

Queensland



# **NATURE CONSERVATION ACT 1992**

**Act No. 20 of 1992**

# Queensland



## NATURE CONSERVATION ACT 1992

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Queensland



## **Nature Conservation Act 1992**

**Act No. 20 of 1992**

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**An Act to provide for the conservation of nature**

*[Assented to 22 May 1992]*

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows.

## **PART 1—PRELIMINARY**

### **Short title**

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

### **Commencement**

2. This Act (other than Parts 1 to 3, Division 1 of Part 4, Division 1 of Part 5, sections 102, 104 to 108 and 120) commences on a day to be fixed by proclamation.

### **Crown bound**

3.(1) This Act binds the Crown not only in right of Queensland but also, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

(2) Nothing in this Act renders the Crown in any of its capacities liable to be prosecuted for an offence.

## **PART 2—OBJECT OF ACT**

### **Object of Act**

4. The object of this Act is the conservation of nature.

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

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

**(a) Gathering of information and community education etc.**

- gathering, researching, analysing, monitoring and disseminating information on nature;
- identifying critical habitats and areas of major interest;
- encouraging the conservation of nature by the education and cooperative involvement of the community, particularly land-holders;

**(b) Dedication and declaration of protected areas**

- the dedication and declaration of areas representative of the biological diversity, natural features and wilderness of Queensland as protected areas;

**(c) Management of protected areas**

- the management of protected areas in accordance with—
  - (i) the management principles; and
  - (ii) the interim and declared management intent; and
  - (iii) the conservation plans;
 for the areas;

**(d) Protection of native wildlife and its habitat**

- the protection of the biological diversity of native wildlife and its habitat by—
  - (i) the dedication and declaration of protected areas; and
  - (ii) prescribing protected and prohibited wildlife; and
  - (iii) the management of wildlife in accordance with—
    - (A) management principles; and
    - (B) the declared management intent; and
    - (C) any conservation plan;
 for the wildlife; and
  - (iv) entering into conservation agreements.

**(e) Use of protected wildlife and areas to be ecologically sustainable**

- providing for the ecologically sustainable use of protected wildlife and areas by the preparation and implementation of conservation plans consistent with the values and needs of the wildlife or areas concerned, particularly conservation plans dealing with the management of—
  - (i) protected areas; and
  - (ii) the taking or use of wildlife; and
  - (iii) protected wildlife and its habitat; and
  - (iv) critical habitats and areas of major interest.

### **Community participation in administration of Act**

6. This Act is to be administered, as far as practicable, in consultation with, and having regard to the views and interests of, land-holders and interested groups and persons.

## **PART 3—INTERPRETATION**

### **Definitions**

7. In this Act—

“**Aboriginal land**” has the meaning given by section 2.04 of the *Aboriginal Land Act 1991*;

“**Aboriginal people**” means people of the Aboriginal race of Australia;

“**Aboriginal tradition**” has the meaning given by section 2.03 of the *Aboriginal Land Act 1991*;

“**Aborigine**” means a person of the Aboriginal race of Australia;

“**animal**” means any member of the animal kingdom (other than human), (whether alive or dead), and includes—

- (a) any—
  - (i) amphibian; or

- (ii) bird; or
- (iii) coral; or
- (iv) fish; or
- (v) invertebrate; or
- (vi) mammal; or
- (vii) reptile; and
- (b) the whole or any part of—
  - (i) the progeny, larvae, pupae, eggs or genetic or reproductive material of an animal; and
  - (ii) the carcass or another part of an animal;

**“area of major interest”** means an area that contains natural resources of significant nature conservation value;

**“Australia”** includes the external Territories;

**“authorised purpose”**, in relation to the use of protected wildlife, means a purpose that—

- (a) will provide some significant benefit to wildlife or humans, including, for example, the development of drugs for the treatment of disease; and
- (b) is authorised under a conservation plan for the wildlife;

**“biological diversity”** has the meaning given by section 10;

**“boat”** means a boat, ship or other vessel of any size or kind, and includes a hovercraft;

**“buy”** includes—

- (a) agree or offer to buy; and
- (b) receive or accept under an agreement; and
- (c) agree to receive or accept under an agreement; and
- (d) offer or attempt to receive or accept under an agreement; and
- (e) cause or permit to be received or accepted under an agreement; and
- (f) acquire by exchange; and

(g) accept on hire or lease;

**“carcass”** of an animal includes—

(a) its flesh, organs or body fluids; and

(b) its feathers, hair, fur, skin, scales, shell or exoskeleton; and

(c) its bones, horns, antlers, teeth or tusks;

**“chief executive”** means the chief executive of the department;

**“CITES”** means the Convention on International Trade in Endangered Species of Wild Fauna and Flora done at Washington in the United States of America on 3 March 1973, a copy of which (apart from the Appendices to it) is set out in Schedule 8 to the *Wildlife Protection (Regulation of Exports and Imports) Act 1982* of the Commonwealth;

**“common wildlife”** means native wildlife that is prescribed under this Act as common wildlife;

**“conservation”** has the meaning given by section 9;

**“conservation agreement”** means a conservation agreement under section 41, and includes an agreement varying an earlier agreement;

**“conservation covenant”** means a covenant applying to the declaration of a Nature Refuge under section 45;

**“conservation officer”** means a conservation officer appointed under this Act;

**“Conservation Park”** means an area declared under this Act as a Conservation Park;

**“conservation plan”** means a conservation plan approved under Part 7, and includes a management plan;

**“conservation value”** of protected wildlife means the conservation value prescribed under this Act in relation to the wildlife;

**“Coordinated Conservation Area”** means an area declared under this Act as a Coordinated Conservation Area;

**“critical habitat”** has the meaning given by section 13;

**“Crown land”** means all land in Queensland, other than land that is, for the time being—

(a) granted, or contracted to be granted, in fee simple; or

(b) reserved and set apart for, or dedicated to, a public purpose under the *Land Act 1962*; or

(c) subject to a lease or licence granted under the *Land Act 1962*; or

(d) subject to a mining interest;

**“cultural resources”** of a protected area means places or objects that have anthropological, archaeological, historical, scientific, spiritual or sociological significance or value, including such significance or value under Aboriginal tradition or Island custom;

**“ecologically sustainable use”** has the meaning given by section 11;

**“endangered wildlife”** means native wildlife that is prescribed under this Act as endangered wildlife;

**“executive officer”** of a corporation means a person, by whatever name called and whether or not the person is a director of the corporation, who is concerned with, or takes part in, the management of the corporation;

**“habitat”** of wildlife includes an area that is not presently occupied by the wildlife;

**“honorary protector”** means an honorary protector appointed under this Act;

**“hovercraft”** means a vehicle designed to be supported on a cushion of air;

**“in the wild”**, in relation to wildlife, means in an independent and unpossessed state of natural liberty;

**“indigenous to Australia”**, in relation to wildlife, means—

(a) wildlife that was not originally introduced to Australia by human intervention; or

(b) a migratory animal that periodically or occasionally migrates to, or visits, Australia;

**“indigenous to Queensland”**, in relation to wildlife, means—

(a) wildlife that was not originally introduced to Queensland by human intervention; or

(b) a migratory animal that periodically or occasionally migrates to, or visits, Queensland;

but does not include wildlife that was introduced to another part of Australia by human intervention and subsequently spread naturally to Queensland;

**“interest”**, in relation to land, includes a mining interest;

**“interfere with”**, in relation to a cultural or natural resource, includes destroy, damage, mark, move and dig up;

**“interim conservation order”** means an order made under Part 6;

**“International Agreement Area”** means an area declared under this or another Act as an International Agreement Area;

**“international wildlife”** means wildlife that is prescribed under this Act as international wildlife;

**“Island custom”** has the meaning given by section 2.02 of the *Torres Strait Islander Land Act 1991*;

**“keep”**, in relation to a cultural or natural resource or wildlife, includes have in possession, or under control, in any place (whether for the use or benefit of the person in relation to whom the term is used or another person), even though another person has the actual possession or custody;

**“land”** includes—

- (a) the airspace above land; and
- (b) land that is, or is at any time, covered by waters; and
- (c) waters;

**“land-holder”** includes—

- (a) if the land is reserved and set apart for a public purpose under the *Land Act 1962*—the trustees of the land; and
- (b) if the land is leased under the *Land Act 1962*, *Miners’ Homestead Leases Act 1913* or *Mining Titles Freeholding Act 1980*—the lessee of the land;

**“management plan”** means a management plan prepared for a National Park (Aboriginal land) or National Park (Torres Strait Islander land);

**“mining interest”** means—

- (a) a mining claim, mineral development licence or mining lease

granted under the *Mineral Resources Act 1989*; or

(b) a petroleum lease granted under the *Petroleum Act 1923*;

**“National Park”** means an area dedicated under this Act as a National Park;

**“National Park (Aboriginal land)”** means an area dedicated under this Act as a National Park (Aboriginal land);

**“National Park (Scientific)”** means an area dedicated under this Act as a National Park (Scientific);

**“National Park (Torres Strait Islander land)”** means an area dedicated under this Act as a National Park (Torres Strait Islander land);

**“native wildlife”** means any taxon or species of animal or plant that is indigenous to Australia;

**“natural resources”**, in relation to—

(a) a protected area; or

(b) an area identified under a conservation plan as, or including—

(i) a critical habitat; or

(ii) an area of major interest;

means the natural and physical features of the area, including animals, plants, soil, water, minerals and air;

**“nature”** has the meaning given by section 8;

**“nature-based”**, in relation to the use of a protected area, includes scientific, educational, spiritual, intellectual, cultural and recreational;

**“Nature Refuge”** means an area declared under this Act as a Nature Refuge;

**“place”** includes—

(a) vacant land or premises; and

(b) a vehicle, boat or aircraft;

**“planning scheme”** has the meaning given by section 1.4 of the *Local Government (Planning and Environment) Act 1990*;

**“plant”** means any member of the plant or fungus kingdom (whether alive or dead and standing or fallen), and includes—

- (a) any—
  - (i) flowering plant; or
  - (ii) cycad; or
  - (iii) conifer; or
  - (iv) fern or fern ally; or
  - (v) moss; or
  - (vi) liverwort; or
  - (vii) alga; or
  - (viii) fungus; or
  - (ix) lichen; and
- (b) the whole or any part of the flowers, seeds or genetic or reproductive material of a plant;

**“premises”** includes—

- (a) a building or structure, or a part of a building or structure, of any kind; and
- (b) the land on which a building or structure is situated; and
- (c) a vehicle, boat or aircraft;

**“presumed extinct wildlife”** means native wildlife that is prescribed under this Act as presumed extinct wildlife;

**“prohibited wildlife”** means wildlife that is prescribed under this Act as prohibited wildlife;

**“protect”** includes rehabilitate;

**“protected animal”** means an animal that is prescribed under this Act as threatened, rare or common wildlife, but does not include a processed product that—

- (a) is made or derived from a protected animal; and
- (b) is declared under a conservation plan for the protected animal to be a processed product that is not included in this definition;

**“protected area”** means a protected area of a class mentioned in section 14;

**“protected plant”** means a plant that is prescribed under this Act as threatened, rare or common wildlife, but does not include a processed product that—

- (a) is made or derived from a protected plant; and
- (b) is declared under a conservation plan for the protected plant to be a processed product that is not included in this definition;

**“protected wildlife”** means native wildlife that is prescribed under this Act as—

- (a) presumed extinct wildlife; or
- (b) endangered wildlife; or
- (c) vulnerable wildlife; or
- (d) rare wildlife; or
- (e) common wildlife;

