

Queensland



PLANT PROTECTION ACT 1989

**Reprinted as in force on 22 February 1994
(includes amendments up to Act No. 32 of 1993)**

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 Act is reprinted as at 22 February 1994. As required by section 5 of the Reprints Act 1992, it—

- shows the law as amended by all amendments that commenced on or before that day; and
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind.

As required by section 6 of the Reprints Act 1992, the reprint includes a reference to the law by which each amendment was made—see List of legislation and List of annotations in Endnotes.

The opportunity has also been taken, under section 7 of the Reprints Act 1992, to do the following—

- use citations and references permitted by Division 2 of that Act;
- express gender specific provisions in a way consistent with current legislative drafting practice as permitted by section 24 of that Act;
- use punctuation and expressions consistent with current legislative drafting practice as permitted by sections 27 and 29 of that Act;
- use aspects of format and printing style consistent with current legislative drafting practice as permitted by section 35 of that Act;
- omit provisions that are no longer required as permitted by sections 37 and 39 of that Act;
- omit the enacting words as permitted by section 42A of that Act;
- use the numbering and renumbering of provisions and references permitted by section 43 of that Act;
- make all necessary consequential amendments as permitted by section 7(1)(k) of that Act.

Also see Endnotes for—

- **details about when provisions commenced; and**
- **any provisions that have not commenced and are not incorporated in the reprint.**

Queensland



PLANT PROTECTION ACT 1989

TABLE OF PROVISIONS

Section	Page
1 Short title	3
3 Interpretation	3
4 Administration	6
5 Appointment of officers	6
6 Authorised persons	7
6A Delegation	7
7 Registration of certain places	7
8 Control over introduction of pests	7
9 Control over spread of pest infestations within Queensland	8
10 Crop plant district	9
11 Pest quarantine area	10
12 Notification of pests	12
13 Special powers in relation to specific pest infestations	12
14 Destruction of healthy crop to prevent pest infestation	13
15 Special powers in respect of volunteer plants	14
16 Completion of unsatisfied requirements	14
17 Costs and expenses	15
18 Charge on land	15
19 General powers of inspectors	16
20 Restricted entry into dwelling house	19
21 Duty to convert stored information to writing	21
22 Duty to comply with notice given to 1 of several owners	21
23 Offences in relation to information	21
24 Obstruction	22

25	Voluntary forfeiture to Crown	22
26	Dealing with seized matters or things	23
27	Right of entry in order to comply with this Act	24
28	Limitation of action	24
29	Liability for offence as employee	24
30	Modes of service	25
31	Offences	25
32	Proceedings	26
33	Evidence	26
34	Regulations	27

SCHEDULE 2 28

SUBJECT MATTER FOR REGULATIONS

1	Powers, functions and duties	28
2	Qualifications and appointments	28
3	Instruments	28
4	Fees, expenses and costs	28
5	Regulation of sale, possession, cultivation	28
6	Inspection	28
8	Introduction into Queensland	29
9	Movement within Queensland	29
10	Agricultural husbandry	29
11	Pests	29
12	Statistics	29

ENDNOTES

1	Index to Endnotes	30
2	Date to which amendments incorporated	30
3	List of legislation	30
4	List of annotations	31
5	Table of changed titles	32
6	Table of renumbered provisions	32

PLANT PROTECTION ACT 1989

[as amended by all amendments that commenced on or before 22 February 1994²]

An Act to provide for the prevention, control and eradication of pest infestation of plants and for related matters

Short title

1. This Act may be cited as the *Plant Protection Act 1989*³⁻⁶.

Interpretation

3.(1) In this Act—

“**appliance**” includes any vehicle, machinery, equipment or apparatus of any kind;

“**crop plant**” means a plant that is intentionally grown for its consumption as food or fodder or for its resale or the sale of its products or for a commercial use;

“**crop plant district**” means a district established under of section 10(1);

“**Director-General**” means the chief executive of the department of government by which this Act is administered and includes a person for the time being performing the duties of the chief executive;

“**land**” includes premises;

“**movement**” includes movement by any form of transport;

“**owner**” includes—

- (a) in relation to land, every person other than the Crown—
 - (i) who is for the time being entitled to receive the rent of the land, or who, if the land were let to a tenant at a rack rent, would be entitled to receive the rack rent; or

- (ii) who is the holder of any lease, licence or other permission to occupy the land from the Crown or a person deriving title thereunder; or
 - (iii) who is the occupier of the land or who has the care, control or management of the land; and
- (b) in relation to a thing, the person who has the thing in the person's possession;

“pest” means any organism of the plant or animal kingdom (excluding vertebrates) or any virus or viroid or disorder or condition or cause of specified symptoms that is declared to be a pest pursuant to subsection (2) or (3);

“pest infestation” means a condition whereby the land, plant, soil, appliance or other matter or thing in respect of which the term is used supports a pest physically, nutritionally or in any other way or a condition whereby the presence of the pest in or on the land, plant, soil, appliance or other matter or thing in question exposes any plant either directly or indirectly to pest infestation;

“pest quarantine area” means a quarantine area declared under section 11;

“plant” means any member of the plant kingdom and includes the seed or seedling of or any part of a plant whether living or dead and whether attached to a plant or separate therefrom and does not include timber in service;

“records” includes any papers, documents or writings, accounts or accounting records and any record of information however compiled, recorded or stored;

“sale” includes sale by barter or exchange, agreement to sell, offering or exposure or having in possession for sale, receiving, forwarding or delivery for or on sale, and attempted sale;

“vehicle” includes a conveyance of any kind, whether or not it is at the material time capable of being operated or moved in any manner, and includes any aircraft, vessel or any caravan, trailer or railway rolling stock;

“volunteer plant” means a plant that has not been intentionally grown or cultivated, and includes an uncultivated self-sown plant occurring on land on which plants of the same species have been growing as crop

plants.

