

Queensland



Marine Parks Act 1982

MARINE PARKS REGULATION 1990

**Reprinted as in force on 5 June 1997
(includes amendments up to SL No. 73 of 1997)**

Reprint No. 1

**This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy**

Information about this reprint

This regulation is reprinted as at 5 June 1997. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

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

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- update citations and references (pt 4, div 2)
- update references (pt 4, div 3)
- express gender specific provisions in a way consistent with current drafting practice (s 24)
- use different spelling consistent with current drafting practice (s 26(2))
- use standard punctuation consistent with current drafting practice (s 27)
- use conjunctives and disjunctives consistent with current drafting practice (s 28)
- use expressions consistent with current drafting practice (s 29)
- use appropriate names for instruments and provision units (ss 31 and 32)
- relocate marginal or cite notes (s 34)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- omit provisions that are no longer required (ss 37 and 40)
- omit unnecessary referential words (s 41)
- omit the words of notification (s 42A)
- number and renumber certain provisions and references (s 43)
- correct minor errors (s 44)
- make all necessary consequential amendments (s 7(1)(k)).

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in the reprint, including—**
 - **table of changed names and titles**
 - **table of corrected minor errors**
 - **table of renumbered provisions.**

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[as amended by all amendments that commenced on or before 5 June 1997]

PART 1—PRELIMINARY

Citation

1. This regulation may be cited as the *Marine Parks Regulation 1990*.

Interpretation

4. In this regulation—

“**aircraft**” means a machine or device that can derive support in the atmosphere from the reactions of the air or from buoyancy; it includes a helicopter but does not include a hovercraft.

“**apparatus**” means any net, dilly, crab pot, crayfish pot, dredge, implement, gear, equipment, contrivance, device, trap, spear or spear gun used or capable of being used to take any fish or marine product or a part of any of those things, and any hook, rod, line or underwater breathing equipment whether self-contained or not.

“**designated area**” means an area within a zone set aside by the zoning plan for special management.

“**environmental impact statement**” means a report analysing the environmental effects of a proposal on a marine park.

“**firearm**” means a firearm within the meaning of the *Firearms and Offensive Weapons Act 1979*, and includes—

- (a) a gun or other weapon—
 - (i) that is capable of propelling a projectile by means of an explosive; or
 - (ii) that is capable of propelling a projectile by any other means and which if used in a normal manner is capable of causing bodily harm; or

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- (iii) that is capable of discharging a blank fire cartridge;
- (b) a gun or weapon designed or adapted for the discharge of any noxious, corrosive, or irritant liquid, powder, gas, chemical or substance capable of causing bodily harm;
- (c) any thing whatsoever declared by order in council to be a firearm for the purposes of the *Firearms and Offensive Weapons Act 1979*;
- (d) a gun, weapon or other thing which, if any part or parts thereof were replaced or defect therein or condition thereof were remedied or rectified, would be a gun, weapon or thing defined in paragraph (a), (b) or (c);

but does not include—

- (e) a long-bow;
- (f) a crossbow;
- (g) a spear gun;
- (h) an explosive-powered tool as defined in the *Construction Safety Act 1971*;
- (i) a power head or similar device designed or intended for use in, though or under water;
- (j) a captive bolt weapon or humane killer of the captive-bolt type designed and used solely for the humane killing of live stock;

when not used as a weapon.

“Great Barrier Reef marine park” means—

- (a) Cairns Marine Park; or
- (b) Townsville-Whitsunday Marine Park; or
- (c) Mackay-Capricorn Marine Park.

“litter” means any kind of rubbish, refuse or garbage, and any matter that, when in a marine park, causes, contributes to or tends to the defacement or defilement of that marine park.

“marine park” means a marine park established or continued under the Act.

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“objects and sites of significance” means objects and sites within a marine park, which are of scientific, cultural or other significance.

“permission” means a permission under this regulation to enter or use a marine park.

“place” includes any tidal land, tidal waters, building or other structure (including a pier, wharf, jetty, quay, or other like structure), other premises of any kind, an aircraft, a vehicle or vessel.

“power-head” means a device by means of which a fish may be taken, being a device that may be attached to a spear or spear gun and that consists of or contains an explosive charge.

“special permission” means a permission under this regulation to enter or use a marine park to carry out a tourism activity for which public notice is required to be given or an environmental impact statement is requested.

“temporary restricted area” means an area so declared under section 27.

“the Act” means the *Marine Parks Act 1982*.

“unzoned area” means an area of a marine park in respect of which no zoning plan is in force.

“vehicle” includes an off-road vehicle, hovercraft, caravan or trailer.

“vessel” includes a ship, boat, hovercraft or hulk and any vehicle that is capable of use on or in water whether floating or submersible and whether or not self-propelled.

“zone” means a zone created by a zoning plan.

Fees

5.(1) Subject to subsection (2) and section 5A, the fees payable for—

- (a) assessing an application for a permission to carry out a tourism activity in a marine park are set out in schedule 1, part A; and
- (b) assessing an application for the continuation of a permission mentioned in paragraph (a) are set out in schedule 2, part A.