**“rare wildlife”** means native wildlife that is prescribed under this Act as rare wildlife;

**“Registrar”** means the person responsible for keeping a register in relation to dealings in land;

**“Resources Reserve”** means an area dedicated under this Act as a Resources Reserve;

**“sell”** includes—

- (a) auction, exchange or supply; and
- (b) keep, expose, supply or receive for sale; and
- (c) send or deliver for sale; and
- (d) dispose of by hire or lease; and
- (e) cause or permit the doing of an act mentioned in paragraph (a), (b), (c) or (d); and
- (f) offer or attempt to do an act mentioned in paragraph (a), (b), (c) or (d); and
- (g) offer or attempt to sell; and
- (h) cause or permit to be sold;

**“special conservation officer”** means a special conservation officer

appointed under this Act;

**“species”** means a species, subspecies, hybrid, variant, race, mutation or geographically separate population of any animal or plant;

**“take”** includes—

(a) in relation to an animal—

(i) hunt, shoot, wound, kill, skin, poison, net, snare, spear, trap, catch, dredge for, bring ashore or aboard a boat, pursue, lure, injure or harm the animal; or

(ii) attempt to do an act mentioned in subparagraph (i); and

(b) in relation to a plant—

(i) gather, pluck, cut, pull up, destroy, dig up, fell, remove or injure the plant or any part of the plant; or

(ii) attempt to do an act mentioned in subparagraph (i);

**“threatened wildlife”** means native wildlife that is prescribed under this Act as—

(a) presumed extinct wildlife; or

(b) endangered wildlife; or

(c) vulnerable wildlife;

**“threatening process”** has the meaning given by section 12;

**“Torres Strait Islander”** means a person who is a descendant of an indigenous inhabitant of the Torres Strait Islands;

**“Torres Strait Islander land”** has the meaning given by section 2.03 of the *Torres Strait Islander Land Act 1991*;

**“unnatural hybrid”** of wildlife means a hybrid, variant, race or mutation of the wildlife that has been derived because of manipulation by humans;

**“use”**, in relation to a cultural or natural resource or wildlife, includes buy, sell, process, move or gain any benefit from the resource or wildlife;

**“vulnerable wildlife”** means native wildlife that is prescribed under this Act as vulnerable wildlife;

**“waters”** means Queensland waters;

**“wild by nature”**, in relation to wildlife, means derived by natural processes and not because of manipulation by humans;

**“wilderness”** means an area that is, or can be restored to be—

- (a) of sufficient size to enable the long-term protection of its natural systems and biological diversity; and
- (b) substantially undisturbed by modern society; and
- (c) remote at its core from points of mechanised access and other evidence of society;

**“Wilderness Area”** means an area declared under this Act as a Wilderness Area;

**“wildlife”** means any taxon or species of an animal or plant;

**“World Heritage Convention”** means the Convention for the Protection of the World Cultural and Natural Heritage that has been adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization, a copy of which is set out in the Schedule to the *World Heritage Properties Conservation Act 1983* of the Commonwealth;

**“World Heritage Management Area”** means an area declared under this or another Act as a World Heritage Management Area.

### Meaning of “nature”

**8.(1) “Nature”** includes all aspects of nature.

**(2)** Without limiting subsection (1), **“nature”** includes—

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

**Meaning of “conservation”**

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

**Meaning of “biological diversity”**

**10.(1) “Biological diversity”** is the natural diversity of native wildlife, together with the environmental conditions necessary for their survival, and includes—

- (a) regional diversity, that is, the diversity of the landscape components of a region, and the functional relationships that affect environmental conditions within ecosystems; and
- (b) ecosystem diversity, that is, the diversity of the different types of communities formed by living organisms and the relations between them; and
- (c) species diversity, that is, the diversity of species; and
- (d) genetic diversity, that is, the diversity of genes within each species.

**(2)** In subsection (1)—

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

**Meaning of “ecologically sustainable use”**

**11. “Ecologically sustainable use”** is—

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

within their capacity to sustain natural processes while—

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

**Meaning of “threatening process”**

**12.** A “**threatening process**” is any process that is capable of—

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

**Meaning of “critical habitat”**

**13.(1)** “**Critical habitat**” is habitat that is essential for the conservation of a viable population of protected wildlife or community of native wildlife, whether or not special management considerations and protection are required.

**(2)** A “**critical habitat**” may include an area of land that is considered essential for the conservation of protected wildlife, even though the area is not presently occupied by the wildlife.

## **PART 4—PROTECTED AREAS**

### *Division 1—Basic concepts*

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

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

- (a) National Parks (Scientific); and
- (b) National Parks ; and
- (c) National Parks (Aboriginal land); and
- (d) National Parks (Torres Strait Islander land); and
- (e) Conservation Parks; and
- (f) Resources Reserves; and
- (g) Nature Refuges; and
- (h) Coordinated Conservation Areas; and
- (i) Wilderness Areas; and
- (j) World Heritage Management Areas; and
- (k) International Agreement Areas.

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

**15.(1)** Each protected area is to be managed in accordance with—

- (a) the management principles prescribed by this Division for the class of protected area; and
- (b) if the area is—
  - (i) a National Park (Scientific), National Park, Conservation Park or Resources Reserve—the interim management intent for the area until a conservation plan is approved for the area; or
  - (ii) a National Park (Aboriginal land) or National Park (Torres Strait Islander land)—the lease or sublease of the area; or
  - (iii) a Nature Refuge or a Wilderness area—the declared

management intent, and the conservation agreement or covenant, for the area;

(iv) a Coordinated Conservation Area—

(A) the interim management intent for the area until a conservation plan is approved for the area; and

(B) the conservation agreement for the area; and

(c) the conservation plan for the area.

(2) The interim or declared management intent for a protected area is the management intent for the area specified in the order in council dedicating or declaring the area.

(3) The interim or declared management intent for a protected area must contain a statement of—

(a) the area's significant cultural and natural resources and values; and

(b) the proposed management intent for the area; and

(c) any proposed use of the area.

### **Management principles of National Parks (Scientific)**

**16.** A National Park (Scientific) is to be managed to—

(a) protect the area's exceptional scientific values and, in particular—

(i) ensure that the processes of nature continue unaffected in the area; and

(ii) protect the area's biological diversity to the greatest possible extent; and

(b) allow controlled scientific study and monitoring of the area's natural resources.

### **Management principles of National Parks**

**17.(1)** A National Park is to be managed to—

(a) provide for the permanent preservation of the area's natural condition to the greatest possible extent; and

(b) protect and present the area's cultural and natural resources and their values; and

(c) ensure that the only use of the area is nature-based and ecologically sustainable.

(2) The management principles mentioned in subsection (1)(a) and (b) are the cardinal principles for the management of National Parks.

### **Management principles of National Parks (Aboriginal land)**

**18.(1)** A National Park (Aboriginal land) is to be managed as a National Park.

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

### **Management principles of National Parks (Torres Strait Islander land)**

**19.(1)** A National Park (Torres Strait Islander land) is to be managed as a National Park.

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

### **Management principles of Conservation Parks**

**20.** A Conservation Park is to be managed to—

(a) conserve the area's cultural and natural resources and their values; and

(b) provide for the permanent conservation of the area's natural condition to the greatest possible extent; and

(c) ensure that any commercial use of the area's natural resources, including fishing and grazing, is ecologically sustainable.

**Management principles of Resources Reserves**

**21.(1)** Subject to subsection (2), a Resources Reserve is to be managed to—

- (a) recognise and, if appropriate, protect the area's cultural and natural resources; and
- (b) provide for the controlled use of the area's cultural and natural resources; and
- (c) ensure that the area is maintained predominantly in its natural condition.

**(2)** Commercial forestry operations must not be conducted in a Resources Reserve.

**Management principles of Nature Refuges**

**22.** A Nature Refuge is to be managed to—

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

**Management principles of Coordinated Conservation Areas**

**23.** A Coordinated Conservation Area is to be managed to—

- (a) conserve the area's natural and cultural values by coordinated management involving the area's various land-holders; and
- (b) take account of the area's values, including its recreational, educational and commercial values; and
- (c) provide for the interests of the various land-holders to be maintained.

**Management principles of Wilderness Areas**

**24.** A Wilderness Area is to be managed to—

- (a) protect or restore the wilderness values, and the cultural and natural resources, of the area to the greatest possible extent; and

- (b) maintain the area to preserve its capacity to evolve in the absence of significant human interference; and
- (c) provide opportunities for solitude and appropriate self-reliant recreational and spiritual activities.

### **Management principles of World Heritage Management Areas**

**25.** A World Heritage Management Area is to be managed to—

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

### **Management principles of International Agreement Areas**

**26.** An International Agreement Area is to be managed to—

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

### **Prohibition on mining**

**27.(1)** A mining interest cannot be granted in relation to—

- (a) a National Park (Scientific); or
- (b) a National Park; or
- (c) a National Park (Aboriginal land); or
- (d) a National Park (Torres Strait Islander land); or
- (e) a Conservation Park.

**(2)** In this section—

**“mining interest”** means a lease, claim or other interest in, or a permit, licence or other right in relation to land that is granted under the *Mineral Resources Act 1989*.

**Division 2—Protected areas (Crown land)****Meaning of “protected area” in Division**

**28.** In this Division—

“protected area” means—

- (a) a National Park (Scientific); or
- (b) a National Park; or
- (c) a Conservation Park; or
- (d) a Resources Reserve.

**Dedication of protected areas**

**29.(1)** The Governor in Council may, by order in council, dedicate a specified area of Crown land as—

- (a) a National Park (Scientific); or
- (b) a National Park; or
- (c) a Conservation Park; or
- (d) a Resources Reserve.

**(2)** The order in council must specify the interim management intent for the area.

**(3)** The order in council may define the extent of the area by reference to—

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

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

**Revocation of State Forests and Timber Reserves**

**30.(1)** Despite the *Forestry Act 1959*, if an area that is dedicated as a protected area is, or includes part of, a State Forest or Timber Reserve set apart and declared under that Act, the order in council dedicating the area

may revoke, in whole or part, the setting apart and declaration of the State Forest or Timber Reserve.

(2) The order in council may be made only if the Legislative Assembly has, on a motion of which at least 14 sitting days' notice has been given, passed a resolution requesting the Governor in Council to dedicate the area.

### **Trustees of protected areas**

**31.(1)** If an area is dedicated as a Conservation Park or Resources Reserve, the Governor in Council may, by order in council, place the area under the management of trustees.

(2) The trustees are to be appointed by the Governor in Council.

(3) The trustees must comply with section 15 in the management of the protected area.

(4) Section 25 of the *Acts Interpretation Act 1954* applies to an office as trustee.

(5) The *Trusts Act 1973* does not apply to—

- (a) trusts created under this section; and
- (b) the trustees of such trusts.

(6) Despite any rule of law or equity to the contrary, a trustee may delegate the trustee's powers to any person.

(7) Section 27A of the *Acts Interpretation Act 1954* applies to a delegation under subsection (6).

(8) The Governor in Council may, by order in council, revoke a trust created under this section.

(9) The persons who were the trustees of a trust immediately before its revocation must, within 30 days of receipt of written notice given to them by the Minister, repay to the State any unspent amount that—

- (a) was paid to them by the State for the purposes of the trust; and
- (b) was held by them when the trust was revoked.

(10) An amount payable to the State under subsection (9) is a debt due to the State and may be recovered in a court having jurisdiction for the recovery of debts up to the amount concerned.

**Revocation of protected areas**

**32. (1)** The Governor in Council may, by order in council, revoke the dedication of a protected area in whole or part.

(2) The order in council may be made only if the Legislative Assembly has, on a motion of which at least 14 sitting days' notice has been given, passed a resolution requesting the Governor in Council to make the revocation.

(3) Subsection (2) does not apply to a Resources Reserve.

**Amalgamation etc. of protected areas**

**33.(1)** The Governor in Council may, by order in council—

(a) amalgamate protected areas of the same class, and assign a name to the amalgamated area; or

(b) change the class of a protected area by dedicating the area as another class of protected area; or

(c) change the boundaries of a protected area.