(2) If the Governor in Council is satisfied that—

- (a) an organism of the plant or animal kingdom (other than vertebrates); or
- (b) a virus or viroid; or
- (c) a disorder, condition or cause of specified symptoms in plants;

(an “**undeclared pest**”) is harmful to the growth or quality (including the commercial or marketable quality) of crop plants, the Governor in Council may, by regulation, prescribe the undeclared pest to be a pest for the purposes of this Act.

(3) If the Minister is of the opinion—

- (a) that—
 - (i) an organism of the plant or animal kingdom (other than vertebrates); or
 - (ii) a virus or viroid; or
 - (iii) a disorder, condition or cause of specified symptoms in plants;(an “**undeclared pest**”) is harmful to the growth or quality (including the commercial or marketable quality) of crop plants; and
- (b) that the circumstances require that urgent action should be taken to declare the undeclared pest to be a pest;

the Minister may, by notice, declare the undeclared pest to be a pest for the purposes of this Act.

(3A) A notice under subsection (3) remains in force until whichever of the following first happens—

- (a) the commencement of a regulation prescribing the undeclared pest to be a pest for the purposes of this Act;
- (b) the end of 21 days.

(3B) A notice under subsection (3) is subordinate legislation.

(4) For the purpose of the exercise by any person of any power under

this Act that may be exercised by the person in relation to land or a matter or thing that is infested with a pest, it shall be deemed that the land, matter or thing in question is infested with a pest if it is subject to pest infestation or if, in the opinion of the person, having regard to—

- (a) the proximity of the land, matter or thing in question to a known outbreak of a pest infestation of any land, matter or thing;
- (b) the degree to which the known outbreak of the pest infestation has advanced;
- (c) the ability of the pest in question to spread and the means by which the pest in question is known to spread;
- (d) the degree of possibility that the land, matter or thing in question is subject to pest infestation whether or not the pest infestation is evident;

it is desirable to deem that the land, matter or thing is infested with pest.

(5) For the purposes of this Act a person shall be deemed to be in possession of any matter or thing if the person has actual possession or custody of it or if the person has it under his or her control in any place whether for the person's own use or another's use or benefit and although another person has actual possession or custody of it.

(8) Except as provided by the *Sugar Industry Act 1991* or any other Act, this Act does not apply to sugarcane as a plant within the meaning of this Act.

Administration

4. This Act shall be administered by the Minister and, subject to the Minister, by the Director-General and such other persons as are from time to time appointed for the purpose.

Appointment of officers

5. The Governor in Council may appoint under and subject to the *Public Service Management and Employment Act 1988* such inspectors and other officers as the Governor in Council considers necessary for the purposes of this Act.

Authorised persons

6.(1) The Minister may authorise in writing any person to exercise all or any of the powers of an inspector under this Act subject to such conditions as the Minister thinks fit.

(2) A person so authorised, for all purposes relating to the exercise by the person of a power within the Minister's authorisation, shall be deemed to be an inspector appointed under this Act.

Delegation

6A. The Minister may delegate the Minister's power under section 6 to the chief executive of the department.

Registration of certain places

7.(1) For the purpose of preventing, controlling or eradicating pest infestation of plants, the Governor in Council may, by regulation, require that every farm or other place of a specified type where a specified type of plant is grown must be registered under the regulation.

(2) The regulation may specify—

- (a) who must register the farm or place; and
- (b) the way in which the farm or place must be registered; and
- (c) a registration fee; and
- (d) any other matter that is necessary or convenient to achieve the objects of subsection (1).

Control over introduction of pests

8.(1) For the purpose of preventing, controlling or eradicating pest infestation of crop plants—

- (a) the Governor in Council, by regulation; or
- (b) if the Minister is of the opinion that the circumstances require that urgent action should be taken under this section—the Minister, by notice;

may—

- (c) prohibit the introduction into Queensland of any plant, soil, appliance or other matter or thing if it is in a condition of pest infestation prescribed therein or upon failure to comply with conditions prescribed therein reasonably necessary to prevent, control or eradicate pest infestation of crop plants;
- (d) prohibit the introduction into Queensland of any pest;
- (e) authorise the introduction into Queensland of any such matter or thing as is referred to in paragraphs (c) and (d) upon such conditions imposed under a regulation as are reasonably necessary to prevent, control or eradicate pest infestation of crop plants.

(1A) A notice under subsection (1)(b) is subordinate legislation.

(2) In this section **“introduction into Queensland”** includes introduction into Queensland generally or from a place outside Australia or from another State or a Territory of the Commonwealth.

(3) A notice under subsection (1)(b) remains in force until whichever of the following first happens—

- (a) the commencement of a regulation under subsection (1)(b) in relation to the same matter;
- (b) the end of 21 days.

(4) A person must not contravene a regulation or notice made for the purposes of this section.

Maximum penalty—1 000 penalty units.

Control over spread of pest infestations within Queensland

9.(1) For the purpose of preventing, controlling or eradicating pest infestation of plants—

- (a) the Governor in Council, by regulation; or
- (b) if the Minister is of the opinion that the circumstances require that urgent action should be taken under this section—the Minister, by notice;

may prohibit, either generally or in specified circumstances or except under specified conditions, the movement of any plant, soil, appliance or other specified matter—

- (c) from a place in Queensland to another place in Queensland; or
- (d) from a place within a specified part of Queensland to another place in that part of Queensland; or
- (e) into or out of a specified part of Queensland; or
- (f) to or from a specified place; or
- (g) from a place within a farm, orchard, holding or other specified place to another specified place.