(2) The fee payable for assessing an application for a permission, or the continuation of a permission, to carry out an activity mentioned in more

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than 1 item in schedule 1, part A or schedule 2, part A is the higher or highest of the fees payable for the assessment.

(3) The fees payable for a permission, or the continuation of a permission, to carry out a commercial whale watching program in a marine park are set out in schedule 3.

(4) Subject to subsection (5) and section 5A, the fees payable for—

- (a) assessing an application for a special permission are set out in schedule 1, part B; and
- (b) assessing an application for the continuation of a special permission are set out in schedule 2, part B.

(5) The fee payable for assessing an application for a special permission or the continuation of a special permission may be another amount the chief executive considers to be reasonable that is less than the amount otherwise payable.

Indexation of fees

5A.(1) This section applies to an application made on or after 1 January 1998 for a permission or the continuation of a permission mentioned in section 5(1) or (4).

(2) The fee for the application is an amount worked out using the formula—

scheduled fee x CPI

119.1

(3) In the formula—

“**scheduled fee**” is the fee for the application set out in schedule 1 or 2.

“**CPI**” is the all groups consumer price index for Brisbane (calculated using the reference base year 1989-1990) published by the Australian Statistician for the financial year ending before the calendar year in which the application is made.

(4) In working out the fee under the formula, any part of the result under \$10 must be ignored.

Example—

If after applying the formula, the result is \$1 214, the fee is \$1 210.

PART 2—ZONING PLANS

Contents of zoning plan

6.(1) A zoning plan prepared under the Act, or with respect to a marine park shall comprise such maps and other documents as the chief executive determines to be appropriate for the purposes of section 17 of the Act.

(2) Without limiting the generality of subsection (1), a zoning plan may include, within any zone, designated areas.

Designated areas

7.(1) For the purpose of giving effect to the provisions of the zoning plan in respect of a designated area, the chief executive may from time to time by public notice—

- (a) specify the boundary details of the area so designated; and
- (b) specify the requirements which shall apply to the designated area; and
- (c) fix the day on which the specific requirements of the zoning plan in relation to the designated area shall come into operation; and
- (d) fix the day on which, or the period during which, such specific requirements shall cease to operate.

(2) The chief executive may, in respect of an area designated under subsection (1), from time to time by public notice vary the boundary details, specific requirements or the day on which, or the period during which, such specific requirements shall cease to operate.

(3) Public notice, for the purposes of this section, means publication—

- (a) in the gazette; and
- (b) in a newspaper that circulates throughout Queensland.

Saving

8. Nothing in a zoning plan shall be construed as permitting the taking of any animal or plant or permitting any activity that is prohibited by any Act or other law.

**PART 3—PERMISSION TO ENTER OR USE A
MARINE PARK****Entry and use of zones and designated areas**

8A. A person must not enter or use a zone or designated area other than—

- (a) under a permission under this regulation; or
- (b) for a purpose for which the person may enter or use the zone or designated area under a zoning plan; or
- (c) under section 14.

Maximum penalty—100 penalty units.

Application for permission to enter or use marine park

9.(1) An application for a permission must be in writing.

(3) An application must specify—

- (a) the name and address of the person (or persons) making the application; and
- (b) the location in the marine park that is to be entered or used; and
- (c) the purposes for which the location is to be entered or used; and
- (d) the proposed place of entry, movements within the marine park and the places where the proposed use is to be carried out; and
- (e) the period in respect of which the permission is sought; and
- (f) the means of transport to be used in respect of the use of, or entry to or departure from the marine park; and

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(g) the apparatus to be used within the marine park.

(4) The chief executive may request an applicant for a permission to give the chief executive further written particulars (including an environmental impact statement) as the chief executive may reasonably require to properly consider the application.

(4A) The particulars requested under subsection (4) are to be given within 60 days of the request, or such longer period as the chief executive allows.

(4B) If a fee is payable under section 5(1) or (4), the chief executive must, by written notice, ask the applicant to pay the fee within 60 days of the giving of the notice, or such longer period as the chief executive allows.

(4C) If the applicant fails to comply with subsection (4), (4A) or (4B), the application lapses.

(5) In considering an application for a permission, but without limiting the power of the chief executive to consider all relevant matters, the chief executive shall have regard to—

- (a) the objectives of the zone or marine park; and
- (b) the orderly and proper management of the marine park; and
- (c) the conservation of the natural resources of the marine park; and
- (d) any management plan for the marine park approved by the Minister pursuant to section 17; and
- (e) the existing use and amenity, and the future or desirable use and amenity, of the area and of adjacent areas; and
- (f) the size, extent and location of any proposed use in relation to any nearby use; and
- (g) the likely effects of any proposed use on adjoining and adjacent areas and any possible effects of the proposed use on the environment; and
- (h) the proposed means of access to and egress from the marine park; and
- (i) the use and adequacy of provisions for vehicle, vessel or aircraft mooring, landing, parking, loading and unloading; and

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- (j) the nature of the equipment to be used; and
- (k) the arrangements for making good any damage caused to the marine park by the proposed activity.