(2) If—

(a) because of the change in the class of a protected area, the area will be given less protection under this Act; or

(b) because of the change in the boundaries of a protected area, land will be removed from the area (other than for the purpose of dedicating the removed land as land with a higher level of protection under this Act);

the order in council may be made only if the Legislative Assembly has, on a motion of which at least 14 sitting days' notice has been given, passed a resolution requesting the Governor in Council to make the revocation.

(3) Subsection (2) does not apply to a Resources Reserve.

**Creation of interests in protected areas**

**34.(1)** Despite any other Act, an interest in land in a protected area can only be created under—

(a) a licence, permit or other authority issued or given under a

regulation; or

(b) a lease, agreement, licence, permit or other authority granted, made, issued or given under another Act—

(i) by the Governor in Council; or

(ii) by another person with the consent of the chief executive.

(2) A lease, agreement, licence, permit or other authority mentioned in subsection (1) must be consistent with—

(a) the management principles for the area; and

(b) the interim management intent, or conservation plan, for the area.

(3) Despite subsection (2) and section 15, a lease, agreement, licence, permit or other authority that exists over an area when it is dedicated as a National Park under this Act may continue in force until it expires, or is earlier terminated, in accordance with its terms.

### **Special leases may be granted under Land Act 1962**

**35.(1)** Subject to subsection (2), a special lease under section 198 or 203 of the *Land Act 1962* may be granted over any land within a protected area as if the land were reserved and set apart under that Act for public purposes.

(2) The special lease must be granted only with the consent of, and subject to the conditions determined by, the chief executive.

(3) The *Land Act 1962* applies to the special lease to the extent that it is not inconsistent with this Act.

### ***Division 3—Protected areas (Aboriginal land and Torres Strait Islander land)***

#### **Dedication of National Park as National Park (Aboriginal land) or National Park (Torres Strait Islander land)**

**36.(1)** This section applies to a National Park, or part of a National Park, (the “**National Park land**”) that becomes Aboriginal land or Torres Strait Islander land.

(2) On approval of the management plan for the National Park land

under section 108, the Governor in Council must, by order in council, dedicate the National Park land as National Park (Aboriginal land) or National Park (Torres Strait Islander land).

(3) Despite any other Act, an order in council under this section takes effect on the delivery of the deed of grant over the National Park land to the grantees of the area under the *Aboriginal Land Act 1991* or the *Torres Strait Islander Land Act 1991*.

**Dedication of Aboriginal land as National Park (Aboriginal land) or Torres Strait Islander land as National Park (Torres Strait Islander land)**

37.(1) This section applies to Aboriginal land or Torres Strait Islander land that is not a National Park or included in a National Park.

(2) If the grantees of the land and the Minister agree on a proposal for the lease of the land, or part of the land, to the State for the purpose of the land being managed as a National Park (Aboriginal land) or National Park (Torres Strait Islander land), the Minister may prepare a management plan for the land.

(3) Part 7 applies to the management plan as if it were a conservation plan required to be prepared under section 102(1).

(4) The Minister must prepare the management plan in cooperation with the grantees of, and the board of management for, the land.

(5) On—

- (a) the signing of the lease; and
- (b) the approval of a management plan for the land;

the Governor in Council must, by order in council, dedicate the land as National Park (Aboriginal land) or National Park (Torres Strait Islander land).

(6) The order in council may define the extent of the area by reference to—

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

(7) Despite any other Act, an order in council under this section takes

effect on the registration of the lease.

**Dedication of leasehold land as National Park (Aboriginal land) or National Park (Torres Strait Islander land)**

**38.(1)** Despite the *Land Act 1962*, an authorised lessee may, under this section, sublease land to the State for the purpose of the land being managed as a National Park (Aboriginal land) or National Park (Torres Strait Islander land).

**(2)** If an authorised lessee and the Minister agree on a proposal for the sublease of land to the State for the purpose of the land being managed as a National Park (Aboriginal land) or National Park (Torres Strait Islander land), the Minister may prepare a management plan for the land.

**(3)** Part 7 applies to the management plan as if it were a conservation plan required to be prepared under section 102(1).

**(4)** The Minister must prepare the management plan in cooperation with the lessees of, and the board of management for, the land.

**(5)** On—

- (a) the signing of a sublease; and
- (b) the approval of a management plan for the land;

the Governor in Council must, by order in council, dedicate the area as National Park (Aboriginal land) or National Park (Torres Strait Islander land).

**(6)** The order in council may define the extent of the area by reference to—

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

**(7)** Despite any other Act, an order in council under this section takes effect on the registration of the sublease.

**(8)** In this section—

**“authorised lessee”** means a lessee of land under the *Land Act 1962* who the Governor in Council, by order in council, has declared to be an authorised lessee for the purpose of this section.

***Division 4—Nature Refuges, Coordinated Conservation Areas and  
Wilderness Areas***

**Meaning of “protected area” in Division**

**39.** In this Division—

**“protected area”** means—

- (a) a Nature Refuge; or
- (b) a Coordinated Conservation Area; or
- (c) a Wilderness Area.

**Proposal for declaration of protected area**

**40.(1)** If the Minister is satisfied that an area should be declared a protected area, the Minister must prepare a proposal for the declaration.

**(2)** The proposal for the declaration must—

- (a) describe the lands to be included in the area; and
- (b) specify the proposed class of protected area and the proposed management intent for the area.

**(3)** The Minister must give written notice to all land-holders affected by the proposal.

**(4)** The notice must specify a day by which the land-holders may make submissions to the Minister relating to the proposal.

**(5)** If the Minister considers that it is impracticable to give notice to each land-holder of a particular class, it is sufficient compliance with subsection (3) if the Minister gives notice to the class by publishing a notice in such newspapers as the Minister determines.

**(6)** In this section—

**“land-holder”** includes a person having an interest in land.

**Conservation agreements**

**41.(1)** If the Minister and land-holders concerned agree on—

- (a) a proposal that an area should be a protected area; and

- (b) the class of the protected area; and
- (c) the management intent for the area;

the Minister may, on behalf of the State, enter into a conservation agreement in relation to the area with the land-holders.

**(2)** The Minister must not enter into the conservation agreement without the written consent of—

- (a) if land in the area is subject to a lease or mining interest—the lessee or interest holder; or
- (b) if land in the area is subject to an encumbrance—the person entitled to the benefit of the encumbrance.

**(3)** Subsection (2)(a) applies only if the lessee's or holder's rights will be affected by the conservation agreement.

**(4)** The conservation agreement must be consistent with the management principles for the class of area.

**(5)** The conservation agreement may contain terms that are binding on —

- (a) the State; and
- (b) a land-holder and the land-holder's successors in title.

**(6)** Without limiting subsection (5), the conservation agreement may contain terms—

- (a) requiring the State to provide financial or other assistance; or
- (b) requiring the State to provide technical advice; or
- (c) requiring the State to carry out specified activities; or
- (d) allowing a land-holder to carry out specified activities; or
- (e) prohibiting a specified use of land in the area; or
- (f) restricting the use or management of land in the area; or
- (g) requiring a land-holder to refrain from, or not to permit, specified activities; or
- (h) requiring a land-holder to carry out specified activities; or
- (i) requiring a land-holder to permit or restrict access to the area by specified persons; or
- (j) specifying the way in which amounts provided to a land-holder

under the agreement are to be applied by the land-holder; or

(k) requiring a land-holder to repay amounts paid under the agreement if the land-holder contravenes the agreement or the agreement is terminated under section 43(2); or

(l) providing for any other matter relating to the conservation of the area, including the implementation of the conservation plan for the protected area.

### **Declaration of protected area**

**42.(1)** The Governor in Council may, by order in council, declare a specified area of Crown land, or the area the subject of a conservation agreement, as—

(a) a Nature Refuge; or

(b) a Coordinated Conservation Area; or

(c) a Wilderness Area.

**(2)** The order in council must specify—

(a) if the area is—

(i) a Nature Refuge or a Wilderness Area—the declared management intent for the area; or

(ii) a Coordinated Conservation Area—the interim management intent for the area; and

(b) the duration of the order, which must, if the area is the subject of a conservation agreement, be the duration of the agreement.

**(3)** The order in council may define the extent of the area by reference to—

(a) a specified depth below the surface of land; or

(b) a specified height above the surface of land.

**(4)** To allay any doubt, a Coordinated Conservation Area or Wilderness Area may include an area that is, or is part of, a protected area dedicated or declared under any provision of this Act.

**(5)** Subsection (4) does not apply to revoke the dedication or declaration of a protected area, or a part of a protected area, included in a Coordinated

Conservation Area or Wilderness Area.

(6) In subsection (1)—

“**Crown land**” includes land reserved and set apart for, or dedicated to, a public purpose under the *Land Act 1962*.

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

**43.(1)** A conservation agreement has effect until it expires under its terms unless—

- (a) it is terminated under subsection (2); or
- (b) the declaration of the protected area to which it relates is revoked.

(2) A conservation agreement may be terminated only if—

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

### **Variation of conservation agreements**

**44.** A conservation agreement may be varied by a later agreement between the State and land-holders concerned, including, for example—

- (a) in the case of a Nature Refuge or Wilderness Area—by removing, at the request of the land-holder who entered into the agreement, a part of the area that, in the Minister’s opinion, is no longer needed for, or capable of being used to achieve, the declared management intent for the area; and
- (b) in the case of a Coordinated Conservation Area—by removing a part of the area at the request of one of the land-holders.

**Compulsory declaration of Nature Refuge****45.(1)** If—

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

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

**(2)** The notice must specify—

- (a) the proposed management intent for the area; and
- (b) the reasons why the Minister has reached the opinion; and
- (c) a day by which objections relating to the recommendation must be received by the Minister.

**(3)** After consideration of any objections properly received by the Minister, the Governor in Council may, by order in council, declare the area, or part of the area, as a Nature Refuge.

**(4)** The order in council must—

- (a) describe the area for which the declaration is made; and
- (b) specify the declared management intent for the area; and
- (c) specify the covenant applying to the declaration; and
- (d) specify such other particulars as are prescribed.

**Revocation of protected area**

**46.** The Governor in Council may, by order in council, revoke the

declaration of a protected area in whole or part.

### **Conservation agreements and covenants binding**

**47.(1)** A conservation agreement that is recorded by the Registrar under section 122 (Records to be maintained by Registrar) in relation to land is binding on—

- (a) the successors in title to the land-holder who entered into the agreement; and
- (b) persons who have an interest in the land.

**(2)** A conservation covenant is binding on—

- (a) the land-holder and the land-holder's successors in title; and
- (b) persons who have an interest in the land.

### ***Division 5—World Heritage Management Areas***

#### **Proposal to declare World Heritage Management Area**

**48.(1)** If an area has been included in the World Heritage List established and kept under the World Heritage Convention, the Minister may, by advertisement published in a newspaper circulating throughout Queensland, propose that the whole or part of the area, and any other neighbouring area, be declared a World Heritage Management Area.

**(2)** The advertisement must—

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

#### **Preparation of conservation plan**

**49.** After consideration of any submissions properly made in relation to the proposal, the Minister may prepare a conservation plan under Part 7 for the area as if it were required under section 102(1), except that the Minister need not give notice of the proposal to prepare a draft conservation plan.

#### **Declaration of World Heritage Management Area**

**50.(1)** On approval of a conservation plan for an area that is proposed to become a World Heritage Management Area, the Governor in Council must, by order in council, declare the area to which the plan relates to be a World Heritage Management Area.

**(2)** The order in council must—

- (a) describe the area for which the declaration is made; and
- (b) specify such other particulars as are prescribed.

**(3)** The order in council may define the extent of the area by reference to—

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

(4) To allay any doubt, a World Heritage Management Area may include an area that is, or is part of, a protected area dedicated or declared under any provision of this Act.

(5) Subsection (4) does not apply to revoke the dedication or declaration of a protected area, or a part of a protected area, included in a World Heritage Management Area.