(2) A notice under subsection (1)(b) is subordinate legislation.

(3) A notice under subsection (1)(b) remains in force until whichever of the following first happens—

- (a) the commencement of a regulation under subsection (1)(a) in relation to the same matter;
- (b) the end of 21 days.

Crop plant district

10.(1) The Governor in Council, by regulation, may—

- (a) declare any part or parts of the State to be a crop plant district on terms that define a crop plant for which it is declared;
- (b) vary the area of any crop plant district;
- (c) abolish a crop plant district.

(2) In relation to a crop plant district, the Minister, by notice, may give directions that the Minister considers are necessary or desirable to prevent, control or eradicate pest infestation of the crop plant for which the crop plant district was declared, including directions—

- (a) establishing periods of the year in which the crop plant may be planted or grown and prohibiting the planting or growing of the crop plant at any other time absolutely or except in accordance with conditions imposed by or under the provisions of the notice;

- (b) ordering the eradication in accordance with the provisions of the notice of crop plants from which the crop has been harvested, volunteer plants, crop residues and seedlings no longer suitable for planting;
- (c) prohibiting or regulating the removal of a crop plant into or out of the district;
- (d) prohibiting or regulating the movement of a crop plant from one place in the district to another place therein;
- (e) prohibiting the planting of varieties of a plant that are in the Minister's opinion susceptible to pest infestation or which favour the continued existence or spread of a pest;
- (f) prohibiting or regulating or requiring the application of pest control measures specified by or under the provisions of the notice.

(3) An inspector may give such directions and take all such action as may be necessary or convenient to ensure compliance with notice under subsection (2).

(3A) A notice under subsection (2) is subordinate legislation.

Pest quarantine area

11.(1) For the purposes of preventing, controlling or eradicating pest infestation of plants—

- (a) the Governor in Council, by regulation; or
- (b) if the Minister is of the opinion that the circumstances require that urgent action should be taken under this section—the Minister, by notice;

may declare any area to be a pest quarantine area and may define the boundaries of the quarantine area so declared.

(2) The Minister, by notice, may declare the objects and nature of the quarantine imposed in respect of a pest quarantine area including—

- (a) a pest infestation in respect of which the quarantine is declared;
- (b) the duties and obligations imposed upon owners of land within the pest quarantine area or part thereof or imposed upon any other

person in order to achieve the objects of the quarantine;

- (c) the prohibitions and restrictions imposed in respect of the movement within or into or out of the pest quarantine area or part thereof of any pest, plant, soil, appliance or other matter or thing.

(2A) A notice under subsection (1)(b) or (2) is subordinate legislation.

(3) In lieu of declaring particular land to be a pest quarantine area or a part thereof, the Minister may accept an undertaking in the prescribed form given by the owner that the owner shall comply with conditions imposed by the Minister in respect of the undertaking either at the time of the acceptance or thereafter.

(3A) An owner who gives an undertaking for the purposes of subsection (3) shall comply with the conditions imposed from time to time by the Minister in respect thereof.

(3B) Land may be declared to be a pest quarantine area or part thereof pursuant to subsection (1) notwithstanding that an undertaking in respect thereof has previously been accepted by the Minister pursuant to subsection (3).

(4) An inspector may give such directions and take such action as may be necessary or convenient to ensure compliance with the provisions of a notice under this section or the conditions imposed in respect of any undertaking given under this section or to achieve the declared objects of a quarantine imposed under this section.

(5) A notice under subsection (1)(b) remains in force until whichever of the following first happens—

- (a) the commencement into effect of a regulation under subsection (1)(a) in relation to the same matter;
- (b) the end of 21 days.

(6) A person must not—

- (a) contravene a regulation or notice made for the purposes of this section; or
- (b) contravene a condition imposed by the Minister under subsection (3); or
- (c) contravene a direction given by an inspector under subsection (4);

or

- (d) obstruct an inspector in the exercise of powers under this section.

Maximum penalty—1 000 penalty units.

Notification of pests

12.(1) The Governor in Council, by regulation, may declare a pest to be a notifiable pest for the purposes of this Act.

(2) The owner of any land who discovers or becomes aware that there is a notifiable pest on the owner's land, and any consultant or contractor engaged by the owner of land otherwise than as a servant who discovers or becomes aware of the existence of a notifiable pest on the owner's land, shall—

- (a) within 24 hours notify an inspector thereof; and
- (b) within 7 days confirm his or her notice in writing to the Director-General.

(3) Section 23 applies in respect of the requirement under this section to give notice as it applies in respect of any requirement made under this Act to furnish information.

Special powers in relation to specific pest infestations

13.(1) Subject to subsection (3), an inspector for the purposes of controlling or eradicating a pest existing in or upon any land or for the purpose of preventing the spread of any existing pest to any land may give directions to the owner of the land directing the owner forthwith or within a time specified by the inspector to take such measures as the inspector thinks fit including to—

- (a) quarantine, upon conditions as directed, all or any part of the land in question;
- (b) destroy pests thereon or any plants, packages or other matters or things that are infested with pests or that, in the opinion of the inspector, it is necessary or desirable to destroy in the circumstances;
- (c) treat as directed all or any part of the land or any plant, appliance,

soil or other matter or thing thereon;

(d) take such measures as may be prescribed.