(6) If the chief executive considers that the grant of an application for a permission may restrict the reasonable use of a part of the marine park by persons other than the applicant, the chief executive may give the applicant a written notice that requires the applicant, within a specified period, to give public notice of the application.

(6A) The public notice must—

- (a) set out information the chief executive may reasonably require; and
- (b) invite interested persons to make written submissions to the chief executive, in relation to the application, at an address specified in the notice and within a specified period (not less than 30 days).

(6B) In subsections (6) and (6A)—

“**public notice**” means a notice published on 2 days in a 14 day period in—

- (a) the gazette; and
- (b) a newspaper that circulates throughout the State; and
- (c) a local newspaper that circulates in the part of the State that is adjacent to the part of the marine park to which the application relates.

(7) Before making a decision in respect of an application for a permission in relation to which public notice is required to be given under subsection (6), the chief executive must give due consideration to any written submissions received in response to such notice.

When fee payable—commercial whale watching program

9A.(1) This section applies if—

- (a) a person applies for a permission, or the continuation of a permission, to carry out a commercial whale watching program in a marine park; and
- (b) the chief executive decides to grant the application.

(2) The chief executive must, by written notice, ask the applicant to pay the appropriate fee within 60 days of the giving of the notice.

(3) The applicant must pay the fee before the permission is granted.

(4) If the applicant does not pay the fee within the stated period, the application is taken to have lapsed.

Grant or refusal of permission

10.(1) If a person applies to the chief executive for a permission and has complied with any request duly made by the chief executive for further particulars in relation to the application and has paid all fees applicable, the chief executive must, by notice in writing—

- (a) grant such permission subject to any conditions necessary for the attainment of the objects and purposes of the Act; or
- (b) refuse to grant such permission.

(2) If a permission has been granted subject to conditions pursuant to subsection (1), the chief executive may vary those conditions or impose additional conditions if the chief executive considers that the conditions, as so varied or added to, are necessary for the attainment of the objects and purposes of the Act.

(3) A permission remains in force for the period specified in the permission unless it is sooner surrendered or revoked.

Revocation of permission

11.(1) The chief executive may, by notice in writing, revoke or suspend a permission on the failure of the holder of the permission to comply with any provision, condition or restriction to which the permission was subject.

(2) The chief executive may exercise the chief executive's power of revocation or suspension notwithstanding that the person to whom the permission has been granted has not been proceeded against for any offence constituted by failure to comply with any provision, condition or restriction to which the permission was subject.

(3) If a permission is revoked or suspended, the person to whom the permission was granted is not entitled to claim or receive any compensation

in respect of such revocation or suspension or any expense the person may have incurred in acting or with a view to taking action under the permission.

Variation of permission

12.(1) If a permission has been granted subject to conditions and it appears to the chief executive that (by reason of circumstances that were not foreseen and were not reasonably foreseeable at the time when the permission was granted), damage, degradation or disruption to the physical environment, or the living resources, of the marine park has occurred or there is an imminent threat that such damage, degradation or disruption will occur, the chief executive may revoke, suspend, vary the conditions of or impose additional conditions upon, the permission.

(2) If the chief executive revokes or suspends a permission, varies conditions or imposes conditions on the permission under subsection (1) or section 10(2), the chief executive shall, as soon as practicable, notify the person to whom the permission was granted of the fact.

Continuation of permission

13. If—

- (a) at any time before a permission ceases to be in force, the person to whom that permission was granted applies for a further permission of the same kind in relation to the carrying on of the same activity in the same zone or area; and
- (b) the application has not been granted or refused before the expiration of the period specified in the permission as the period during which the permission remains in force;

the permission shall, notwithstanding the expiration of the original period, remain in force until the application is granted or refused.

Entry in emergency

14. Notwithstanding the provisions of any zoning plan a person may, with or without a vessel, vehicle or aircraft, enter a zone for the purpose of—

- (a) saving a life or avoiding the risk of injury to a human being;
- (b) locating or securing the safety of a vehicle, vessel or aircraft which is, or may be, endangered by stress of weather or by navigational or operational hazards;
- (c) law enforcement;
- (d) dealing with an emergency involving a serious threat to the environment.

PART 4—MANAGEMENT PLANS AND PROGRAMS OF WORKS

Preparation

15. The chief executive may prepare, with respect to an area set apart and declared as a marine park or any zone or designated area thereof—

- (a) a management plan; and
- (b) a program of works.

Contents

16.(1) A management plan shall set out particulars of the manner in which it is proposed to manage the marine park, zone or designated area.

(2) A program of works shall include a schedule of work proposed to be undertaken during a particular period.

(3) In the preparation of a management plan or program of works, the chief executive shall have regard to the following objectives—

- (a) the encouragement and regulation of the use and enjoyment of the marine park, zone or designated area by the public; and
- (b) the protection and conservation within the marine park, zone or designated area of marine products and objects and sites of significance.