### **Revocation of World Heritage Management Area**

**51.(1)** The Governor in Council may, by order in council, revoke the declaration under this Act of a World Heritage Management Area, in whole or part.

(2) The order in council may be made only if the Legislative Assembly has, on a motion of which at least 14 sitting days' notice has been given, passed a resolution requesting the Governor in Council to make the revocation.

### ***Division 6—International Agreement Areas***

#### **Proposal to declare International Agreement Area**

**52.(1)** If the Minister is of the opinion that an area has internationally significant natural values, the Minister may, by advertisement published in a newspaper circulating throughout Queensland, propose that the area be declared an International Agreement Area.

(2) The advertisement must—

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

**Preparation of conservation plan**

**53.** After consideration of any submissions properly made in relation to the proposal, the Minister may prepare a conservation plan under Part 7 for the area as if it were required under section 102(1), except that the Minister need not give notice of the proposal to prepare a draft conservation plan.

**Declaration of International Agreement Area**

**54.(1)** On approval of a conservation plan for an area that is proposed to become an International Agreement Area, the Governor in Council must, by order in council, declare the area to which the plan relates to be an International Agreement Area.

**(2)** The order in council must—

- (a) describe the area for which the declaration is made; and
- (b) specify such other particulars as are prescribed.

**(3)** The order in council may define the extent of the area by reference to—

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

**(4)** To allay any doubt, an International Agreement Area may include an area that is, or is part of, a protected area dedicated or declared under any provision of this Act.

**(5)** Subsection (4) does not apply to revoke the dedication or declaration of a protected area, or a part of a protected area, included in an International Agreement Area.

**Revocation of International Agreement Area**

**55.** The Governor in Council may, by order in council, revoke the declaration under this Act of an International Agreement Area, in whole or part.

***Division 7—Cultural and natural resources*****Property in cultural and natural resources**

**56.** All cultural and natural resources of a National Park (Scientific), National Park, Conservation Park or Resources Reserve are the property of the State.

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

**57.(1)** A person must not take, use, keep or interfere with a cultural or natural resource of a protected area, other than under—

- (a) the interim or declared management intent for the area; or
- (b) any conservation agreement or covenant applicable to the area; or
- (c) the conservation plan for the area; or
- (d) a licence, permit or other authority issued or given under a regulation or another Act.

Maximum penalty—3 000 penalty units, imprisonment for 2 years or both.

**(2)** It is a defence to a charge of taking or interfering with a cultural or natural resource in contravention of subsection (1) to prove that—

- (a) the taking or interference happened in the course of a lawful activity that was not directed towards the taking or interference; and
- (b) the taking or interference could not have been reasonably avoided.

**(3)** Subsection (2) does not allow a person to use or keep the resource.

***Division 8—General*****Meaning of “land-holder” in Division**

**58.** In this Division—

“**land-holder**” includes a person having an interest in land.

**Naming of protected areas**

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

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

**60.(1)** If a protected area, or part of a protected area, is dedicated or declared under this Act to be a protected area of a different class—

- (a) the later dedication or declaration revokes the earlier dedication or declaration of the area or the part of the area to which the dedication or declaration relates; and
- (b) the conservation plan for the area ceases to apply to the area, unless the order in council dedicating or declaring the area otherwise declares.

**(2)** To allay any doubt—

- (a) subsection (1) applies subject to sections 32 and 33; and
- (b) subsection (1) does not apply to the declaration of a protected area that includes another class of protected area.

**Cancellation of licences etc.**

**61.(1)** If a licence, permit or other authority issued or given under any Act permits the holder to do an act that would contravene a conservation plan for—

- (a) a World Heritage Management Area; or
- (b) an International Agreement Area;

the operation of such an authority is, by force of this section, cancelled to the extent that it permits the doing of the act.

**(2)** The Minister must, immediately after the approval of the conservation plan, give written notice of the cancellation to the authority holder.

**(3)** If the Minister considers that it is impracticable to give notice to each holder of a particular class of authority holder, it is sufficient compliance with subsection (2) if the Minister gives notice of the cancellation to the authority holders by publishing a notice in such newspapers as the Minister

determines.

(4) The cancellation takes effect from the day of approval of the conservation plan.

(5) Subsection (1) applies despite any other Act.

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

**62.(1)** If—

- (a) a Nature Refuge is declared under section 45; or
- (b) a World Heritage Management Area is declared under section 50; or
- (c) an International Agreement Area is declared under section 54;

a land-holder of land in the area is entitled to be paid by the State such reasonable compensation because of the declaration as is agreed between the State and the land-holder or, failing agreement, as is determined by the Land Court.

(2) A claim for compensation must—

- (a) be made in a form approved by the chief executive; and
- (b) be lodged with the chief executive within 6 months after the declaration of the protected area.

(3) In making a determination, the Land Court must have regard to the following matters—

- (a) the public harm that is likely to be caused if the declaration had not been made;
- (b) the sustainable land capability of the area;
- (c) the increase or decrease in the value of the land because of the declaration.

(4) Subsection (3) does not limit the matters to which the Land Court may have regard in making a determination.

(5) Subsection (1) does not apply to land—

- (a) if—
  - (i) a conservation plan is in force for a Nature Refuge; and
  - (ii) the Nature Refuge is declared to be included in a World

Heritage Management Area or International Agreement Area; and  
 (iii) the order in council making the declaration declares that the plan continues to apply to the Nature Refuge after declaration; and  
 (iv) the land-holder receives, or is entitled to receive, compensation under this section in relation to the land because of the declaration of the Nature Refuge; or

(b) if—

- (i) an area is identified in a conservation plan as, or including—
  - (A) a critical habitat; or
  - (B) an area of major interest; and
- (ii) the area is declared to be a protected area; and
- (iii) the order in council making the declaration declares that the plan continues to apply to the area after declaration; and
- (iv) the land-holder receives, or is entitled to receive, compensation under section 115 in relation to the land because of the approval of the conservation plan.

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

**63.** If—

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

the land-holders concerned are not entitled to compensation because of the termination or revocation.

### **Preservation of land-holders' interests**

**64.** The interests of a land-holder of land forming part of a protected area are not affected by the declaration of the protected area except to the extent of—

- (a) any binding conservation agreement, or conservation covenant, in relation to the land; or

(b) the conservation plan for the area.

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

**65.** A person must not use words in relation to an area that is not a protected area in a way that is likely to cause another person reasonably to believe that the area is a protected area.

Maximum penalty—50 penalty units.

## **PART 5—WILDLIFE AND HABITAT CONSERVATION**

### *Division 1—Basic concepts*

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

**66.** The classes of wildlife to which this Act applies are—

- (a) protected wildlife, that is—
  - (i) presumed extinct wildlife; and
  - (ii) endangered wildlife; and
  - (iii) vulnerable wildlife; and
  - (iv) rare wildlife; and
  - (v) common wildlife; and
- (b) international wildlife; and
- (c) prohibited wildlife.

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

**67.(1)** Wildlife is to be managed in accordance with—

- (a) the management principles prescribed by this Division for the class of the wildlife; and

- (b) the declared management intent for the wildlife; and
- (c) any conservation plan for the wildlife.

(2) The declared management intent for wildlife is the management intent applicable to the wildlife under the regulations.

(3) The declared management intent for wildlife must contain a statement of—

- (a) the significance of the wildlife to nature and its value; and
- (b) the proposed management intent for the wildlife; and
- (c) the principles relating to any proposed taking and use of the wildlife.

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

**68.** Protected wildlife is to be managed to—

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

**Management principles of international wildlife**

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

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

**Management principles of prohibited wildlife**

**70.** Prohibited wildlife is to be managed to—

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

*Division 2—Classes of wildlife***Native wildlife may be prescribed as presumed extinct wildlife**

**71.(1)** If the Governor in Council is of the opinion that native wildlife is extinct, the wildlife may be prescribed as presumed extinct wildlife.

**(2)** Native wildlife is taken to be extinct if it has not been sighted in the wild for a period critical to its life cycle despite thorough searching.

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

**72.(1)** If the Governor in Council is of the opinion that—

- (a) native wildlife is in danger of extinction; or
- (b) the survival of native wildlife in the wild is unlikely if threatening processes continue;

the wildlife may be prescribed as endangered wildlife.

(2) Native wildlife is taken to be in danger of extinction if—

- (a) its number has been reduced to a critical level or its habitat has been so drastically reduced that it may be in immediate danger of extinction ; or
- (b) it has not been sighted in the wild for a period critical to its life cycle although no thorough search has been made for it.

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

**73.(1)** If the Governor in Council is of the opinion that the survival of native wildlife in the wild is vulnerable if threatening processes continue, the wildlife may be prescribed as vulnerable wildlife.

(2) Native wildlife is taken to be vulnerable if—

- (a) its population is decreasing because of threatening processes; or
- (b) its population has been seriously depleted and its protection is not secured; or
- (c) its population, while abundant, is at risk because of threatening processes; or
- (d) its population is—
  - (i) low or localised ; or
  - (ii) dependent on limited habitat that is at risk because of threatening processes.

### **Native wildlife may be prescribed as rare wildlife**

**74.(1)** If the Governor in Council is of the opinion that native wildlife that is not threatened wildlife is rare, the wildlife may be prescribed as rare wildlife.

(2) Rare wildlife may include native wildlife whose population is represented by—

- (a) a relatively large population in a restricted range; or
- (b) smaller populations thinly spread over a wider range.

**Native wildlife may be prescribed as common wildlife**

**75.(1)** If the Governor in Council is of the opinion that—

- (a) native wildlife is common or abundant; and
- (b) the wildlife is likely to survive in the wild;

the wildlife may be prescribed as common wildlife.

**(2)** Native wildlife may be prescribed as common wildlife even though the wildlife is the subject of a threatening process.

**Wildlife may be prescribed as international wildlife**

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

**Wildlife may be prescribed as prohibited wildlife**

**77.** If the Governor in Council is of the opinion that wildlife is—

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

the wildlife may be prescribed as prohibited wildlife.

***Division 3—Ownership of protected wildlife*****Property in protected animals**

**78.(1)** Subject to subsections (2), (3), (4) and (5), all protected animals are the property of the State.

**(2)** A protected animal ceases to be the property of the State if—

- (a) the animal is taken under a licence, permit or other authority issued or given under a regulation; and
- (b) under a conservation plan property in the animal passes from the State on that taking of the animal.

**(3)** A protected animal to which subsection (2) applies becomes the property of the holder of the authority, subject to the rights in the animal of any other person (other than the rights of the State under subsection (1)).

**(4)** A protected animal that is the progeny of an animal to which subsection (2) applies is the property of the owner of the progeny's female parent, subject to the rights in the animal of any other person (other than the rights of the State under subsection (1)).

**(5)** If—

- (a) a person is keeping an animal that is not a protected animal; and
- (b) the animal becomes a protected animal because of the making of a regulation under this Act;

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

**Property in protected plants**

**79.(1)** Subject to subsections (2), (3) and (4), all protected plants (other than protected plants on private land) are the property of the State.

**(2)** A protected plant ceases to be the property of the State if—

- (a) the plant is taken under a licence, permit or other authority issued or given under a regulation; and
- (b) under a conservation plan property in the plant passes from the State on that taking of the plant.

(3) A protected plant to which subsection (2) applies becomes the property of the holder of the authority, subject to the rights in the plant of any other person (other than the rights of the State under subsection (1)).

(4) The progeny of a plant to which subsection (2) applies is the property of the owner of the plant from which the progeny is propagated, subject to the rights in the plant of any other person (other than the rights of the State under subsection (1)).

(5) In this section—

**“protected plant”** means a protected plant that—

- (a) is prescribed under this Act as rare or threatened wildlife; and
- (b) is in the wild;

**“private land”** means—

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

### **Liability of State**

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

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

#### **Restriction on taking etc. protected animals**

**81.(1)** Subject to section 85, a person must not take, use or keep a protected animal, other than under—

- (a) a conservation plan applicable to the animal; or
- (b) a licence, permit or other authority issued or given under a regulation.