(2) An inspector, for the purposes of controlling or eradicating an existing pest or an existing pest infestation of any appliance, plant, harvested crop, produce, container or other thing may give in respect of the pest or thing and in respect of any other thing with which it has been mixed or associated, or which has been exposed to it, such directions to the owner thereof as the inspector thinks fit including to—

(a) quarantine it upon conditions as directed;

(b) destroy it;

(c) treat it as directed;

(d) take such measures as may be prescribed.

(2A) If the pest or thing in respect of which an inspector proposes to give directions under subsection (2) is being carried on consignment the inspector if the inspector considers it necessary or convenient may give to the consignor or the consignee any direction that the inspector is authorised under this section to give to an owner of the pest or thing.

(3) It shall not be competent to an inspector to give directions under this section ordering the destruction of any part of a growing or harvested crop that is not infested with pest.

Destruction of healthy crop to prevent pest infestation

14.(1) The Director-General, if the Director-General considers it necessary to do so in order to prevent, control or eradicate pest infestation of plants, may give directions in writing—

(a) to the owner of land ordering the destruction of a crop or part thereof growing on the land that is not infested with pest;

(b) to the owner of a harvested crop ordering the destruction of the crop or part thereof that is not infested with pest.

(1A) Directions given under subsection (1) may include a direction that the destruction in question shall be carried out in accordance with the directions of an inspector.

(2) If a crop or part thereof is destroyed in compliance with directions

given under subsection (1), the owner thereof shall be entitled to compensation under, subject to and in accordance with this section, and the owner shall not be otherwise entitled to compensation.

(3) If a crop or part thereof is destroyed in compliance with directions given under subsection (1), the owner thereof shall be entitled to such compensation as the owner and the Director-General may mutually agree upon.

(4) If the owner and the Director-General fail to agree upon the amount of compensation that shall be paid, the Director-General shall submit the matter to an arbitrator chosen by the owner and the Director-General, or in the case where the owner and the Director-General do not agree upon which arbitrator the matter shall be submitted to, the Director-General shall submit the matter to an arbitrator chosen by the Minister.

(5) The decision of the arbitrator shall be final.

Special powers in respect of volunteer plants

15. If an inspector considers such action is necessary to prevent, control or eradicate any pest infestation of plants, the inspector may in respect of any volunteer plant wherever situated—

- (a) direct the owner of the land where the volunteer plant is situated to destroy the volunteer plant in accordance with directions given by the inspector; or
- (b) without giving directions under paragraph (a), destroy the volunteer plant or take measures to ensure that the volunteer plant is destroyed.

Completion of unsatisfied requirements

16. If any person to whom directions have been given pursuant to this Act by the Director-General or an inspector directing the person to carry out any destruction or treatment or other act in accordance with the directions fails to comply with the directions, an inspector may take all measures the inspector considers necessary or convenient to carry out the destruction or treatment or act in question.

Costs and expenses

17.(1) Where an inspector takes measures under section 16, any person through whose default such measures were taken shall be liable, and if there is more than 1 such person, those persons shall be jointly and severally liable, to pay to the Crown the costs and expenses reasonably incurred in connection with the measures and the Crown may recover any outstanding amount thereof together with interest at the prescribed rate in action as for a debt in any court of competent jurisdiction.

(1A) Where a cost or expense is prescribed, the liability shall be to pay the prescribed amount if it is demanded.

(2) Without limiting the effect of subsections (1) and (1A) and subject to section 18, if measures are taken under section 16 because an owner of land has failed to comply with directions given to the owner under this Act requiring the owner to take, or forbidding the owner to take, action on the land as directed, the amount for which the owner is liable under this section shall be a charge on the land.

(3) The provisions of this section shall operate without prejudice to any proceedings that may be taken against a person for an offence against this Act.

Charge on land

18.(1) For the purpose of charging land with the amount of any costs expenses and interest as provided for in section 17(2), the Director-General may lodge with the public officer charged with maintaining a register of title to the land a notice in the prescribed form identifying the land and stating that there exists a charge over it securing payment to the Crown of the amount in question.

(1A) Subsection (1) shall be given effect notwithstanding that any copy of the relevant instrument of title is not produced for endorsement.

(2) The public officer with whom a notice is lodged under subsection (1) shall cause to be made in the appropriate register maintained by the public officer all such entries as are necessary to record on the title to the land identified in the notice a charge as described in the notice.

(3) Upon the making of entries on the title of land pursuant to subsection (2), the land shall become, and be, subject to a charge—

- (a) that secures payment to the Crown of the amount in question;
- (b) that has priority over all interests and mortgages and other charges existing in or over the land.

(4) Without limiting the operation of any other provision of the *Property Law Act 1974* in relation to a charge such as is provided for by this section, sections 83 to 92 of that Act shall apply to such a charge as they apply to a mortgage made by instrument within the meaning of those sections.

(5) Upon payment to the Crown of the amount secured, the charge shall cease to have effect.

(6) When a charge ceases to have effect, the Director-General shall give notice thereof in the prescribed form to the public officer charged with maintaining the register of title on which the charge is recorded who shall thereupon make all such entries in the public officer's register as are necessary to record that the charge has ceased to have effect.

(6A) Subsection (6) shall be given effect notwithstanding—

- (a) that there exists a caveat affecting the land in question; or
- (b) that any copy of the relevant instrument of title is not produced for endorsement.

(7) A failure to comply with this section does not render any person liable to a penalty.