Approval of plans and programs

17.(1) Every management plan or program of works prepared by the chief executive must be given to the Minister who may approve the management plan or program of works submitted to the Minister.

(2) A management plan or program of works has force and effect under the Act when it is approved by the Minister.

Amendment etc. of plans and programs

18.(1) The chief executive may from time to time prepare amendments to a management plan or program of works approved by the Minister or prepare a management plan or program of works in substitution for a plan or program approved by the Minister or for any part thereof.

(2) Every such amendment to a management plan or program of works shall be furnished to the Minister and, if approved by the Minister, shall have effect in substitution for the previous plan or program.

PART 5—CONDUCT OF PERSONS**Removal of materials etc. prohibited**

19. A person must not, without a permission—

- (a) remove or cause to be removed from a marine park any ballast, rock, stone, shingle, gravel, boulders, clay, earth, silt, mud, star sand, shell grit, coral limestone or other material whatsoever, or disturb or cause to be disturbed any such material in a marine park; or
- (b) deposit or cause to be deposited in a marine park any filling or other material; or
- (c) do or cause to be done any act which may cause a direct and substantial alteration to the physico-chemical environment in a marine park.

Discharging etc. of wastes

20.(1) A person must not, otherwise than in accordance with a permission given for the purposes of this regulation, discharge or deposit household, industrial, commercial or any other waste in a marine park.

(2) Subject to the requirements of any zoning plan or a permission given pursuant to section 22, subsection (1) does not apply—

- (a) to the discharging or depositing of waste in a zone where the relevant zoning plan makes provision for the zone to be used or entered for that purpose;
- (b) to the discharging from a vessel or an aircraft of—
 - (i) human waste where the vessel or aircraft, as the case may be, does not contain a storage tank of a kind designed for the storage of human waste; or
 - (ii) offal from a fish caught within a marine park; or
 - (iii) biodegradable waste, other than waste to which subparagraphs (i) and (ii) apply, where the aircraft or vessel, as the case may be, is more than 500 m seawards from the seaward edge of a reef.

Building prohibited

21. A person must not, without a permission, erect or cause to be erected any structure in a marine park.

Living on vessels, vehicles, aircraft or structures

22. A person must not, without a permission, use a vessel, vehicle, aircraft or structure in a marine park for the purpose of a dwelling.

Littering prohibited

23. A person must not deposit litter in a marine park.

Abandonment of vessels, vehicles or aircraft

24. A person must not without a permission cast, place, leave or abandon or cause to be cast, placed, left or abandoned in a marine park any vessel, vehicle or aircraft.

Introduction of animals, marine products or plants

25. Except as provided in section 26, a person must not, without a permission, introduce or cause to be introduced into a marine park any animals, marine products or plants.

Entry of domestic animals

26.(1) For the purpose of this section—

“**specified area**” means—

- (a) all areas within a preservation zone, scientific research zone, marine national park zone or operative seasonal closure area within a marine park;
- (b) an area which the chief executive has declared to be a specified area and for which the chief executive has caused notices to be displayed prohibiting the entry of domestic animals or a class of domestic animals.

(2) Subject to the provisions of any zoning plan in force in respect of an area, a person must not bring any domestic animal into a specified area within a marine park.

(3) Subsection (2) does not apply if—

- (a) such domestic animal is kept on board a vessel, vehicle or aircraft and is not permitted to leave the vessel, vehicle or aircraft while it is in the specified area; or
- (b) such domestic animal is a guide dog accompanying an unsighted or deaf person.

Temporary restricted areas

27.(1) The chief executive may, if a situation exists which the chief

executive considers constitutes a risk to human life or a serious threat to the environment, by public notice declare any area within a marine park to be a temporary restricted area.

(2) Public notice for the purposes of this section, means—

- (a) publication in the gazette and in a newspaper that circulates throughout Queensland; or
- (b) if the chief executive considers that an emergency exists, such notice by way of signs, radio announcements or otherwise, as is practicable in the circumstances.

(3) Without a permission, a person—

- (a) must not enter or remain in a temporary restricted area;
- (b) must remove from the temporary restricted area any vessel, vehicle or aircraft.

(4) An area declared as a temporary restricted area shall, unless the declaration is earlier revoked by the chief executive, remain as such for—

- (a) the period of 120 days from the date of its declaration; or
- (b) such lesser time as is specified in the notice by the chief executive; or
- (c) with the concurrence of the Governor in Council, such longer period as may be specified by notice.

Signs to be obeyed

28. A person must obey and comply with any direction expressed in a sign or notice erected pursuant to section 26 or 27.

Use of firearms

30.(1) A person must not use any firearm in an marine park.

(2) Subsection (1) does not apply where a person uses a firearm for the purpose of protecting the person or other persons from shark attack.

Trading and other activities

- 31.** A person must not, in a marine park, without a permission—
- (a) conduct any trade or business, or conduct a fete or stall; or
 - (b) advertise any product or service; or
 - (c) conduct any public entertainment or public meeting; or
 - (d) organise or promote any contest or competition for speedboats, hovercraft or self-propelled vehicles; or
 - (e) organise or promote any spearfishing contest or competition other than those arranged by and restricted to bona fide members of a single club or association and involving fewer than 30 participants.