Maximum penalty—3 000 penalty units, imprisonment for 2 years or both.

(2) Subsection (1) does not apply to the taking of protected animals in a protected area.<sup>1</sup>

(3) It is a defence to a charge of taking a protected animal in contravention of subsection (1) to prove that—

(a) the taking happened in the course of a lawful activity that was not directed towards the taking; and

(b) the taking could not have been reasonably avoided.

(4) Subsection (3) does not allow a person to use or keep the animal.

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

**82.(1)** Subject to section 85, a person must not take a protected plant, other than under—

(a) a conservation plan applicable to the plant; or

(b) a licence, permit or other authority issued or given under a regulation.

(2) Subsection (1) does not apply to the taking of protected plants in a protected area.<sup>2</sup>

(3) It is a defence to a charge of taking a protected plant in contravention of subsection (1) to prove that—

(a) the taking happened in the course of a lawful activity that was not directed towards the taking; and

(b) the taking could not have been reasonably avoided.

(4) A person must not use or keep a protected plant that has been taken in contravention of subsection (1).

(5) In this section—

**“protected plant”** means a protected plant that—

(a) is prescribed under this Act as rare or threatened wildlife; and

(b) is in the wild.

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1. Section 57 deals with the taking of protected animals in a protected area.

2. Section 57 deals with the taking of protected plants in a protected area.

Maximum penalty—3 000 penalty units, imprisonment for 2 years or both.

### **Prohibition on release etc. of international and prohibited wildlife**

**83.** A person must not—

- (a) abandon international or prohibited wildlife in the wild; or
- (b) release international or prohibited wildlife into the wild; or
- (c) keep or use international or prohibited wildlife; or
- (d) introduce international or prohibited wildlife into Queensland;

other than under—

- (e) a conservation plan applicable to the wildlife; or
- (f) a licence, permit or other authority issued or given under a regulation.

Maximum penalty—3 000 penalty units, imprisonment for 2 years or both.

### **Prohibition on breeding etc. hybrids of protected animals**

**84.(1)** A person must not—

- (a) knowingly breed a hybrid or mutation of a protected animal; or
- (b) abandon a hybrid or mutation of a protected animal in the wild;

other than under a conservation plan for the protected animal.

Maximum penalty—165 penalty units.

**(2)** A person must not release a hybrid or mutation of a protected animal into the wild other than under a conservation plan for the protected animal.

Maximum penalty—165 penalty units, imprisonment for 1 year or both.

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

**85.(1)** Despite any other Act, an Aborigine or Torres Strait Islander may take, use or keep protected wildlife under Aboriginal tradition or Island custom.

**(2)** Subsection (1) applies subject to any provision of a conservation plan

that expressly applies to the taking, using or keeping of protected wildlife under Aboriginal tradition or Island custom.

(3) An Aborigine or Torres Strait Islander who takes, uses or keeps protected wildlife in contravention of a provision of a conservation plan that expressly prohibits the taking, using or keeping of protected wildlife under Aboriginal tradition or Island custom commits an offence against this Act.

Maximum penalty—3 000 penalty units, imprisonment for 2 years or both.

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

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

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

Maximum penalty—50 penalty units.

### ***Division 5—Conservation value for protected wildlife***

#### **Payment of conservation value**

**87.(1)** Subject to subsection (8), there is payable to the State for protected wildlife taken under a licence, permit or other authority issued or given under a regulation, the conservation value (if any) prescribed under this Act for the wildlife.

(2) The conservation value of protected wildlife is an expression in monetary terms of the State's conservation concern for the wildlife.

(3) Despite any Act or law, payment of the conservation value does not, of itself, transfer property in protected wildlife from the State.

(4) The person who lawfully takes protected wildlife must pay the

conservation value for the wildlife within 30 days after the wildlife is taken.

Maximum penalty—50 penalty units.

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

Maximum penalty—50 penalty units.

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

Maximum penalty—50 penalty units.

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

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

- (a) is exempt from the payment under a regulation; or
- (b) takes the wildlife for an authorised purpose under a conservation plan applicable to the wildlife.

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

**88.(1)** An amount of conservation value payable under this Act is a debt due to the State and may be recovered in a court having jurisdiction for the recovery of debts up to the amount concerned.

(2) A proceeding may be instituted against a person for the recovery of an amount of conservation value payable under this Act whether or not—

- (a) a prosecution has been instituted against the person for an offence in relation to the non-payment; or
- (b) the person has been convicted of an offence in relation to the non-payment.

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

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

**89.(1)** This section applies to native wildlife (other than protected wildlife<sup>3</sup>) in an area that is identified under a conservation plan as, or including—

- (a) a critical habitat; or
- (b) an area of major interest.

**(2)** A person must not take, use, keep or interfere with the wildlife, other than under—

- (a) the conservation plan; or
- (b) a licence, permit or other authority issued or given under a regulation.

Maximum penalty—3 000 penalty units, imprisonment for 2 years or both.

**(3)** It is a defence to a charge of taking or interfering with wildlife in contravention of subsection (2) to prove that—

- (a) the taking or interference happened in the course of a lawful activity that was not directed towards the taking or interference; and
- (b) the taking or interference could not have been reasonably avoided.

**(4)** Subsection (3) does not allow a person to use or keep the wildlife.

### ***Division 7—General***

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

**90.** Nothing in this Act gives—

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

the right to enter any land for the purpose of taking wildlife without the

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3. Sections 57, 81 and 82 deal with the taking, using and keeping of protected wildlife.

land-holder's consent.

### **Offence to trespass—general**

**91.** A person must not—

- (a) take wildlife on any land; or
- (b) enter or be on any land for the purpose of taking wildlife;

without the land-holder's consent.

Maximum penalty—165 penalty units.

### **Offence to trespass—land-holders' rights**

**92.(1)** This section applies to a person who a land-holder suspects on reasonable grounds—

- (a) is trespassing on the land-holder's land; and
- (b) is committing on the land, has committed on the land or is on the land for the purpose of committing, an offence against this Act.

**(2)** The land-holder may—

- (a) require the person to state—
  - (i) the person's name and address; and
  - (ii) the person's purpose for being on the land; and
- (b) if the person is on the land without lawful authority—require the person to leave the land immediately.

**(3)** If—

- (a) the person fails to give—
  - (i) his or her name and address; or
  - (ii) the person's purpose for being on the land;if required to do so by the land-holder; or
- (b) the person—
  - (i) is on the land without lawful authority; and
  - (ii) fails to leave the land immediately if required to do so by the

land-holder;

the person commits an offence against this Act.

Maximum penalty—165 penalty units.

(4) This section does not affect any other right or remedy that the land-holder may have against the trespasser.

## **PART 6—INTERIM CONSERVATION ORDERS**

### **Meaning of “land-holder” in Division**

93. In this Division—

“**land-holder**” includes a person having an interest in land.

### **Issue of order**

94. If the Minister is of the opinion that—

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

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

### **Effect of order**

95.(1) An interim conservation order may provide for—

- (a) the prohibition or control of a specified threatening process; or
- (b) such other matters as are prescribed.

- (2) An order may be made in relation to land even though—
- (a) the wildlife or habitat is not within the land; or
  - (b) the land is not within an area of major interest or protected area.

### **Notice of order**

**96.(1)** On the day an interim conservation order is made, the Minister must give or send written notice to—

- (a) all land-holders of land to which the order relates; and
- (b) the local authority for the area in which the land is situated;

that the order has been made and of the terms of the order.

(2) It is sufficient compliance with subsection (1)(a) in relation to a land-holder if the Minister gives notice of the order to the land-holder by displaying the notice in a prominent place on the land.

### **Duration of order**

**97.(1)** An interim conservation order has effect from the time it is made and continues in force for not more than 60 days.

(2) The Governor in Council may, by order in council, extend the order by not more than 90 days.

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

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

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

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

(2) The Minister must give written notice of the order to the authority holder.

(3) If the Minister considers that it is impracticable to give notice to each holder of a particular class of authority holder, it is sufficient compliance with subsection (2) if the Minister gives notice of the order to the authority holders by publishing a notice in such newspapers as the Minister determines.

(4) The suspension—

(a) takes effect from—

(i) if notice is given under subsection (2)—the day the notice is received by the holder; or

(ii) if notice is given under subsection (3)—the day the notice is first published in a newspaper; or

(iii) if a later day is specified in the notice—the later day; and

(b) ends—

(i) when the interim conservation order ends; or

(ii) if an earlier day is specified in the notice—the earlier day.

(5) This section applies despite any other Act.

### **Compensation**

**100.(1)** A land-holder of land subject to an interim conservation order is entitled to be paid by the State such reasonable compensation because of the making of the order as is agreed between the State and the land-holder or, failing agreement, as is determined by the Land Court.

(2) A claim for compensation must—

(a) be made in a form approved by the chief executive; and

(b) be lodged with the chief executive within 6 months after the making of the order.

### **Compliance with order**

**101.** A person must not contravene an interim conservation order.

Maximum penalty—3 000 penalty units, imprisonment for 2 years or both.

## PART 7—CONSERVATION PLANS

### When plans must or may be prepared

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

- (a) the dedication of—
  - (i) a National Park (Scientific); or
  - (ii) a National Park; or
  - (iii) a Conservation Park; or
  - (iv) a Resources Reserve; or
- (b) the declaration of—
  - (i) a Nature Refuge (other than a Nature Refuge that is the subject of a conservation agreement under which a conservation plan is not to be prepared); or
  - (ii) a Coordinated Conservation Area; or
  - (iii) a Wilderness Area;

prepare a conservation plan for the area.

**(2)** Subsection (1) does not apply if—

- (a) the dedication or declaration—
  - (i) is a dedication or declaration of a change in the class of a protected area; or
  - (ii) is a dedication or declaration of an area that is identified under a conservation plan as, or including—
    - (A) a critical habitat; or
    - (B) an area of major interest; and

(b) the order in council dedicating or declaring the area declares that the conservation plan for the area continues to apply.

**(3)** The Minister may prepare a conservation plan for any native wildlife, class of wildlife, native wildlife habitat or area that is, in the Minister's opinion, an area of major interest.

**(4)** A conservation plan may make provision for any matter in respect of

which a regulation may be made under this Act.

### **When Minister may require plan**

**103.(1)** If a person applies for a licence, permit or other authority under a regulation to—

- (a) take or use protected wildlife; or
- (b) release international or prohibited wildlife into the wild; or
- (c) introduce international or prohibited wildlife into Queensland;

the Minister may, before the authority is given—

- (d) require the person, at the person's cost, to prepare a draft conservation plan; or
- (e) prepare a draft conservation plan;

for the taking, use, release or introduction of the wildlife.

**(2)** The procedures applying to the preparation and approval of plans under this Part (other than sections 104 and 105) apply to a draft conservation plan prepared under subsection (1).

**(3)** The Minister may require the person to pay—

- (a) if subsection (1)(d) applies—the reasonable costs incurred by the Minister in relation to the preparation and approval of a final conservation plan; or
- (b) if subsection (1)(e) applies—the reasonable costs incurred by the Minister in relation to—
  - (i) the preparation of the draft and final conservation plans; and
  - (ii) the approval of the final conservation plan.

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

**104.(1)** The Minister must give public notice that the Minister proposes to prepare a draft conservation plan (other than a plan for a Nature Refuge that is subject to a conservation agreement).

**(2)** The notice must—

- (a) be published in such newspapers as the Minister determines; and

- (b) specify the protected area, area of major interest, wildlife or native wildlife habitat concerned; and
- (c) invite submissions from land-holders, local authorities, interest groups and persons and members of the public; and
- (d) specify a day by which submissions may be made to the Minister.