General powers of inspectors

19.(1) Subject to section 20, an inspector, at any time, may—

- (a) enter any place (including any vehicle) in order to ascertain whether the provisions of this Act have been complied with or to investigate any offence against this Act or to perform a duty or exercise a power imposed or conferred upon the inspector by this Act;
- (b) take with the inspector into any place entered, pursuant to paragraph (a), such assistants, vehicles and equipment as the inspector considers necessary for the proper performance of the inspector's duties;
- (c) search any place entered pursuant to paragraph (a) and make

therein such investigation, inspection or inquiry as is necessary for the purposes of this Act including by breaking open and searching any receptacle or enclosed place, conducting tests and taking without payment samples of any matter or thing for testing or as evidence;

- (d) stop and detain any vehicle or direct a person in charge of the vehicle to remove it to some other place, or the inspector may remove it to some other place, for the purposes of the performance by the inspector of a duty or the exercise by the inspector of a power, imposed or conferred upon the inspector by this Act;
- (e) seize any matter or thing with respect to which the inspector has reasonable grounds for believing that an offence against this Act has been committed or is being committed or that the inspector believes will afford evidence of the commission of an offence against this Act or that is a pest or that the inspector believes is infested with a pest together with any packing material or container or vehicle convenient to facilitate the seizure;
- (f) remove any matter or thing seized by the inspector to a place determined by the inspector, or allow it to remain at, or return it to, the place of seizure or place it in the custody of a person and in any case, make such arrangements and give such directions as the inspector considers necessary to achieve the objects of the seizure;
- (g) direct any person to furnish for inspection at such times and places as the inspector specifies—
 - (i) records or copies of or extracts from records prepared or kept for a purpose connected with this Act or which in the opinion of the inspector would assist in ascertaining whether this Act has been complied with or whether an offence against this Act has been committed;
 - (ii) any instrument issued under this Act or a copy thereof;
- (h) take notes or copies of or extracts from anything furnished pursuant to paragraph (g);
- (i) question any person to ascertain whether this Act has been complied with or whether an offence has been committed against this Act or whether an occasion has arisen for the performance or

exercise by the inspector of a duty or power imposed or conferred upon the inspector by this Act, and subject to section 23, require the person to answer the questions put;

- (j) require any person found by the inspector committing an offence against this Act or who the inspector believes on reasonable grounds has committed an offence against this Act or whose name and address are reasonably required for the purposes of this 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 the address of the usual place of residence of any other person, and if the inspector suspects on reasonable grounds that a name or address is false, require evidence of the correctness thereof in accordance with the inspector's directions;
- (k) direct a person who has failed to comply with this Act to take steps as directed in order to remedy those matters in respect of which the noncompliance has occurred;
- (l) 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—call to the inspector's aid—
 - (i) a police officer;
 - (ii) any person the inspector considers competent to assist him or her in the exercise of the inspector's powers.

(2) Directions given pursuant to subsection (1)(k) shall not prejudice or affect in any way any proceeding or action that has been or may be taken for the failure to comply that has resulted in the directions except that the person to whom the order is given is not liable for a continuation of the failure to comply during the time allowed for compliance with the directions.

(3) A person called in aid of an inspector pursuant to subsection (1)(l) shall assist the inspector as required by the inspector and in accordance with this Act.

(4) If any matter or thing seized by an inspector is marked with a broad arrow and words to the effect that the matter or thing is impounded under the Plant Protection Act it shall be deemed for the purposes of this Act that all persons are directed not to remove or to interfere with the matter or thing so as to affect its seizure except in accordance with the directions of an

inspector.

(5) The power of an inspector to seize any matter or thing with respect to which the inspector has reasonable grounds for believing that an offence against this Act has been committed includes the power to seize any plant grown from any plant—

- (a) that has been unlawfully introduced into the State; or
- (b) that has been unlawfully moved within the State to the place where the plant that is subject to seizure is growing.

Restricted entry into dwelling house

20.(1) Before an inspector enters a dwelling house for the purpose of exercising the inspector's powers under this Act, save where the inspector has the permission of the occupier to entry, the inspector shall make an application to a justice who is a Stipendiary Magistrate and obtain from the justice a warrant to enter.

(2) A justice who is satisfied upon an application made under this section that there is reasonable cause to suspect or believe—

- (a) that in any place an offence against this Act has been or is being committed; or
- (b) that there is in any place any matter or thing with respect to which an offence against this Act has been or is being committed, or with respect to which an inspector may exercise a power under this Act;

may issue a warrant directed to an inspector to enter the place specified in the warrant for the purpose of exercising therein the powers conferred upon an inspector by this Act.

(3) The justice shall specify in the warrant the powers the inspector may exercise and shall note thereon the basis upon which the warrant is issued.

(4) An application to a justice for the issue of a warrant under this section—

- (a) may be heard in any place, and subject to subsections (5) and (6), in such manner as the justice thinks fit;
- (b) may be made in person or by telephone, radio or by means of any

other form of distant communication.

(5) Except where a warrant is issued upon an application made by telephone, radio or by means of any other form of distant communication, in determining whether or not the justice should issue a warrant, the justice shall not rely on any statement of facts unless it is provided by means of an oral or written statement given under oath, affirmation or declaration or under some other sanction authorised by law.