Disorderly behaviour

32. A person must not behave in a disorderly, improper, indecent or unseemly manner within a marine park.

Motorised watersports

32A.(1) This section applies only if a zoning plan for a marine park states that it applies to the marine park or part of the marine park.

(2) A person must not enter or use the marine park, or the part of the marine park stated in the zoning plan, to participate in a motorised watersport including, for example, water skiing, jetskiing or paraflaying.

Maximum penalty—20 penalty units.

(3) However, subsection (2) does not apply to a person using a jetski in the marine park to carry passengers between locations at a speed of less than 4 kn.

PART 6—MARINE PRODUCTS

Prohibition on taking marine products in marine parks

33.(1) Subject to subsection (2), a person must not in a zone or designated area within a marine park—

- (a) use or have in the person's possession, apparatus the use of which in that zone or designated area is not permitted under the zoning plan, unless that apparatus is stowed away and unavailable for immediate use;
- (b) take or have in the person's possession any marine product the taking of which in that zone or designated area is not permitted.

(2) Subsection (1) does not apply if—

- (a) the person holds a permission for the taking of the marine products specified in such permission from the zone or designated area of a zone in a marine park for the purposes of research or marine park management; or
- (b) the person holds a permission for the use of specified devices, explosives or substances in taking marine products for the purpose of research or marine park management.

Offences relating to spearfishing

34.(1) A person must not, in a marine park, use for the purpose of spearfishing—

- (a) an underwater breathing apparatus; or
- (b) a power-head.

(2) Subsection (1) does not apply where a person uses a power-head for the purpose of protecting the person or other persons from attack by shark.

Prohibition on taking large cod or groper

35. A person must not, otherwise than in accordance with a permission, given for the purposes of this section, take, or have in possession in the marine park, a fish of a species of the Family *Serranidae* subfamily

Epinephelinae (groper and cods) and having a total length exceeding 1200 mm.

PART 7—INSPECTORS

Appointment of inspectors

36.(1) The chief executive may, by instrument in writing appoint—

- (a) any officer of or person employed by a department of the government or any local government; or
- (b) any police officer;

as an inspector for the purposes of this Act.

(2) An appointment as an inspector may be made by the appointment of the holder of an office without naming the holder and, in every such case, each successive holder of that office shall during his or her continuance in that office be an inspector in terms of such appointment.

(3) The appointment of any person as an inspector pursuant to the *Marine Parks Regulation 1983* shall continue as if the appointment was made under this regulation.

(4) The chief executive may by instrument in writing terminate the appointment of an inspector.

Identity cards

37.(1) The chief executive shall cause to be issued to each inspector an identity card bearing thereon the name, signature and photograph of that inspector.

(2) A person whose appointment as an inspector is terminated shall forthwith return his or her identity card to the chief executive.

Powers of inspectors

38.(1) An inspector at any time may—

- (a) for the purposes of the Act, enter any place in a marine park;
- (b) make such examination, investigation or inquiry as is necessary to ascertain whether the provisions of the Act are being complied with in respect to any place in a marine park;
- (c) question, for the purposes of the Act, a person found by the inspector in any place in a marine park or found by the inspector in possession of any apparatus, to ascertain whether the Act is being complied with and require a person so found to answer the questions put;
- (d) require a person found by the inspector committing an offence against the Act or who the inspector believes on reasonable grounds has committed an offence against the Act, or whose name and address are reasonably required for the purposes of the Act, to state the person's full name and the address of the person's usual place of residence and, if the inspector considers it necessary, the name and address of the usual place of residence of any other person and if the inspector suspects on reasonable grounds that the name and address so stated is false, may require evidence of the correctness thereof;
- (e) direct a person found by the inspector unlawfully in a marine park or zone or location within a marine park or who has committed or is committing an offence against the Act to leave the marine park or the zone or location within a marine park or to desist from committing the offence, and the person shall comply with such direction;
- (f) require a person to produce to the inspector a permission or other authority under the Act granted and issued to that person or alleged by that person to have been granted and issued to the person, or any record, list or other writing that is required under the Act to be kept or exhibited by that person or that is, in the opinion of the inspector, material to any examination, investigation or inquiry under paragraph (b) and inspect, examine and take copies of or extracts therefrom;

