, as mentioned in paragraph (a), whether or not the person took the fish; and	24 25 26 27 28
(c) the person does any of the following in trade or commerce—	29 30
(i) possesses all or some of the fish;	31
(ii) processes all or some of the fish;	32
(iii) sells all or some of the fish;	33

[s 55]

	(iv) receives all or some of the fish from, or delivers all or some of the fish to, another person;	1 2 3
	(v) transports all or some of the fish from a place to another place;	4 5
	(vi) otherwise deals with all or some of the fish;	6 7
	(vii) does a combination of 2 or more things mentioned in any of subparagraphs (i) to (vi).	8 9 10
(2)	In this section—	11
	<i>information requirement</i> means—	12
(a)	an information requirement under section 118(1); or	13 14
(b)	a requirement to give the chief executive information under a condition of an authority.	15 16 17
	89C Offence to engage in trafficking activity for priority fish	18 19
	A person must not engage in a trafficking activity for a priority fish.	20 21
	Maximum penalty—	22
(a)	if the person does a thing mentioned in section 89B(1)(c) in relation to a commercial quantity of the priority fish— 3,000 penalty units or 3 years imprisonment; or	23 24 25 26 27
(b)	otherwise—1,000 penalty units.	28
Clause 55	Replacement of s 90 (Non-indigenous fisheries resources not to be possessed, released etc.)	29 30
	Section 90—	31

omit, insert—

90 Non-indigenous fisheries resources not to be released

(1) A person must not unlawfully release non-indigenous fisheries resources, or cause non-indigenous fisheries resources to be placed or released, into Queensland waters.

Maximum penalty—2,000 penalty units.

(2) Subsection (1) does not apply to the release or placing of non-indigenous fisheries resources into Queensland waters in the circumstances prescribed by regulation.

Clause 56 Replacement of s 92 (Duty of person who takes or possesses non-indigenous fisheries resources)

Section 92—

omit, insert—

92 Duty of person who unlawfully takes or possesses non-indigenous plants

(1) A person who unlawfully takes or possesses a non-indigenous plant must immediately destroy it.

Maximum penalty—2,000 penalty units.

(2) Subsection (1) does not apply to a non-indigenous plant prescribed by regulation.

(3) In this section—

non-indigenous plant means a non-indigenous fisheries resource that is a plant.

Clause 57 Amendment of pt 5, div 9 hdg (Fisheries Research Fund)

Part 5, division 9, heading, ‘Research’—

omit.

[s 58]

Clause 58	Amendment of s 117 (Fisheries Research Fund)	1
	(1) Section 117, heading, ‘Research’—	2
	<i>omit.</i>	3
	(2) Section 117(1)—	4
	<i>omit, insert—</i>	5
	(1) The Fisheries Fund (the <i>fund</i>) is continued in existence.	6 7
	(3) Section 117(5)(a), ‘training of persons,’—	8
	<i>omit.</i>	9
	(4) Section 117(5)(b)—	10
	<i>omit.</i>	11
	(5) Section 117(5)(c)—	12
	<i>renumber</i> as section 117(5)(b).	13
Clause 59	Amendment of s 118 (Information requirements)	14
	(1) Section 118(1), ‘management plan’—	15
	<i>omit, insert—</i>	16
	declaration	17
	(2) Section 118(1)(a), from ‘about’—	18
	<i>omit, insert—</i>	19
	about a fisheries matter; or	20
	(3) Section 118(1)(b), examples of another stated way, second and third dot points—	21 22
	<i>omit, insert—</i>	23
	• by the approved vessel tracking equipment for a boat	24 25
	• by recording the information on the department’s website	26 27