(6) If an application is made by means of telephone, radio or any other form of distant communication the following provisions shall apply—

- (a) the justice shall not issue the warrant unless the justice informs the applicant of the facts upon which the justice relies in issuing the warrant and obtains from the applicant an undertaking that the applicant shall deliver to the justice as directed by the justice as soon as practicable a statement in writing given under oath, affirmation or declaration or under some other sanction authorised by law, that verifies those facts;
- (b) if the justice issues the warrant—the justice shall inform the applicant that the justice has done so and shall send the warrant to the Minister within 7 days of its issue;
- (c) on and from the issue of the warrant, a form of warrant completed by the applicant substantially in the terms of the warrant issued by the justice and stating the name of the justice and the date on which and the place at which the justice issued it shall for all purposes be deemed to be a warrant issued under this section;
- (d) as soon as practicable after the issue of a warrant, the applicant shall deliver to the justice a statement in writing in compliance with the undertaking obtained from the applicant pursuant to paragraph (a) and if the applicant fails to do so the warrant on and from such failure shall be deemed to be cancelled.

(6A) The failure of a justice to send a warrant to the Minister in compliance with subsection (6)(b) shall not affect the validity of the warrant.

(7) A warrant issued under this section shall be, for a period of 21 days from the date of its issue, sufficient authority for the inspector and all persons acting in aid of the inspector—

- (a) to enter the place specified in the warrant; and
- (b) subject to the terms of the warrant, to exercise the powers conferred upon an inspector under this Act.

Duty to convert stored information to writing

21.(1) Where a person records or stores any matter by means of mechanical, electronic or other device, any duty imposed by this Act to furnish records containing those matters shall be construed as a duty to make the matters available in written form.

(2) Where the duty imposed is to furnish a copy of any records that duty shall be construed as a duty to make available a clear reproduction in writing.

Duty to comply with notice given to 1 of several owners

22. If directions that are authorised by this Act to be given to the owner of land or a matter or thing are given to 1 of several owners of the land, matter or thing, the directions so given shall be as valid and effectual, and the provisions of this Act shall apply to the owner, as if the owner were the only owner of the land, matter or thing.

Offences in relation to information

23.(1) A person shall not—

- (a) refuse or fail to furnish to the best of the person's knowledge any information or any records or copies thereof, required of the person under this Act;
- (b) in response to a requirement made of the person under this Act to furnish information or records or copies thereof, furnish false or misleading information, records or copies thereof.

(2) This section shall not apply in respect of a refusal or failure to furnish any information required of a person pursuant to section 19(1)(i) that would tend to incriminate the person of any offence.

(3) If in response to a requirement made of a person pursuant to section 19(1)(i) a person furnishes any information that would tend to

incriminate the person in any offence, other than an offence defined in subsection (1)(b), the information so furnished shall not be admissible in evidence against the person in proceedings relating to the first mentioned offence.

Obstruction

24.(1) A person shall not obstruct an inspector in the exercise of an inspector's powers under this Act.

(2) For the purpose of this Act a person shall be deemed to obstruct an inspector in the exercise of the inspector's powers under this Act if the person—

- (a) assaults, abuses, intimidates or insults an inspector or any other person assisting an inspector in the exercise of the inspector's powers under this Act; or
- (b) directly or indirectly deliberately prevents any person from being questioned by an inspector or from furnishing under this Act any information or records or copies thereof or attempts to do so; or
- (c) in any other way obstructs or attempts to obstruct an inspector in the exercise of the inspector's powers under this Act.

(3) A person shall not obstruct the performance by another person of a duty or obligation imposed on the other person by this Act.

Voluntary forfeiture to Crown

25.(1) If the owner of any matter or thing seized under this Act notifies an inspector that the owner does not wish to take possession of it, the matter or thing is forfeited to the Crown and may be destroyed or otherwise disposed of as directed by the Director-General.

(2) If—

- (a) an inspector has given a notice to the owner of a matter or thing seized under this Act that it is released from detention and may be collected by the owner; and
- (b) the owner fails to collect the item within 7 days in the case of perishables, or within 30 days in any other case, of the date upon

which notice was given;

the item is forfeited to the Crown and may be destroyed or otherwise disposed of as directed by the Director-General.

Dealing with seized matters or things

26.(1) If it is necessary or convenient to do so for the purpose of preventing, controlling or eradicating pest infestation of plants, an inspector, with the approval of the Minister first had and obtained or in accordance with instructions issued by the Minister from time to time, may destroy or otherwise dispose of any matter or thing seized under this Act or may treat in such manner as the inspector thinks fit any such matter or thing.

(2) Where the matter or thing is seized because of the failure of any person to comply with the provisions of this Act in respect thereto, the person in default shall be liable, and if there is more than 1 such person, they shall be jointly and severally liable, to pay to the Crown the amount of any costs, charges or expenses reasonably incurred in connection with the seizure, destruction, disposal or treatment.

(2A) Where the amount of any costs, charges or expenses with respect to any measures is prescribed, the liability provided for in subsection (2) shall be to pay the prescribed amount where that amount is demanded.

(3) If any matter or thing is destroyed or otherwise disposed of under this section, the proceeds thereof (if any) less the amount of any costs, charges or expenses reasonably incurred by the Crown in connection therewith shall be paid by it—

- (a) to the person or (in varying amounts if necessary) to the persons appearing to the Crown to be entitled thereto; or
- (b) if no such person can be located after reasonable inquiries—to the Consolidated Fund;

and thereupon it shall not be liable at the suit of any person for the proceeds.

(3A) Subsection (3) shall not be construed so as to bar the right of a person entitled to recover by action proceeds payable under the subsection from a person to whom they have been paid by the Crown under the subsection.

(4) A Court before which proceedings are brought for an offence by

reason of which any matter or thing has been seized under this Act may give such directions as it thinks fit in relation to the disposal of the matter or thing if it remains in the possession of the Crown at the time of the completion of those proceedings and all persons concerned shall abide by those directions.

Right of entry in order to comply with this Act

27. An owner of land occupied by another person, whether as lessee or in any other capacity, has the right to enter and remain on the land for the purpose of performing a duty or obligation imposed on the owner by or under this Act.