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- (g) for the purposes of the Act, stop any person, vessel, vehicle or aircraft in a marine park;
- (h) search any place in a marine park if the inspector suspects on reasonable grounds that an offence against the Act has been or is being committed or is likely to be committed or that there is likely to be in that place any marine product, apparatus, or other thing of any kind with respect to which that offence was or is being committed or is likely to be committed or that will afford evidence as to the commission of that offence, and may break open and search every bag, package, bottle or other receptacle of any kind in that place;
- (i) seize and detain any marine product (and any bag, package, bottle or other receptacle containing it) or any apparatus in respect of which an offence against the Act has been or is being committed or in respect of which the inspector suspects on reasonable grounds that an offence has been or is being committed or that the inspector believes will afford evidence as to the commission of that offence;
- (j) remove any marine product or any apparatus seized by the inspector under the Act from the place where it was seized to such place as the inspector determines, or may allow that marine product or apparatus to remain at the place of seizure and in the latter case make such arrangements as the inspector considers necessary to protect it;
- (k) call to the inspector's aid—
 - (i) another inspector or a police officer in a case where the inspector is obstructed or has reasonable grounds to believe that the inspector will be obstructed in the exercise of the inspector's powers or the performance of the inspector's functions and duties;
 - (ii) a person who the inspector thinks is competent to assist the inspector in the exercise of the inspector's powers or the performance of the inspector's functions and duties;
- (l) use such force as is reasonably necessary in the exercise of the powers or the performance of the functions and duties conferred or imposed upon the inspector by the Act;

- (m) by notice in writing, require—
- (i) any person found by the inspector in possession of any apparatus or marine product that the inspector is, under the Act, authorised to seize, to deliver the same to the inspector or to a third person specified in the notice at the place and within the time specified therein;
 - (ii) the holder of a permit or other authority under the Act to notify the inspector forthwith upon that holder's arrival in the port specified in the notice and of all marine products in the holder's possession;
 - (iii) the holder of a permit or other authority under the Act upon the notification referred to in subparagraph (ii) being given, to produce for inspection by the inspector or a third person specified in the notice such marine products notified as being in the holder's possession as are specified in the notice.

(2) For the purposes of gaining entry to any place in the marine park an inspector may call to the inspector's aid such persons as the inspector thinks necessary and those persons, while acting in aid of an inspector in the lawful exercise by the inspector of the inspector's power of entry, shall have a like power of entry.

(3) Where an inspector makes any requirement of a person in pursuance of section 38(1) or (2) the inspector must, if required by that person, produce his or her identity card for inspection by that person.

(4) A person is not obliged under the Act to answer any question or give any information or evidence tending to incriminate the person.

Report by inspector

39. Upon the seizure or detention of any marine product or apparatus by an inspector, the inspector must within 14 days submit a written report to the chief executive setting out—

- (a) the circumstances of the seizure or detention;
- (b) the arrangements made by the inspector for the temporary safe keeping or protection of the marine product or apparatus so detained or seized.

Return of marine products or apparatus

40. A marine product or apparatus which has been seized or detained by an inspector must be returned, where practicable, to the person to whom it was taken within 12 months from the date of such seizure or detention except where such marine product or apparatus—

- (a) is required by the chief executive for any proceeding for an offence against the Act which is not finally determined, in which case, but subject always to paragraph (b), it shall be returned within 30 days of the final determination of such proceedings; or
- (b) is forfeited in accordance with the provisions of the Act or a zoning plan.

PART 8—MISCELLANEOUS**Offences and penalties**

42.(1) A person who contravenes or fails to comply with any provision of this regulation commits an offence against this regulation.

(2) A person who—

- (a) fails to do that which the person is directed or required to do; or
- (b) does that which the person is forbidden to do;

by a person acting under the authority of this regulation commits an offence against this regulation.

(3) A person who fails to comply with a condition imposed on him or her by the chief executive, being a condition to which the grant of a permission under this regulation was made subject, commits an offence against this regulation.

(4) A person who commits an offence against this regulation is liable to a penalty not exceeding 100 penalty units.

Liability for offences

43. If, by the use of a vessel or aircraft, an offence is committed against any section, each of the following persons commits the offence and punishable accordingly, whether or not the person did the act that constitutes the offence—

- (a) the master or other person in charge of the vessel, or the person in charge of the aircraft, at the time the offence is committed;
- (b) the owner of the vessel or aircraft (including each person who is co-owner of, or an owner of any part or share in, the vessel or aircraft) at the time the offence is committed.

Giving of notices

44. Without prejudice to any other method of giving notice, the chief executive may give a notice to a person by sending the notice by post addressed to the person at his or her last known place of residence or business.

PART 9—MORETON BAY MARINE PARK**Meaning of ‘Moreton Bay Marine Park’**

45. In this part—

“**Moreton Bay Marine Park**” means the marine park set apart, declared and assigned the name ‘Moreton Bay Marine Park’ by the *Marine Parks (Moreton Bay) Order 1993*.

Limited application of regulation

46. Sections 19 to 22, 24, 25 and 31 do not prevent a person who lawfully carries out, in the Moreton Bay Marine Park, an activity under a licence, permit or other authority issued or given under an Act, other than the Act, and in force immediately before the commencement of this section, from continuing to carry out the activity until the licence, permit or other

authority is due for renewal, expires or is sooner cancelled, whichever happens first.

Inspector may require production of licence etc.

47.(1) An inspector may require a person to produce to the inspector the licence, permit or other authority specified in section 46 that the person claims to hold.

(2) An inspector is not entitled to exercise the power under subsection (1) in relation to another person unless the inspector first produces the inspector's identity card for inspection by the person.