-
- by using an electronic logbook provided by the chief executive 1
2
 - (4) Section 118(4), penalty, ‘for subsection (4)’— 3
omit. 4
 - (5) Section 118— 5
insert— 6
 - (5) In a proceeding for an offence against subsection 7
(4), it is not necessary for the prosecution to prove 8
that a person failed to comply with the 9
information requirement at a particular time if it is 10
proved that— 11
 - (a) the documents or information kept by the 12
person for a particular period are incomplete 13
in a material particular; and 14
 - (b) the incompleteness has, or can only have, 15
resulted from the contravention of the 16
information requirement during that period. 17
 - (6) In this section— 18
fisheries matter means— 19
 - (a) aquaculture, aquaculture fisheries resources, 20
fishing, a fishery or fisheries resources; or 21
 - (b) trade or commerce related to aquaculture, 22
aquaculture fisheries resources, fishing, a 23
fishery or fisheries resources; or 24
 - (c) the effect on a protected animal caused by 25
aquaculture, aquaculture fisheries resources, 26
fishing, a fishery or fisheries resources. 27
 - protected animal*** means— 28
 - (a) a protected animal under the *Nature* 29
Conservation Act 1992; or 30
 - (b) an animal of a listed threatened species, 31
listed migratory species or listed marine 32
species under the *Environment Protection* 33
-

[s 60]

	<i>and Biodiversity Conservation Act 1999</i>	1
	(Cwlth).	2
Clause 60	Omission of s 119 (Codes of practice)	3
	Section 119—	4
	<i>omit.</i>	5
Clause 61	Insertion of new s 125A	6
	Part 6—	7
	<i>insert—</i>	8
	125A Codes of practice	9
	(1) The chief executive may make a code of practice for a declared fish habitat area.	10 11
	(2) A code of practice may, for example, state ways that persons may carry out activities in the declared fish habitat area in compliance with this Act.	12 13 14 15
	(3) In preparing a code of practice, the chief executive must take reasonable steps to engage in consultation about the code with persons the chief executive considers appropriate.	16 17 18 19
	<i>Examples of persons for subsection (3)—</i>	20
	industry representatives, relevant experts and key stakeholders	21 22
	(4) The chief executive must—	23
	(a) publish a copy of each code of practice on the department’s website; and	24 25
	(b) keep a copy of each code of practice available for inspection at the department’s head office.	26 27 28

Clause 62	Amendment of s 184 (Evidentiary provisions)	1
(1)	Section 184(4)(a)—	2
	<i>insert—</i>	3
	(vi) a decision, or a copy of a decision, made by the chief executive, under the Planning Act;	4 5
(2)	Section 184(5), from ‘equipment prescribed’ to ‘position’—	6
	<i>omit, insert—</i>	7
	stated equipment to retrieve data, sent from the approved vessel tracking equipment for a stated boat, that recorded the equipment’s position	8 9 10
(3)	Section 184(6), example, from ‘, being’ to ‘position’—	11
	<i>omit, insert—</i>	12
	retrieved data, sent from the approved vessel tracking equipment for XYZ boat, that recorded the equipment’s position	13 14 15
(4)	Section 184(8)—	16
	<i>omit.</i>	17
Clause 63	Replacement of pt 9 (Review of decisions by QCAT)	18
	Part 9—	19
	<i>omit, insert—</i>	20
	Part 9	
	Interstate agreements	21
	185 Power to enter into agreements	22
(1)	The Minister may enter into an agreement with a Minister administering a law of another State about fishing, fisheries resources or fish habitat, for the purpose of cooperation in achieving the purposes of this Act or the purposes (however called) of the law of the other State.	23 24 25 26 27 28
(2)	The agreement may provide for—	29

[s 63]