### **Preparation of draft plan**

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

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

**106.(1)** The Minister must give public notice when a draft conservation plan has been prepared (other than a plan for a Nature Refuge that is subject to a conservation agreement).

**(2)** The notice must—

- (a) be published in such newspapers as the Minister determines; and
- (b) specify the protected area, area of major interest, wildlife or native wildlife habitat concerned; and
- (c) specify the addresses at which copies of the draft plan may be inspected and, on payment of the prescribed fee, purchased; and
- (d) invite submissions from land-holders, local authorities, interested groups and persons and members of the public; and
- (e) specify a day by which submissions may be made to the Minister.

### **Preparation of final plan**

**107.(1)** When preparing a final conservation plan, the Minister must consider all submissions properly made to the Minister.

**(2)** A final conservation plan for a protected area or wildlife must be consistent with the management principles for the class of the area or wildlife.

(3) A final conservation plan for a Nature Refuge, Coordinated Conservation Area or Wilderness Area must be consistent with any conservation agreement or covenant for the area.

(4) A final conservation plan for a protected area may divide the area into management zones including, for example, scientific, wilderness, conservation, recreation and tourism.

(5) A final conservation plan for wildlife, or a class of wildlife, may divide the State into wildlife districts.

### **Approval of final plan**

**108.(1)** The Governor in Council may, by regulation, approve a final conservation plan prepared by the Minister.

(2) The approved plan must be set out in the regulation.

(3) The chief executive must—

(a) keep the approved plan open for inspection by members of the public during office hours on business days at—

(i) the department's head office; and

(ii) each regional office of the department; and

(iii) such other places as the chief executive considers appropriate; and

(b) on payment of the prescribed fee by a person, give a copy of the approved plan to the person.

### **Implementation of approved plan**

**109.(1)** On approval of a conservation plan for a protected area—

(a) if the area is a National Park (Aboriginal land) or National Park (Torres Strait Islander land)—the board of management for the area; or

(b) if the area is under the control of trustees—the trustees; or

(c) if paragraphs (a) and (b) do not apply—the chief executive;

must ensure that activities in the area are carried out only in accordance with the plan.

(2) On approval of a conservation plan for wildlife, native wildlife habitat or area of major interest, the chief executive must give effect to the plan.

### **Compliance with plan**

**110.** A person who contravenes a provision of a conservation plan to which this section is declared to apply commits an offence against this section.

Maximum penalty—50 penalty units.

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

**111.(1)** A conservation plan for—

- (a) a National Park (Scientific); or
- (b) a National Park; or
- (c) a Conservation Park; or
- (d) a Resources Reserve; or
- (e) a Coordinated Conservation Area; or
- (f) a Wilderness Area;

replaces the interim or declared management intent for the area.

(2) A conservation plan for wildlife, or a class of wildlife, replaces the declared management intent for the wildlife, or class of wildlife.

### **Plans prevail over planning schemes**

**112.** If there is any conflict between a conservation plan and a planning scheme (whether made before or after the plan), the plan is to prevail over the planning scheme.

### **Amendment of plans**

**113.** The Governor in Council may amend a conservation plan by a subsequent conservation plan only if the procedures applying to the preparation and approval of plans under this Part (other than sections 104 and 105) are followed.

### **Review of plans**

**114.(1)** The Minister must review the operation of each conservation plan not later than 10 years after its approval.

**(2)** The procedures applying to the preparation and approval of plans under this Part apply to the review of plans.

### **Compensation**

**115.(1)** If a regulation is made approving a conservation plan for an area that is identified under the plan as, or including—

- (a) a critical habitat; or
- (b) an area of major interest;

a land-holder of land in the area is entitled to be paid by the State such reasonable compensation because of the making of the regulation as is agreed between the State and the land-holder or, failing agreement, as is determined by the Land Court.

**(2)** A claim for compensation must—

- (a) be made in a form approved by the chief executive; and
- (b) be lodged with the chief executive within 6 months after the approval of the conservation plan.

**(3)** In making a determination, the Land Court must have regard to the following matters—

- (a) the public harm that is likely to be caused if the regulation were not made; and
- (b) the sustainable land capability of the area; and
- (c) the increase or decrease in the value of the land because of the regulation.

**(4)** Subsection (3) does not limit the matters to which the Land Court may have regard in making a determination.

**(5)** In this section—

**“land-holder”** includes a person having an interest in land.

## **PART 8—ADMINISTRATION**

### **Appointment of conservation officers**

**116.(1)** The Minister may—

- (a) appoint an employee of the department; or
- (b) appoint an officer of the public service; or
- (c) with the person's consent, appoint another person;

to be a conservation officer.

(2) The Minister may appoint a conservation officer, who has satisfactorily completed a course of training approved by the Minister, to be a special conservation officer.

(3) An appointment under subsection (1) or (2) must be in, or evidenced by, writing signed by the Minister.

(4) All police officers are, by virtue of their office, conservation officers.

(5) A conservation officer appointed under subsection (1)(a) or (b) holds office subject to the conditions specified in the instrument of appointment.

(6) A conservation officer appointed under subsection (1)(c)—

- (a) holds office for the term, and subject to the conditions, specified in the instrument of appointment; and
- (b) may resign office by writing signed and given to the Minister.

### **Appointment of honorary protectors**

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

(2) An honorary protector—

- (a) holds office for the term, and subject to the conditions, specified in the instrument of appointment; and
- (b) has the powers of a conservation officer under section 137 and such other powers as may be prescribed; and
- (c) may resign by writing signed and given to the Minister.

(3) In this section—

“**qualified person**” means a person who—

- (a) in the Minister’s opinion, has the necessary expertise or experience to be an honorary protector; or
- (b) has satisfactorily completed a course of training approved by the Minister.

### **Identity cards**

**118.(1)** The Minister must issue an identity card to—

- (a) each conservation officer, other than an officer of a prescribed class; and
- (b) each honorary protector.

(2) The identity card must—

- (a) contain a recent photograph of the conservation officer or honorary protector; and
- (b) be in a form approved, in writing, by the Minister; and
- (c) in the case of a conservation officer who is a special conservation officer—state that the officer is a special conservation officer; and
- (d) be signed by the conservation officer or honorary protector.

(3) A person who ceases to be a conservation officer or honorary protector must, as soon as practicable, return his or her card to the Minister.

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

### **Proof of authority**

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

### **Advisory committees**

**120.(1)** The Minister may establish as many advisory committees as the

Minister considers appropriate for the purposes of the administration of this Act, including, for example—

- (a) scientific advisory committees; and
- (b) wilderness area advisory committees; and
- (c) protected area management advisory committees; and
- (d) wildlife management advisory committees.

(2) An advisory committee is to have the functions that the Minister specifies, including, for example, the function of advising the Minister on—

- (a) the management intent of, and the identification of areas that are suitable for declaration as, wilderness areas; and
- (b) the identification, classification and management of protected areas; and
- (c) the classification of wildlife; and
- (d) the suitability of conservation plans.

(3) A member of an advisory committee may be paid such fees and allowances as are approved by the Governor in Council by order in council.

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

**121.(1)** The chief executive must keep a register of—

- (a) protected areas; and
- (b) protected wildlife; and
- (c) international wildlife; and
- (d) prohibited wildlife; and
- (e) conservation agreements; and
- (f) conservation plans; and
- (g) critical habitats; and
- (h) areas of major interest; and
- (i) interim conservation orders; and
- (j) conservation officers; and

(k) honorary protectors.

(2) Subject to subsection (3), the chief executive must—

(a) keep the registers open for inspection by members of the public during office hours on business days at—

(i) the department's head office; and

(ii) such other places as the chief executive considers appropriate; and

(b) on payment of the prescribed fee by a person—

(i) permit the person to take extracts from a register; or

(ii) give the person a copy of a part of a register.

(3) A person must not be given information that is declared under section 124 to be confidential information.

### **Records to be maintained by Registrar**

**122.(1)** The chief executive must, within 14 days after—

(a) a conservation agreement is entered into; or

(b) a Nature Refuge is declared under section 45; or

(c) a World Heritage Management Area is declared under section 50;  
or

(d) an International Agreement Area is declared under section 54; or

(e) an area is identified under a conservation plan as, or including—

(i) a critical habitat; or

(ii) an area of major interest;

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

(2) The Registrar must maintain records that—

(a) show that the land specified in the notice is—

(i) the subject of a conservation agreement; or

(ii) subject to a conservation covenant; or

- (iii) the subject of a conservation plan; and
- (b) state the places where—
  - (i) particulars of the agreement; or
  - (ii) particulars of the conservation covenant applying to the declaration; or
  - (iii) the conservation plan for the area;
 may be inspected.

(3) The Registrar must maintain the records in such a way that a search of the register maintained by the Registrar under any Act relating to the land will show the existence of the conservation agreement, covenant or plan.

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

- (a) a conservation agreement is terminated; or
- (b) the declaration of a protected area is revoked; or
- (c) a conservation plan is revoked; or
- (d) an area is removed from the operation of the conservation plan;

give written notice to the Registrar that the agreement has been terminated, or the declaration revoked.

(5) The Registrar must, on receipt of a notice under subsection (4), remove the particulars of the land from the Registrar's records.

(6) In this section—

**“private land”** means land other than Crown land.

### **Chief executive may inquire into applications**

**123.(1)** The chief executive may, in relation to—

- (a) an application for, or renewal of, a licence, permit or other authority;
- (b) an application for the consent of the Minister to, or to the renewal of, a lease, agreement, licence, permit or other authority;

inquire into—

- (c) if the applicant is an individual—the fame, character and

suitability of the applicant; or

(d) if the applicant is a corporation—the fame, character and suitability of each executive officer of the corporation.

(2) The chief executive may obtain—

(a) a report from the Commissioner of Police in respect of the criminal history of the applicant and, if the applicant is a corporation, in respect of each executive officer of the corporation; and

(b) if the applicant, or an executive officer of a corporation that is an applicant, holds or previously held in another State or a Territory a relevant lease, licence, permit or other authority—a report from the appropriate authority in the State or Territory.

(3) A report under subsection (2)(a) must include reference to or disclosure of convictions mentioned in section 6 of the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

### **Confidentiality of information**

**124.(1)** The chief executive may declare information acquired in the administration of this Act to be confidential information if the chief executive is of the opinion that disclosure of the information may result in an unreasonable level of risk to the wellbeing of a cultural or natural resource or critical habitat.

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

(a) confidential information; or

(b) information obtained under section 123;

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

Maximum penalty—165 penalty units.

(3) In this section—

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

**Licences etc. to be consistent with management principles, and declared management intent or conservation plan**

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

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

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

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

must be consistent with—

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

**Annual report**

**126.(1)** The chief executive must, within 3 months after the end of each financial year, give to the Minister a report on the administration of this Act during the year.

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

**Delegation by Minister**

**127.** The Minister may delegate to an officer of the public service powers under this Act (other than sections 94 and 99).

**Delegation by chief executive**

**128.** The chief executive may delegate to a conservation officer or an officer of the public service powers under this Act (other than sections 34,

35 and 124).

### **Protection from liability**

**129.(1)** This section applies to—

- (a) the Minister or chief executive; and
- (b) a conservation officer; and
- (c) a person acting under the direction of a person mentioned in paragraph (a) or (b).

**(2)** A person to which this section applies does not incur civil liability for an act or omission done or omitted to be done honestly and without negligence under, or for the purposes of, this Act.

**(3)** A liability that would, but for this section, attach to a person to which this section applies attaches instead to the State.

## **PART 9—INVESTIGATION AND ENFORCEMENT**

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

**130.(1)** This section applies if a conservation officer suspects on reasonable grounds that—

- (a) a vehicle, boat or aircraft is being, or has been, used in the commission of an offence against this Act; or
- (b) a vehicle, boat or aircraft, or anything on or in, a vehicle, boat or aircraft may afford evidence of the commission of an offence against this Act.