SCHEDULE 1**FEEES FOR ASSESSMENT OF APPLICATION FOR
PERMISSION TO CARRY OUT TOURISM ACTIVITY**

section 5(1) and (4)

PART A

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- | | | |
|-----------|--|----------|
| 1. | Activity that requires the use of an aircraft or vessel with a capacity of— | |
| | (a) 1–24 passengers | 440.00 |
| | (b) 25–50 passengers | 640.00 |
| | (c) 51–100 passengers | 1 150.00 |
| | (d) 101–150 passengers | 1 920.00 |
| | (e) 151 or more passengers | 3 200.00 |
| 2. | Activity that requires the use of a facility or structure in a marine park | 1 400.00 |
| 3. | Activity not mentioned in item 1 or 2 | 440.00 |

PART B

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|-----------|---|-----------|
| 4. | Activity for which— | |
| | (a) public notice is required to be given | 5 120.00 |
| | (b) an environmental impact statement must be prepared | |
| | (i) for an activity in a Great Barrier Reef marine park | 69 130.00 |
| | (ii) for an activity in another marine park | 25 600.00 |

SCHEDULE 2**FEEs FOR ASSESSMENT OF APPLICATION FOR
CONTINUATION OF PERMISSION TO CARRY OUT
TOURISM ACTIVITY**

section 5(1) and (4)

PART A

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- | | | |
|-----------|--|----------|
| 1. | Activity that requires the use of an aircraft or vessel with a capacity of— | |
| | (a) 1–24 passengers | 440.00 |
| | (b) 25–50 passengers | 510.00 |
| | (c) 51–100 passengers | 700.00 |
| | (d) 101–150 passengers | 1 020.00 |
| | (e) 151 or more passengers | 1 280.00 |
| 2. | Activity that requires the use of a facility or structure in a marine park | 1 400.00 |
| 3. | Activity not mentioned in item 1 or 2 | 440.00 |

PART B

\$

- | | | |
|-----------|--|----------|
| 4. | Activity for which— | |
| | (a) public notice is required to be given | 1 920.00 |
| | (b) an environmental impact statement must be prepared | 3 200.00 |

SCHEDULE 3**FEES FOR PERMISSION, OR CONTINUATION OF
PERMISSION, TO CARRY OUT A COMMERCIAL
WHALE WATCHING PROGRAM**

section 5(3)

	1.4.97 to 30.6.97	from 1.7.97
	\$	\$
1. Permit for vessel with a length of—		
(a) 15 m or less	500.00	500.00
(b) more than 15 m but not more than 20 m	800.00	800.00
(c) more than 20 m	1 500.00	1 500.00
2. Daily fee per passenger—		
(a) passenger less than 5 years	nil	nil
(b) passenger 5 years or more but less than 15 years	1.00	1.15
(c) passenger 15 years or more	2.00	2.30

ENDNOTES**1 Index to endnotes**

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 5 June 1997. Future amendments of the Marine Parks Regulation 1990 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 List of legislation

Marine Parks Regulation 1990

pubd gaz 18 August 1990 pp 2323–43
commenced 19 August 1990 (see s 2)

as amended by—

regulations published gazette (pre SL series)—

1 September 1990 p 104
commenced on date of publication

Marine Parks Amendment Regulation 1991 SL No. 35

pubd gaz 27 July 1991 pp 1825–7
commenced on date of publication

Marine Parks Amendment Regulation (No. 1) 1993 SL No. 38

notfd gaz 19 February 1993 pp 597–600
commenced on date of notification

Marine Parks Amendment Regulation (No. 2) 1993 SL No. 195

notfd gaz 4 June 1993 pp 782–5
commenced on date of notification

Marine Parks Amendment Regulation (No. 1) 1997 SL No. 73

notfd gaz 27 March 1997 pp 1333–6
ss 1–2 commenced on date of notification
remaining provisions commenced 1 April 1997 (see s 2)

5 List of annotations

Commencement

s 2 om R1 (see RA s 37)

Repeal

s 3 om R1 (see RA s 40)

Interpretation

s 4 def **“Director”** om 1997 SL No. 73 s 4(1)
def **“environmental impact statement”** ins 1997 SL No. 73 s 4(2)
def **“Great Barrier Reef marine park”** ins 1997 SL No. 73 s 4(2)
def **“impact assessment study”** om 1997 SL No. 73 s 4(1)
def **“permission”** sub 1997 SL No. 73 s 4
def **“special permission”** ins 1997 SL No. 73 s 4(2)