Limitation of action

28.(1) Liability at law shall not attach to the Crown, the Minister, the Director-General, an inspector or any other person acting in aid of an inspector on account of any act or thing—

- (a) done or omitted to be done pursuant to this Act; or
- (b) done or omitted to be done bona fide for the purposes of this Act and without negligence.

(1A) Subsection (1) does not affect the liability of a person to disciplinary action under the *Public Service Management and Employment Act 1988*.

(2) Notwithstanding the provisions of subsection (1), where a person suffers damage through compliance with this Act, whether by himself or herself or another person, no compensation shall be payable to the person except in a case where the person is entitled to compensation pursuant to section 14(3).

Liability for offence as employee

29. A person is not liable to be convicted for an offence against this Act committed by the person as an employee if the person satisfies the court that the offence was committed while the business of the person's employer was being conducted under the personal superintendence of that employer or of a manager or other representative of that employer, and that the offence was committed with the knowledge of that employer, manager or

representative.

Modes of service

30.(1) A notice or other instrument under this Act that is required to be given to any person shall be taken to have been duly given to the person to whom it is directed if—

- (a) it is served personally on the person or, in the case of a body corporate, on its secretary or a member of its governing body;
- (b) it is addressed to the person and left at, or sent by prepaid post to, the place of residence or of business of the person last known to the sender.

(2) A notice or other instrument which is intended to be served on the owner of any land may be addressed to the owner by that expression or a description within the meaning of that expression under this Act without a name together with the address or other description of the land in question.

(3) Without limiting the effect of subsection (1), a notice or other instrument addressed as provided for by subsection (2), shall be taken to be duly given if—

- (a) it is given to some person on the land in question who is apparently above the age of 16 years and apparently employed or resident thereon; or
- (b) it is affixed to some structure on the land so as to make the notice or instrument conspicuous.

Offences

31.(1) Subject to this Act, a person who contravenes or fails to comply with any provision of this Act commits an offence against this Act.

(2) A person who fails to do that which the person is required or directed to do, or who does that which the person is forbidden to do, by a person acting under the authority of this Act, commits an offence against this Act.

(3) Unless a specific penalty is otherwise prescribed, a person who commits an offence against this Act is liable to a penalty not exceeding 20 penalty units.

Proceedings

32. Proceedings in respect of an offence against this Act shall be taken in a summary way under the *Justices Act 1886* within 12 months after the offence is committed or within 6 months after the offence comes to the knowledge of the complainant, whichever period is the later to expire, upon the complaint of—

- (a) an inspector; or
- (b) a person authorised by the Minister or the Director-General.

Evidence

33. In a proceeding for the purposes of this Act—

- (a) the appointment of an inspector or other officer under this Act, or the authority of any person or body to do any act, take any proceeding or give any directions or orders pursuant to this Act shall be presumed unless the contrary is proved;
- (b) a signature purporting to be that of the Minister, the Director-General, an inspector or other officer appointed or authorised under this Act shall be taken to be the signature it purports to be unless the contrary is proved;
- (c) a document purporting to be a copy of directions or any order given under this Act signed by the Minister, the Director-General, inspector or other officer appointed or authorised under this Act shall upon its production in the proceedings be evidence and, in the absence of evidence to the contrary, conclusive evidence, of the terms of the directions or order in question and of the lawful issuing thereof;
- (d) in relation to an offence against this Act a statement in the complaint or in particulars issued in connection therewith—
 - (i) stating when it was that the commission of the offence came to the knowledge of the complainant;
 - (ii) identifying the place where the offence was committed;
 - (iii) stating that the place where the offence was committed was within the State;

(iv) stating that the defendant was the owner of land or of a matter or thing in respect of which the offence was committed;

shall be evidence, and in the absence of evidence to the contrary, conclusive evidence of the matters stated therein;

(e) a certificate purporting to be made by the Director-General stating the amount of costs or expenses incurred by an inspector or other person or body acting under an authority provided by this Act in taking measures under this Act described therein shall, if the amount in question is material to the proceedings, be admitted in evidence and, in the absence of evidence to the contrary, be conclusive evidence of the matters contained therein and that the costs and expenses were reasonably incurred.

Regulations

34.(1) The Governor in Council may make regulations for the purposes of this Act.

(2) A regulation may be made with respect to a matter mentioned in Schedule 2.

SCHEDULE 2

SUBJECT MATTER FOR REGULATIONS

section 34

Powers, functions and duties

1. The discharge of any function, the performance of any duty or the exercise of any power by any body or person under this Act.

Qualifications and appointments

2. The qualifications required before a person is appointed under this Act.

Instruments

3. Forms required or authorised in respect of any notice, application, licence or other matter under this Act.

Fees, expenses and costs

4. The fees, expenses, costs or other amounts payable in respect of any matter under this Act.

Regulation of sale, possession, cultivation

5. The cultivation of any plant, the possession and sale of any plant, matter or thing where regulation is necessary to prevent, control or eradicate pest infestation of plants.

Inspection

6. The inspection for pest infestation of any land, matter or thing, inspection programs, the notification of circumstances under which inspection is required or authorised.

SCHEDULE 2 (continued)

Introduction into Queensland

8. The procedures to be followed for introduction into Queensland of any plant, matter or thing which may be controlled under section 8, including the determination of inspection or entry places at a border or port or place inside Queensland.

Movement within Queensland

9. The movement within Queensland by any means or in circumstances prescribed of any plant, matter or thing where regulation is necessary or desirable to prevent control or eradicate pest infestation of plants.