- | | | |
|------------------------------|---|----------------------------|
| (a) | the exercise of powers under this Act in the other State; and | 1
2 |
| (b) | the exercise in Queensland of powers under the law of the other State; and | 3
4 |
| (c) | the exchange of information between the Minister and the Minister of the other State about— | 5
6
7 |
| (i) | any action taken under this Act or the law of the other State in relation to fishing, fisheries resources or fish habitat; and | 8
9
10
11 |
| (ii) | any information in relation to fishing, fisheries resources or fish habitat obtained under this Act or the law of the other State, other than confidential information. | 12
13
14
15
16 |
| (3) | In this section— | 17 |
| | <i>confidential information</i> means information the confidentiality of which must be maintained under an Act, or a law of the Commonwealth or another State. | 18
19
20
21 |
| 186 Reciprocal powers | | 22 |
| (1) | This section has effect in relation to another State if— | 23
24 |
| (a) | the Minister has entered into an agreement under section 185 with a Minister of the other State; and | 25
26
27 |
| (b) | a law of the other State contains a provision corresponding, or substantially corresponding, to this section. | 28
29
30 |
| (2) | To the extent envisaged by the agreement— | 31 |

-
- (a) an inspector may, in Queensland or the other State, exercise a power in relation to a fisheries matter that is conferred on—
- (i) inspectors under this Act; or
 - (ii) interstate officers under a law of the other State; and
- (b) an interstate officer may, in Queensland or the other State, exercise a power in relation to a fisheries matter that is conferred on—
- (i) interstate officers under a law of the other State; or
 - (ii) inspectors under this Act.
- (3) Anything done or omitted to be done by an inspector under subsection (2)(a) is taken to have been done under this Act as well as under the law of the other State.
- (4) A regulation may make provision for the exercise of a power under this section.
- (5) In this section—
- fisheries matter* means fishing, fisheries resources or fish habitat.
- interstate officer* means a person who holds a position, however called, equivalent to an inspector under a law of the other State.

Part 10 Review of decisions 25

Division 1 Preliminary 26

187 Definitions for part 27

In this part— 28

[s 63]

<i>affected person</i> means—	1
(a) for an original decision mentioned in the definition <i>original decision</i> , paragraph (a)—	2
a person who must be given an information notice under this Act for the decision; or	3 4 5
(b) for an original decision mentioned in the definition <i>original decision</i> , paragraph (b)—	6
the person of whom the requirement is made; or	7 8 9
(c) for an internal review decision—the person who applied for the internal review.	10 11
<i>internal review</i> , of an original decision, see section 189(1).	12 13
<i>internal review decision</i> means a decision made, or taken to have been made, under section 191 on an application for internal review of an original decision.	14 15 16 17
<i>original decision</i> means—	18
(a) a decision for which an information notice must be given under this Act; or	19 20
(b) a requirement made by the chief executive under section 118(1).	21 22
<i>QCAT information notice</i> , for an internal review decision, means a notice complying with the QCAT Act, section 157(2).	23 24 25

Division 2 Internal review 26

188 Review process must start with internal review 27

An affected person for an original decision may apply to QCAT for a review of the decision only if a decision on an application for internal review of the decision has been made, or taken to have

28
29
30
31

been made, under this division. 1

189 Who may apply for internal review 2

- (1) An affected person for an original decision may 3
apply to the chief executive for a review of the 4
decision under this division (an *internal review*). 5
- (2) If the affected person has not been given an 6
information notice for the original decision, the 7
affected person may ask the chief executive for an 8
information notice for the decision. 9
- (3) A failure by the chief executive to give the 10
affected person an information notice for the 11
original decision does not limit or otherwise affect 12
the person’s right to apply for an internal review 13
of the decision. 14

190 Requirements for application 15

- (1) An application for internal review of an original 16
decision must— 17
- (a) be in the approved form; and 18
- (b) for a person who has been given an 19
information notice for the decision—include 20
enough information to enable the chief 21
executive to decide the application; and 22
- (c) be made to the chief executive within— 23
- (i) for a person who has been given an 24
information notice for the decision— 25
28 days after the day the person is 26
given the notice; or 27
- (ii) for a person who has not been given an 28
information notice for the decision— 29
28 days after the day the person 30
becomes aware of the decision. 31
- (2) The chief executive may, at any time, extend the 32