Fees

s 5 sub 1993 SL No. 195 s 3; 1997 SL No. 73 s 5

Indexation of fees

s 5A ins 1997 SL No. 73 s 5

Contents of zoning plan

s 6 amd 1997 SL No. 73 s 17

Designated areas

s 7 amd 1997 SL No. 73 s 17

PART 3—PERMISSION TO ENTER OR USE A MARINE PARK

pt hdg sub 1997 SL No. 73 s 6

Entry and use of zones and designated zones

s 8A ins 1997 SL No. 73 s 7

Application for permission to enter or use marine park

prov hdg sub 1997 SL No. 73 s 8(1)

s 9 amd 1993 SL No. 195 s 4; 1997 SL No. 73 ss 8(2)–(3), 17, 18

When fee payable—commercial whale watching program

s 9A ins 1997 SL No. 73 s 9

Grant or refusal of permission

s 10 amd 1997 SL No. 73 s 17, 18

Revocation of permission

s 11 amd 1997 SL No. 73 s 17, 18

Variation of permission

s 12 amd 1997 SL No. 73 s 17, 18

Continuation of permission

s 13 amd 1997 SL No. 73 s 18

Preparation

s 15 amd 1997 SL No. 73 s 17

Contents

s 16 amd 1997 SL No. 73 s 17

Approval of plans and programs

s 17 amd 1997 SL No. 73 s 17

Amendment etc. of plans and programs

s 18 amd 1997 SL No. 73 s 17

Removal of materials etc. prohibited

s 19 amd 1997 SL No. 73 s 19

Discharging etc. of wastes

s 20 amd 1997 SL No. 73 s 19

Building prohibited

s 21 amd 1997 SL No. 73 s 19

Living on vessels, vehicles, aircraft or structures

s 22 amd 1997 SL No. 73 s 19

Abandonment of vessels, vehicles or aircraft

s 24 amd 1997 SL No. 73 s 10

Introduction of animals, marine products or plants

s 25 amd 1997 SL No. 73 s 10

Entry of domestic animals

s 26 amd 1997 SL No. 73 s 17

Temporary restricted areas

s 27 amd 1997 SL No. 73 ss 11, 17

Unlawful entry into or use of zone or designated area

s 29 om 1997 SL No. 73 s 12

Trading and other activities

s 31 amd 1997 SL No. 73 s 19

Motorised watersports

s 32A ins 1997 SL No. 73 s 13

Prohibition on taking marine products in marine parks

s 33 amd 1997 SL No. 73 s 14

Prohibition on taking large cod or groper

s 35 amd 1997 SL No. 73 s 19

Appointment of inspectors

s 36 amd 1997 SL No. 73 s 17

Identity cards

s 37 amd 1997 SL No. 73 s 17

Report by inspector

s 39 amd 1997 SL No. 73 s 17

Return of marine products or apparatus

s 40 amd 1997 SL No. 73 s 17

Permissions

s 41 om 1997 SL No. 73 s 15

Offences and penalties

s 42 amd 1997 SL No. 73 ss 16, 17, 18

Giving of notices

s 44 amd 1997 SL No. 73 s 17

PART 9—MORETON BAY MARINE PARK

pt 9 (ss 45–47) ins 1993 SL No. 38 s 3

SCHEDULE 1—FEES FOR ASSESSMENT OF APPLICATION FOR PERMISSION TO CARRY OUT TOURISM ACTIVITYamd reg pubd gaz 1 September 1990 p 104; 1991 SL No. 35 s 3
sub 1993 SL No. 195 s 5; 1997 SL No. 73 s 20**SCHEDULE 2—FEE FOR ASSESSMENT OF APPLICATION FOR CONTINUATION OF PERMISSION TO CARRY OUT TOURISM ACTIVITY**ins 1993 SL No. 195 s 5
sub 1997 SL No. 73 s 20**SCHEDULE 3—FEE FOR PERMISSION, OR CONTINUATION OF PERMISSION, TO CARRY OUT A COMMERCIAL WHALE WATCHING PROGRAM**ins 1993 SL No. 195 s 5
sub 1997 SL No. 73 s 20**6 Table of changed names and titles**TABLE OF CHANGED NAMES AND TITLES
under the Reprints Act 1992 ss 23 and 23A

Old	New	Reference provision
local authority	local government	Local Government Act 1993 s 796(1)(a)
member (of the police force)	(police) officer	Police Service Administration Act 1990 s 11.1(1)(c) (see also s 1.4)

7 Table of obsolete and redundant provisions

TABLE OF OBSOLETE AND REDUNDANT PROVISIONS under the Reprints Act 1992 s 39

Omitted provision	Provision making omitted provision obsolete/redundant
definitions to be read in context	Acts Interpretation Act 1954 s 32A
references to Queensland implied	Acts Interpretation Act 1954 s 35

8 Table of corrected minor errors

TABLE OF CORRECTED MINOR ERRORS under the Reprints Act 1992 s 44

Section	Description
s 4, def "firearm", para (d)	om 'rectified' ins 'rectified'
s 4, def "firearm", para (h)	om 'Contruction' ins "Construction"
pt 4 hdg	om 'programmmes' ins 'programs'
s 16(2)	om 'programmmes' ins 'programs'
s 26(3)(b)	om 'acompanying' ins 'accompanying'
s 38(1)(e)	om 'may'

9 Table of renumbered provisions

TABLE OF RENUMBERED PROVISIONS under the Reprints Act 1992 s 43

Previous	Renumbered as
10(1)(i)	10(1)(a)
10(1)(ii)	10(1)(b)