**(2)** The conservation officer may, with such assistance and by such force as is necessary and reasonable—

- (a) enter or board the vehicle, boat or aircraft; and
- (b) exercise the powers set out in section 133.

**(3)** If—

- (a) the vehicle or boat is moving or about to move; or
- (b) the aircraft is moving, or about to move, on the ground;

the conservation officer may signal the driver or the person in command or control, or who appears to be in command or control, of the vehicle, boat or aircraft, to stop or not to move the vehicle, boat or aircraft.

(4) A person must not, without reasonable excuse, disobey a signal under subsection (3).

Maximum penalty—165 penalty units, imprisonment for 1 year or both.

(5) It is a reasonable excuse for the person to fail to stop or to move the vehicle, boat or aircraft if—

- (a) to immediately obey the signal would have endangered the person or another person; and
- (b) the person obeys the signal as soon as it is reasonably practicable to stop or move the vehicle, boat or aircraft.

(6) The conservation officer may require the driver or the person in command or control, or who appears to be in command or control, of the vehicle, boat or aircraft—

- (a) to provide such reasonable assistance as the officer requires to enable the vehicle, boat or aircraft to be entered or boarded under subsection (2); or
- (b) to bring the vehicle, boat or aircraft to a specified place and remain in control of the vehicle, boat or aircraft at the place until the officer permits the person to leave.

(7) A person must not, without reasonable excuse, contravene a requirement under subsection (6).

Maximum penalty—165 penalty units, imprisonment for 1 year or both.

(8) If, while searching the vehicle, boat or aircraft, the conservation officer finds a thing that the officer believes, on reasonable grounds, will afford evidence of the commission of an offence against this Act, section 132(2)(a), (b) and (c) apply to the thing.

(9) If, after searching the vehicle, boat or aircraft, the conservation officer believes on reasonable grounds that the vehicle, boat or aircraft will afford evidence of the commission of an offence against this Act, sections 132(2)(a) and (b) apply to the vehicle, boat or aircraft.

**Entry and search—monitoring compliance**

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

- (a) enter any place at any reasonable time of the day or night; and
- (b) exercise the powers set out in section 133.

**(2)** The conservation officer must not enter a place, or exercise a power under subsection (1), unless—

- (a) the occupier of the place consents to the entry or exercise of the power; or
- (b) a warrant under section 134 authorises the entry or exercise of the power; or
- (c) the place is a place to which the public are admitted (whether or not for consideration) and the entry is made when members of the public attend or the premises are open for admission by the public; or
- (d) the place is premises, or the part of premises, that—
  - (i) are licensed under a regulation and the entry is made when the premises are open for conduct of business or otherwise open for entry; and
  - (ii) are not used exclusively for residential purposes.

**(3)** In this section—

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

**Entry and search—evidence of offences**

**132.(1)** Subject to subsection (3), if a conservation officer has reasonable grounds for suspecting that there is in a place a particular thing (“**the evidence**”) that may afford evidence of the commission of an offence against this Act, the officer may—

- (a) enter the place; and
- (b) exercise the powers set out in section 133.

**(2)** If the conservation officer enters the place and finds the evidence, the following provisions have effect—

- (a) the officer may seize the evidence;

(b) the officer may keep the evidence for 6 months or, if a prosecution for an offence against this Act in the commission of which the evidence may have been used or otherwise involved is instituted within that period, until the completion of the proceeding for the offence and any appeal in relation to the proceeding;

(c) if the evidence is a document—while the officer has possession of the document, the officer may take extracts from and make copies of the document, but must allow the document to be inspected at any reasonable time by a person who would be entitled to inspect it if it were not in the officer's possession.

**(3)** A conservation officer must not enter the place or exercise a power under subsection (1) unless—

(a) the occupier of the place consents to the entry or exercise of the power; or

(b) a warrant under section 135 that was issued in relation to the evidence authorises the entry or exercise of the power.

**(4)** If, while searching the place under subsection (1) under a warrant under section 135, a conservation officer—

(a) finds a thing that the conservation officer believes, on reasonable grounds, to be—

(i) a thing (other than the evidence) that will afford evidence of the commission of the offence mentioned in subsection (1); or

(ii) a thing that will afford evidence of the commission of another offence against this Act; and

(b) the officer believes, on reasonable grounds, that it is necessary to seize the thing to prevent—

(i) its concealment, loss or destruction; or

(ii) its use in committing, continuing or repeating the offence mentioned in subsection (1) or the other offence, as the case may be;

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

**(5)** In this section—

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

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

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

- (a) search any part of the place;
- (b) inspect, examine, photograph or film anything in or on the place;
- (c) take extracts from, and make copies of, any documents in or on the place;
- (d) take into or onto the place such persons, equipment and materials as the conservation officer reasonably requires for the purpose of exercising any powers in relation to the place;
- (e) require the occupier or any person in or on the place to give to the conservation officer reasonable assistance in relation to the exercise of the powers mentioned in paragraphs (a) to (d);
- (f) the powers mentioned in the following provisions—
  - (i) section 137 (Conservation officer may require name and address);
  - (ii) section 138 (Power to require answers to questions);
  - (iii) section 140(1)(b) to (e) (Other powers of conservation officers).

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

Maximum penalty—50 penalty units.

**(3)** It is a reasonable excuse for a person to fail to answer a question or produce a document (other than a document required to be kept by the person under a regulation) if answering the question, or producing the document, might tend to incriminate the person.

**(4)** A conservation officer who seizes or damages anything under this Part must, as soon as it is reasonably practicable after seizing or damaging the thing, give written notice of particulars of the thing or damage.

**(5)** The notice must be given to—

- (a) if anything is seized—the person from whom the thing was seized; or

(b) if damage was caused to anything—the person who appears to the conservation officer to be the owner of the thing.

(6) On the hearing of a proceeding for an offence against this Act or in a proceeding brought for the recovery of compensation under this section, a court may order the payment of compensation to a person for any loss resulting from the unreasonable exercise of powers under this Part.

(7) This section does not limit any power that a conservation officer has apart from this section.

### **Monitoring warrants**

**134.(1)** A conservation officer may apply to a Magistrate for a warrant under this section in relation to a particular place (other than premises, or the part of premises, used exclusively for residential purposes).

(2) Subject to subsection (3), the Magistrate may issue the warrant if the Magistrate is satisfied, by information on oath, that it is reasonably necessary that the conservation officer should have access to the place for the purpose of finding out whether this Act is being complied with.

(3) If the Magistrate requires further information concerning the grounds on which the issue of the warrant is being sought, the Magistrate must not issue the warrant unless the conservation officer or some other person has given the information to the Magistrate in the form (either orally or by affidavit) that the Magistrate requires.

(4) The warrant must—

(a) authorise the conservation officer, with such assistance and by such force as is necessary and reasonable—

(i) to enter the place; and

(ii) to exercise the powers set out in section 133(1)(a) to (e); and

(b) state whether the entry is authorised to be made at any reasonable time of the day or night or only during specified reasonable hours of the day or night; and

(c) specify the day (not more than 14 days after the issue of the warrant) on which the warrant ceases to have effect; and

(d) state the purpose for which the warrant is issued.

**Offence related warrants**

**135.(1)** A conservation officer may apply to a Magistrate for a warrant under this section in relation to a particular place.

(2) Subject to subsection (3), the Magistrate may issue the warrant if the Magistrate is satisfied, by information on oath, that there are reasonable grounds for suspecting that there is, or there may be within the next 7 days, in or on the place a particular thing (“**the evidence**”) that may afford evidence of the commission of an offence against this Act.

(3) If the Magistrate requires further information concerning the grounds on which the issue of the warrant is being sought, the Magistrate must not issue the warrant unless the conservation officer or another person has given the information to the Magistrate in the form (either orally or by affidavit) that the Magistrate requires.

(4) The warrant must—

- (a) authorise the conservation officer, with such assistance and by such force as is necessary and reasonable—
  - (i) to enter the place; and
  - (ii) to exercise the powers set out in section 133(1)(a) to (e); and
  - (iii) to seize the evidence; and
- (b) state whether the entry is authorised to be made at any time of the day or night or only during specified hours of the day or night; and
- (c) specify the day (not more than 14 days after the issue of the warrant) on which the warrant ceases to have effect; and
- (d) state the purpose for which the warrant is issued.

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

**136.(1)** If a conservation officer considers it necessary to do so because of—

- (a) urgent circumstances; or
- (b) other special circumstances, including, for example, the officer’s remote location;

the officer may, under this section, apply by telephone, facsimile, radio or

another form of communication for a warrant under section 134 or 135.

(2) Before applying for the warrant, the conservation officer must prepare an information of the kind mentioned in section 134(2) or 135(2) that sets out the grounds on which the issue of the warrant is sought.

(3) If it is necessary to do so, a conservation officer may apply for the warrant before the information has been sworn.

(4) If the Magistrate is satisfied—

- (a) after having considered the terms of the information; and
- (b) after having received such further information (if any) as the Magistrate requires concerning the grounds on which the issue of the warrant is being sought;

that there are reasonable grounds for issuing the warrant, the Magistrate may, under section 134 or 135, complete and sign the warrant that the Magistrate would issue under the section if the application had been made under the section.

(5) If the Magistrate completes and signs the warrant, the Magistrate must immediately send a copy of the warrant to the conservation officer by facsimile or, if it is not reasonably practicable to do so—

- (a) the Magistrate must—
  - (i) tell the officer what the terms of the warrant are; and
  - (ii) tell the officer the day and time when the warrant was signed; and
  - (iii) record on the warrant the reasons for granting the warrant; and
- (b) the officer must—
  - (i) complete a form of warrant in the same terms as the warrant completed and signed by the Magistrate; and
  - (ii) write on the form of warrant the name of the Magistrate and the day and time when the Magistrate signed the warrant.

(6) The conservation officer must also—

- (a) not later than the day after the day of expiry or execution of the warrant (whichever is the earlier); or

(b) if it is not practicable to comply with paragraph (a)—as soon as practicable after the day mentioned in the paragraph;

send to the Magistrate—

(c) the information mentioned in subsection (2), which must have been properly sworn; and

(d) if a form of warrant was completed by the conservation officer under subsection (5)(b)—the completed form of warrant.

(7) When the Magistrate receives the documents mentioned in subsection (6), the Magistrate must—

(a) attach them to the warrant that the Magistrate completed and signed; and

(b) deal with them in the way in which the Magistrate would have dealt with the information if the application for the warrant had been made under section 134 or 135.

(8) A facsimile copy of a warrant, or a form of warrant properly completed by the conservation officer under subsection (5)(b), is authority for any entry, search, seizure or other exercise of a power that the warrant signed by the Magistrate authorises.

(9) If—

(a) it is material for a court to be satisfied that an entry, search, seizure or other exercise of power was authorised by this section; and

(b) the warrant completed and signed by the Magistrate authorising the exercise of power is not produced in evidence;

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

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

**137.(1)** A conservation officer who—

(a) finds a person committing, or finds a person who the conservation officer has reasonable grounds for suspecting of having committed, an offence against this Act; or

(b) believes on reasonable grounds that the name and address of a person is required for the purpose of the administration or enforcement

of this Act;

may require the person to state the person's name and address and, if the conservation officer believes on reasonable grounds that the name or address given is false, may require evidence of its correctness.

(2) A person who is required under subsection (1) to state the person's name or address must not—

- (a) fail to comply with the requirement; or
- (b) state a false name or address.

Maximum penalty—100 penalty units.

(3) A person who is required under subsection (1) to give evidence of the correctness of a name or address must not fail to give the evidence or give false evidence.

Maximum penalty—100 penalty units.

(4) If—

- (a) a conservation officer makes a requirement under subsection (1) on a suspicion of a person having committed an offence; and
- (b) the person is not proved to have committed the offence;

the person is not guilty of an offence against this section.