[s 63]

period within which the application may be made. 1

- (3) The application does not affect the operation of 2
the original decision or prevent the decision being 3
implemented. 4

191 Internal review 5

- (1) The chief executive must, within 20 days after 6
receiving an application for internal review of an 7
original decision— 8
- (a) review the original decision; and 9
- (b) decide to— 10
- (i) confirm the original decision; or 11
- (ii) amend the original decision; or 12
- (iii) substitute another decision for the 13
original decision; and 14
- (c) give the affected person for the original 15
decision a QCAT information notice for the 16
chief executive's decision under paragraph 17
(b). 18
- (2) The chief executive and the affected person may, 19
before the period stated in subsection (1) ends, 20
agree to a longer period for the chief executive to 21
comply with the subsection. 22
- (3) The application may be dealt with only by a 23
person who— 24
- (a) did not make the original decision; and 25
- (b) holds a more senior office than the person 26
who made the original decision. 27
- (4) Subsection (3) does not apply to an original 28
decision made by the chief executive personally. 29
- (5) If the chief executive does not give the affected 30
person a QCAT information notice within the 31
period required under subsection (1) or a longer 32

period agreed under subsection (2), the chief executive is taken to confirm the original decision.

Division 3 External review

192 Applying for external review

- (1) This section applies to a person who must be given a QCAT information notice for an internal review decision.
- (2) The person may apply to QCAT, as provided under the QCAT Act, for a review of the internal review decision.

Note—

The QCAT Act, section 22(3) enables QCAT to stay the operation of the internal review decision, either on application by a person or on its own initiative.

Clause 64 Replacement of s 220 (Start of offence proceedings)

Section 220—

omit, insert—

220 Summary offences and indictable offences

- (1) An offence against this Act other than section 89C is a summary offence.
- (2) An offence against section 89C is a misdemeanour.

220A Proceedings for summary offences

A summary proceeding under the *Justices Act 1886* for a summary offence against this Act must start within whichever of the following periods ends later—

[s 64]

- (a) 1 year after the commission of the offence; 1
- (b) 1 year after the offence comes to the 2
complainant's knowledge, but within 2 3
years after the offence is committed. 4

220B Proceedings for indictable offences 5

- (1) A proceeding for an indictable offence against 6
this Act may be taken, at the election of the 7
prosecution— 8
 - (a) by way of a summary proceeding under the 9
Justices Act 1886; or 10
 - (b) on indictment. 11
- (2) However, a magistrate must not hear an indictable 12
offence against this Act summarily if the 13
magistrate is satisfied, on application made by the 14
defence, that because of exceptional 15
circumstances the offence should not be heard and 16
decided summarily. 17
- (3) If subsection (2) applies— 18
 - (a) the magistrate must proceed by way of an 19
examination of witnesses for an indictable 20
offence; and 21
 - (b) a plea of the person charged at the start of 22
the proceeding must be disregarded; and 23
 - (c) evidence brought in the proceeding before 24
the magistrate decided to act under 25
subsection (2) is taken to be evidence in the 26
proceeding for the committal of the person 27
for trial or sentence; and 28
 - (d) before committing the person for trial or 29
sentence, the magistrate must make a 30
statement to the person as required by the 31
Justices Act 1886, section 104(2)(b). 32

Clause 65	Amendment of s 223 (Regulation-making power)	1
(1)	Section 223(2)(a) to (d)—	2
	<i>renumber</i> as section 223(2)(c) to (f).	3
(2)	Section 223(2)—	4
	<i>insert</i> —	5
	(a) prescribe matters for the management of any of the following—	6
	(i) a fishery;	7
	(ii) a fish habitat;	8
	(iii) a declared fish habitat area;	9
	(iv) a fish way;	10
	(v) fisheries resources;	11
	(vi) aquaculture; or	12
	(b) provide for the protection of things that are not fish; or	13
	<i>Example for paragraph (b)—</i>	14
	A regulation may regulate taking or possessing fish in an area to protect dugong in the area.	15
		16
		17
		18
Clause 66	Insertion of new pt 12, div 11, sdiv 3	19
	Part 12, division 11 as inserted by this Act—	20
	<i>insert</i> —	21
	Subdivision 3 Provisions for amendments commencing by proclamation	22
		23
		24
	271 Compensation for relevant amendments	25
(1)	Former part 5, division 1A continues to apply in relation to an amendment of a regulation or management plan happening before the	26
		27
		28