Agricultural husbandry

10.(1) All matters in respect of agricultural husbandry where regulation is necessary or desirable to prevent, control or eradicate pest infestation of plants.

(2) The carrying on of any nursery or other business concerning the production or sale of any plant, matter or thing where regulation is necessary to prevent, control or eradicate pest infestation of plants.

Pests

11.(1) The possession of pests for any purpose whatsoever.

(2) Requirements that pests shall be destroyed or treated and the manner of destruction or treatment.

Statistics

12. The provision of statistics or other information in the form of returns or otherwise.

ENDNOTES**1 Index to Endnotes**

	Page
2 Date to which amendments incorporated	30
3 List of legislation	30
4 List of annotations	31
5 Table of changed titles	32
6 Table of renumbered provisions	32

2 Date to which amendments incorporated

This is the reprint date mentioned in section 5(c) of the Reprints Act 1992. Accordingly, this reprint includes all amendments that commenced operation on or before 22 February 1994. Future amendments of the Plant Protection Act 1989 may be made in accordance with this reprint under section 49 of the Reprints Act 1992.

3 List of legislation**Plant Protection Act 1989 No. 14**

date of assent 30 March 1989
 commenced on date of assent
 as amended by—

Sugar Industry Act 1991 No. 20 Pt 14 Div 1

date of assent 1 May 1991
 commenced 15 July 1991 (1991 SL No. 19)

Statute Law (Miscellaneous Provisions) Act (No. 2) 1992 No. 68 s 3 Sch 1

date of assent 7 December 1992
 commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1993 No. 32 s 3 Sch 1

date of assent 3 June 1993
 commenced on date of assent

4 List of annotations

Key to abbreviations in list of annotations

amd	=	amended
Chap	=	Chapter
cl	=	clause
def	=	definition
Div	=	Division
exp	=	expired
hdg	=	heading
ins	=	inserted
om	=	omitted
prec	=	preceding
pres	=	present
prev	=	previous
(prev)	=	previously
prov	=	provision
Pt	=	Part
RA	=	Reprints Act 1992
renum	=	renumbered
Sdiv	=	Subdivision
sub	=	substituted

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

Repeals and savings

s 2 om 1993 No. 32 s 3 Sch 1

Interpretation

s 3 amd 1991 No. 20 s 14.2(b); 1993 No. 32 s 3 Sch 1
 def “**Minister**” om 1993 No. 32 s 3 Sch 1
 def “**notification**” om 1993 No. 32 s 3 Sch 1
 def “**plant**” amd 1991 No. 20 s 14.2(a)
 def “**this Act**” om 1993 No. 32 s 3 Sch 1

Delegation

s 6A ins 1992 No. 68 s 3 Sch 1

Registration of certain places

s 7 sub 1993 No. 32 s 3 Sch 1

Control over introduction of pests

s 8 amd 1993 No. 32 s 3 Sch 1

Control over spread of pest infestations within Queensland

s 9 sub 1993 No. 32 s 3 Sch 1

Crop plant district

s 10 amd 1993 No. 32 s 3 Sch 1

Pest quarantine area

s 11 amd 1993 No. 32 s 3 Sch 1

Notification of pests

s 12 amd 1993 No. 32 s 3 Sch 1

Regulations

s 34 sub 1993 No. 32 s 3 Sch 1

Transitional on commencement of this Act

s 35 ins 1993 No. 32 s 3 Sch 1
om (see s 37 RA)

Transitional on Statute Law (Miscellaneous Provisions) Act 1993

s 36 ins 1993 No. 32 s 3 Sch 1
om (see s 37 RA)

SCHEDULE 1

om 1993 No. 32 s 3 Sch 1

SCHEDULE 2—SUBJECT MATTER FOR REGULATIONS

amd 1993 No. 32 s 3 Sch 1

5 Table of changed titles

TABLE OF CHANGED TITLES
under section 23A of the Reprints Act 1992

Old	New	Reference provision
member of the Queensland Police Force	police officer	s 11.1(1)(c) Police Service Administration Act 1990
Consolidated Revenue Fund	Consolidated Fund	s 112 Financial Administration and Audit Act 1977

6 Table of renumbered provisions

TABLE OF RENUMBERED PROVISIONS
under section 43 of the Reprints Act 1992

Previous	Renumbered as
3(1) def “owner” (a)(A)	3(1) def “owner” (a)(i)
3(1) def “owner” (a)(B)	3(1) def “owner” (a)(ii)
3(1) def “owner” (a)(C)	3(1) def “owner” (a)(iii)
6 (1st sentence)	6(1)
6 (2nd sentence)	6(2)
11(3) (2nd sentence)	11(3A)
11(3) (3rd sentence)	11(3B)
13(2) (2nd sentence)	13(2A)
14(1) (2nd sentence)	14(1A)
14(3) (2nd sentence)	14(4)

14(3) (3rd sentence)	14(5)
18(1) (2nd sentence)	18(1A)
18(6) (2nd sentence)	18(6A)
20(6) (2nd sentence)	20(6A)
21 (1st sentence)	21(1)
21 (2nd sentence)	21(2)
23 (1st sentence)	23(1)
23 (2nd sentence)	23(2)
23 (3rd sentence)	23(3)
26(2) (2nd sentence)	26(2A)
26(3) (2nd sentence)	26(3A)
28(1) (2nd sentence)	28(1A)
Schedule 2	
10 (1st sentence)	10(1)
10 (2nd sentence)	10(2)
11 (1st sentence)	11(1)
11 (2nd sentence)	11(2)