[s 66]

commencement, as if the amendment Act had not been enacted.	1 2
(2) New part 5, division 2 applies in relation to the making, amendment or repeal of a regulation, or a fisheries declaration or quota declaration other than an urgent declaration, happening after the commencement.	3 4 5 6 7
(3) In this section— <i>management plan</i> means a management plan in force under section 32 or 42 as in force before the commencement.	8 9 10 11
272 Existing emergency fisheries declaration	12
(1) An existing emergency fisheries declaration is taken to be an urgent declaration made by the chief executive under section 38.	13 14 15
(2) In this section— <i>existing emergency fisheries declaration</i> means an emergency fisheries declaration—	16 17 18
(a) made by the chief executive under former section 46; and	19 20
(b) in force under this Act immediately before the commencement.	21 22
273 Application of new section 68AC	23
Section 68AC applies only in relation to an investigation under part 9 starting after the commencement.	24 25 26
274 Application of former section 68B	27
Former section 68B continues to apply in relation to a proceeding for an offence started before the commencement as if the amendment Act had not	28 29 30

been enacted.	1
275 The fund	2
The Fisheries Research Fund continued in existence under former section 117(1) continues in existence as the Fisheries Fund under section 117(1).	3 4 5 6
276 Existing codes of practice	7
A code of practice under former section 119 for a declared fish habitat area is, from the commencement, taken to have been made under section 125A.	8 9 10 11
277 Existing review rights	12
(1) This section applies if—	13
(a) immediately before the commencement, a person could have applied to QCAT for a review of a matter under former part 9; and	14 15 16
(b) at the commencement—	17
(i) the person has not applied for the review; and	18 19
(ii) the period within which the person may apply for the review has not ended.	20 21
(2) The person may apply for the review, and QCAT may hear and decide the review, under former part 9 as if the amendment Act had not been enacted.	22 23 24
278 Existing reviews	25
(1) This section applies to a review started under former part 9 before the commencement that has not been decided at the commencement.	26 27 28

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	(2) QCAT may continue to hear, and decide, the review under former part 9 as if the amendment Act had not been enacted.	1 2 3
Clause 67	Amendment and numbering of the schedule (Dictionary)	4
(1)	Schedule, definitions <i>authority, declaration, eligible authority, emergency fisheries declaration, fisheries declaration, information notice, management plan, quota, regulated fish declaration, regulated fishing apparatus declaration, regulated fishing method declaration, regulated waters declaration, relevant amendment, stowed and secured, temporary quota transfer, tribunal</i> and <i>VMS equipment</i> — <i>omit.</i>	5 6 7 8 9 10 11 12
(2)	Schedule— <i>insert</i> — <i>affected person</i> , for part 10, see section 187. <i>approved harvest strategy</i> means a harvest strategy approved by the Minister under section 16. <i>approved harvest strategy policy</i> , for part 2, division 1, see section 15. <i>approved vessel tracking equipment</i> , for a boat, means vessel tracking equipment— (a) of a kind approved by the chief executive and published on the department’s website; and (b) whose serial number or other identifying details have been given to, and recorded by, the chief executive for the boat. <i>authorising declaration</i> see section 39(2). <i>authority</i> means a licence, permit, quota authority, resource allocation authority or other authority issued, and in force, under this Act.	13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32

<i>commercial quantity</i> , for part 5, division 4, subdivision 2, see section 89.	1 2
<i>declaration</i> means a declaration made by the chief executive under part 5, division 1.	3 4
<i>eligible authority</i> , for part 5, division 2, see section 43(1)(a).	5 6
<i>engages in a trafficking activity</i> , for part 5, division 4, subdivision 2, see section 89B.	7 8
<i>fisheries declaration</i> see section 33(1).	9
<i>fishing sector</i> means a part of the fishing industry representing—	10 11
(a) commercial fishing; or	12
(b) charter fishing; or	13
(c) recreational fishing; or	14
(d) indigenous fishing.	15
<i>harvest strategy</i> means a harvest strategy prepared under part 2, division 1.	16 17
<i>indigenous fishing</i> means fishing conducted by Aboriginal people or Torres Strait Islanders.	18 19
<i>information notice</i> , for a decision, means a written notice stating the following information—	20 21
(a) the decision;	22
(b) the reasons for the decision;	23
<i>Note—</i>	24
See the <i>Acts Interpretation Act 1954</i> , section 27B for matters that must be included with the reasons.	25 26
(c) that the person to whom the notice is given may ask for a review of the decision under this Act;	27 28 29
(d) how, and the period within which, the review may be started.	30 31
<i>internal review</i> , for part 10, see section 187.	32

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<i>internal review decision</i> , for part 10, see section 187.	1 2
<i>original decision</i> , for part 10, see section 187.	3
<i>priority fish</i> , for part 5, division 4, subdivision 2, see section 89A.	4 5
<i>public notice</i> , for part 2, division 1, see section 15.	6 7
<i>QCAT information notice</i> , for part 10, see section 187.	8 9
<i>quota authority</i> means a quota authority issued by the chief executive under this Act.	10 11
<i>quota declaration</i> see section 37(1).	12
<i>quota entitlement</i> , for an authority, means a quota applying to the entitlement to take fisheries resources under the authority for a fishery or part of a fishery.	13 14 15 16
<i>reallocation decision</i> see section 27(2).	17
<i>recreational limit</i> , for part 5, division 4, subdivision 2, see section 89.	18 19
<i>regulated fish declaration</i> see section 34.	20
<i>regulated fishing apparatus declaration</i> see section 36(1).	21 22
<i>regulated fishing method declaration</i> see section 36(2).	23 24
<i>regulated waters declaration</i> see section 35(1).	25
<i>relevant amendment</i> , for part 5, division 2, see section 43(1)(b).	26 27
<i>total quota entitlement</i> , for a fishery or part of a fishery, means the maximum combined quota entitlements for all authorities for the fishery or part.	28 29 30 31
<i>urgent declaration</i> see section 38.	32

-
- vessel tracking equipment* means equipment used
as part of a system that monitors the position and
operation of a vessel. 1
2
3
- (3) Schedule, definition *accepted development requirements*,
'section 23'— 4
5
omit, insert— 6
section 32 7
- (4) Schedule, definition *noxious substance*, paragraph (b), 'under
a regulation or management plan'— 8
9
omit, insert— 10
by regulation or declared by a declaration 11
- (5) Schedule, definition *offence against this Act*, 'section 220'— 12
omit, insert— 13
sections 220 to 220B 14
- (6) Schedule, definition *shark control program*, 'section 3A(3)'— 15
omit, insert— 16
section 3A(4) 17
- (7) Schedule, definition *transfer*, paragraph (b), after 'quota'— 18
insert— 19
authority 20
- (8) Schedule— 21
number as schedule 1. 22

[s 68]

Part 3	Amendment of other Acts	1
Division 1	Amendment of Public Interest Disclosure Act 2010	2 3
Clause 68	Act amended	4
	This division amends the <i>Public Interest Disclosure Act 2010</i> .	5
Clause 69	Amendment of sch 2 (Offences or contraventions endangering the environment)	6 7
	(1) Schedule 2, entry for <i>Fisheries Act 1994</i> , first dot point—	8
	<i>omit, insert—</i>	9
	• section 90 (Non-indigenous fisheries resources not to be released)	10 11
	(2) Schedule 2, entry for <i>Fisheries Act 1994</i> , third dot point—	12
	<i>omit, insert—</i>	13
	• section 92 (Duty of person who unlawfully takes or possesses non-indigenous plants)	14 15
Division 2	Amendment of Transport Operations (Marine Safety) Act 1994	16 17
Clause 70	Act amended	18
	This division amends the <i>Transport Operations (Marine Safety) Act 1994</i> .	19 20
Clause 71	Amendment of s 186A (Chief executive (fisheries) must disclose information)	21 22
	(1) Section 186A(3), ‘section 217A’—	23
	<i>omit, insert—</i>	24

section 217B	1
(2) Section 186A(6), definition <i>relevant information</i> —	2
<i>omit, insert</i> —	3
<i>relevant information</i> means data sent from	4
approved vessel tracking equipment, within the	5
meaning of the <i>Fisheries Act 1994</i> , installed on a	6
boat as required under section 80 of that Act.	7

Schedule 1	Minor and consequential amendments of Fisheries Act 1994	1 2 3
	section 3	4
1	Particular references to prescribed under a regulation	5
	Each of the following provisions is amended by omitting the words ‘under a regulation’ or ‘under the regulations’ and inserting the words ‘by regulation’—	6 7 8
	• section 5(3)(d)	9
	• section 7(i)	10
	• section 54(1)(b)	11
	• section 56(4)(b)	12
	• section 65A(4)	13
	• section 71(2)(b)	14
	• section 73(4)	15
	• section 74(3)(b)	16
	• section 125(1)(b)(iv)	17
	• section 130(1)(a)	18
	• section 140(1)(d)	19
	• section 218	20
	• section 221(2)	21
	• the following provisions of schedule 1, as numbered by this Act—	22 23
	• definition <i>aquaculture</i>	24
	• definition <i>fisheries legislation</i> , paragraph (d)(ii)	25
	• definition <i>net proceeds of sale</i> , paragraph (b).	26

2	Particular references to prescribed under a regulation or management plan	1 2
	Each of the following provisions is amended by omitting the words from ‘prescribed under’ to ‘management plan’ and inserting the words ‘prescribed by regulation’—	3 4 5
	• section 8(1)(c)	6
	• section 59(1), example 8	7
	• section 62(1) and (2)	8
	• section 70C(1)	9
	• section 73(2) and (3)	10
	• section 82	11
	• section 154(1), definition <i>threshold percentage</i> .	12
3	Particular references to management plan	13
	Each of the following provisions is amended by omitting the words ‘or management plan’—	14 15
	• section 57(4)	16
	• section 59(1), example 10	17
	• section 59(3)	18
	• section 63(8)	19
	• section 65E(2)(b)	20
	• section 67(3)	21
	• section 68(7) and (8)	22
	• section 154(1), definitions <i>declared fisheries resources</i> and <i>forfeiture offence</i> .	23 24
4	Other particular references to management plan	25
	Each of the following provisions is amended by omitting the words ‘, management plans’ or ‘, management plan’—	26 27
	• section 133(2)	28

Schedule 1

	• section 136(5)	1
	• section 139(3).	2
5	Section 14(3), definition <i>prescribed fishing apparatus</i>, paragraph (a), ‘under this Act’—	3 4
	<i>omit, insert—</i>	5
	or declaration	6
6	Section 14(3), definition <i>prescribed waters</i>, paragraph (a), ‘regulation under this Act’—	7 8
	<i>omit, insert—</i>	9
	regulated waters declaration	10
7	Section 62, heading, from ‘under’ to ‘plans’—	11
	<i>omit, insert—</i>	12
	by regulation	13
8	Section 65A(1)(b)(i) and (3), ‘temporary quota transfer’—	14
	<i>omit, insert—</i>	15
	temporary transfer of a quota authority	16
9	Section 145(4)—	17
	<i>omit.</i>	18