### **Power to require answers to questions**

**138.(1)** If a conservation officer believes on reasonable grounds that a person may be able to provide information relevant to the administration or enforcement of this Act, the officer may require the person to answer a question relevant to the administration or enforcement of this Act.

(2) A person who is required under subsection (1) to answer a question must not, without reasonable excuse, fail to comply with the requirement.

Maximum penalty—100 penalty units.

(3) It is reasonable excuse for a person to fail to answer a question if answering the question might tend to incriminate the person.

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

**139.(1)** If a conservation officer, under this Act, seizes protected wildlife for which an amount of conservation value remains unpaid, the officer may keep the wildlife until the conservation value for the wildlife is paid.

(2) If the amount is not paid within 30 days after the seizure, the wildlife may be disposed of in such way as the chief executive directs.

(3) The seizure and keeping of wildlife does not affect any proceeding under this Act for the recovery of an amount of conservation value for the wildlife or an offence in relation to the non-payment of the amount.

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

**140.(1)** Subject to subsections (2), (3), (4) and (5), a conservation officer may, for the purposes of this Act, exercise any of the following powers—

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

grounds of having committed an offence against this Act;

if the officer believes on reasonable grounds that proceedings by way of complaint and summons against the person would be ineffective;

(e) such other powers as are prescribed.

(2) Before exercising the power mentioned in subsection (1)(a), a conservation officer must—

(a) obtain or, in urgent circumstances, take all reasonable steps to obtain, the consent of the land-holder concerned; or

(b) give at least 14 days' written notice to the land-holder concerned of—

(i) the officer's intention to enter the land; and

(ii) the proposed purpose in entering the land; and

(iii) the day and time when the officer proposes to enter the land.

(3) In exercising the power mentioned in subsection (1)(a), a conservation officer must take all reasonable steps to ensure that the officer causes as little inconvenience, and does as little damage, as is practicable.

(4) A conservation officer may keep a document under subsection (1)(c) only for the purpose of taking copies of the document and must, as soon as practicable after taking the copies, return the document to the person who produced it.

(5) If a special conservation officer arrests a person under subsection (1)(d), the officer must, as soon as it is reasonably practicable to do so, deliver the person into the custody of a police officer at the nearest accessible police station or watch-house to be dealt with according to law.

### **Obstruction of conservation officers**

**141.(1)** A person must not obstruct a conservation officer in the exercise of a power under this Act.

(2) A person is taken to obstruct a conservation officer in the exercise of a power under this Act if the person—

(a) assaults, abuses, hinders, resists or intimidates the officer or a person assisting the officer in the exercise of the officer's powers

under this Act; or

(b) deliberately prevents or attempts to prevent (whether directly or indirectly) a person from—

(i) being questioned by a conservation officer; or

(ii) giving, under this Act, any information or document to a conservation officer; or

(c) in any other way obstructs, or attempts to obstruct, a conservation officer in the exercise of the officer's powers under this Act.

Maximum penalty—165 penalty units, imprisonment for 1 year or both.

### **False or misleading information**

**142.(1)** A person must not—

(a) make a statement to a conservation officer that the person knows is false or misleading in a material particular; or

(b) omit from a statement made to a conservation officer anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—100 penalty units.

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

### **False or misleading documents**

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

(a) indicating to the officer that the document is false, misleading or incomplete and the respect in which the document is false, misleading or incomplete; and

(b) giving the correct information to the officer if the person has, or can reasonably obtain, the correct information.

Maximum penalty—100 penalty units.

**Impersonation of conservation officer**

**144.** A person must not pretend to be a conservation officer.

Maximum penalty—50 penalty units.

**PART 10—LEGAL PROCEEDINGS****Evidentiary provisions**

**145.(1)** This section applies to any proceeding under or in relation to this Act.

(2) It is not necessary to prove the appointment of a conservation officer or the authority of a conservation officer to do any act under this Act.

(3) A signature purporting to be that of the chief executive or a conservation officer is evidence of the signature it purports to be.

(4) A certificate purporting to be signed by the chief executive stating that—

(a) a specified document is a copy of a notice, order, licence, permit or other authority issued or given under this Act; or

(b) on a specified day, or during a specified period, a specified person was or was not the holder of a licence, permit or other authority issued or given under a regulation; or

(c) a licence, permit or other authority was or was not issued or given for a specified term, or was or was not subject to specified conditions; or

(d) on a day mentioned in the certificate, a specified person was given a notice under this Act; or

(e) a specified document is a copy of a part of a register kept under this Act; or

(f) an amount payable under this Act has not been paid by a specified person;

is evidence of the matter stated in the certificate.

(5) A statement in a complaint starting the proceeding of any of the following matters is evidence of the matters—

- (a) that the matter of the complaint came to the knowledge of the complainant on a specified day; or
- (b) that specified wildlife is a specified class of wildlife under this Act; or
- (c) that the whole or any part of—
  - (i) the progeny, larvae, pupae, eggs or genetic or reproductive material of an animal; or
  - (ii) the carcass or another part of an animal; or
  - (iii) the flowers, seeds or genetic or reproductive material of a plant;is, or is from, specified wildlife or a specified class of wildlife; or
- (d) that wildlife is indigenous to Australia or Queensland; or
- (e) that the place where the offence was committed was in a specified protected area or in a specified zone in a specified protected area.

(6) In a proceeding for an offence that an act or omission was committed in a protected area, it is not necessary to prove the particular protected area in which the offence was committed.

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

**146.(1)** If, in a proceeding for an offence against this Act, it is necessary to establish the state of mind of a corporation in relation to particular conduct, it is sufficient to show—

- (a) that the conduct was engaged in by an executive officer, servant or agent of the corporation within the scope of his or her actual or apparent authority; and
- (b) that the executive officer, servant or agent had the state of mind.

(2) Any conduct engaged in on behalf of a corporation by an executive officer, servant or agent of the corporation within the scope of his or her actual or apparent authority is to be taken, in a proceeding for an offence against this Act, to have been engaged in also by the corporation unless the corporation establishes that it took reasonable precautions and exercised due

diligence to avoid the conduct.

(3) If, in a proceeding for an offence against this Act, it is necessary to establish the state of mind of a person other than a corporation in relation to particular conduct, it is sufficient to show—

- (a) that the conduct was engaged in by a servant or agent of the person within the scope of his or her actual or apparent authority; and
- (b) that the servant or agent had the state of mind.

(4) Any conduct engaged in on behalf of a person other than a corporation by a servant or agent of the person within the scope of his or her actual or apparent authority is to be taken, in a proceeding for an offence against this Act, to have been engaged in also by the first person unless the first person establishes that the person took reasonable precautions and exercised due diligence to avoid the conduct.

(5) If—

- (a) a person other than a corporation is convicted of an offence; and
- (b) the person would not have been convicted of the offence if subsections (3) and (4) had not been enacted;

the person is not liable to be punished by imprisonment for the offence.

(6) In this section—

“**engaging**” in conduct includes failing to engage in conduct;

“**state of mind**” of a person includes a reference to—

- (a) the person’s knowledge, intention, opinion, belief or purpose; and
- (b) the person’s reasons for the intention, opinion, belief or purpose.

### **Offence committed over a period**

**147.(1)** This section applies to the offence of taking—

- (a) a cultural or natural resource in contravention of section 57; or
- (b) protected wildlife in contravention of section 81 or 82; or
- (c) native wildlife in contravention of section 89.

(2) If the day or days on which a person is alleged to have committed the offence cannot be established, the person may—

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

### **Proceedings for offences**

**148.(1)** An offence against this Act for which the maximum penalty is 3 000 penalty units, imprisonment for 2 years or both is punishable on indictment.

**(2)** Any other offence against this Act is punishable summarily.

**(3)** A proceeding for an indictable offence against this Act may be taken—

- (a) by way of summary proceedings under the *Justices Act 1886*; or
- (b) on indictment;

at the election of the prosecution.

**(4)** If the prosecution elects to prosecute an indictable offence against this Act by way of summary proceedings under the *Justices Act 1886*, the maximum penalty that may be imposed for the offence is 165 penalty units, imprisonment for 1 year or both.

**(5)** A prosecution must start—

- (a) within 1 year after—
  - (i) the commission of the offence; or
  - (ii) the offence comes to the complainant's knowledge, but not later than 2 years after the commission of the offence; or
- (b) if section 147 (Offence committed over a period) applies to the offence—within 1 year after—
  - (i) the end of the relevant period; or
  - (ii) the offence comes to the complainant's knowledge, but not later than 2 years after the end of the relevant period.

**(6)** Despite any other Act, the court may, in a proceeding, make an order on any matter within its jurisdiction even though no application or complaint is made in relation to the matter.

**Penalty for offences by corporation**

**149.** Despite any other provision of this Act, if a corporation is convicted of an offence against this Act, it is liable to a maximum fine that is 5 times the maximum fine to which an individual would be liable if convicted of the offence.

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

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

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

**151.** A person who is convicted of an offence of taking—

- (a) a natural resource that is protected wildlife in contravention of section 57; or
- (b) protected wildlife in contravention of section 81 or 82;

is liable to an additional penalty of not more than twice the conservation value of the protected wildlife in relation to which the offence is committed.

**Photographs and fingerprints of offenders fingerprints**

**152.(1)** If—

- (a) a person is arrested on a charge of having committed an offence against this Act; and
- (b) it is reasonably necessary to do so for the future identification of the person;

a police officer may take photographs or fingerprints of the person.

**(2)** A police officer may use such force as is necessary and reasonable to take the photographs or fingerprints.

**(3)** If—

- (a) the person is found not guilty of the offence; or

(b) the charge against the person is withdrawn or dismissed; any photographs or fingerprints taken, and any copies of any photographs or fingerprints taken, must be destroyed in the person's presence if the person requests that they be destroyed, unless they are required as evidence in connection with another offence against this Act allegedly committed by the person.

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

**153.(1)** This section applies to a cultural or natural resource or protected wildlife that—

- (a) is the property of the State; and
- (b) has been seized under this Act in relation to an offence against this Act.

**(2)** Despite any other provision of this Act, if the chief executive is satisfied that it is necessary to do so—

- (a) in the interests of the welfare of the resource or wildlife; or
- (b) for the protection of the resource or wildlife;

the chief executive may direct that the resource or wildlife be disposed of in such a way as the chief executive considers appropriate.

**(3)** Subsection (2) applies even though a proceeding has not been taken for, or a person convicted of, the offence.

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

**154.(1)** If a person is convicted of an offence against this Act, any wildlife in relation to which the offence was committed that is not already the property of the State—

- (a) is forfeited to the State; and
- (b) must be disposed of in such a way as the chief executive directs.

**(2)** If—

- (a) a person is convicted of an offence against this Act; and
- (b) a direction is not given under section 153 for the disposal of any

cultural or natural resource in relation to which the offence was committed;

the court may make such order, as it considers appropriate, for the disposal of the cultural or natural resource.

(3) Forfeiture of wildlife under subsection (1)(a) does not confer a right to compensation on any person.

(4) Subject to subsection (5), if a person is convicted of an offence against this Act, the court may order that anything in relation to which the offence was committed that has been seized be forfeited to the State.

(5) If the court is satisfied that—

(a) the thing is another person's property and the other person has exercised due diligence to prevent a contravention of this Act; and

(b) the offence has been committed without the person's knowledge, consent or help;

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

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

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

### **Penalties payable to Consolidated Fund**

**155.** All penalties ordered to be paid in relation to offences against this Act must be paid into the Consolidated Fund.

## **PART 11—MISCELLANEOUS**

### **Orders in council to be tabled and disallowable**

**156.** Section 28A of the *Acts Interpretation Act 1954* applies to an order in council made under this Act (other than an order in council mentioned in section 30, 32(2) or 51) as if it were a regulation.

**Regulations**

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

**(2)** A regulation may be made with respect to any of the following matters—

- (a) access to protected areas by persons or animals;
- (b) activities in protected areas;
- (c) the removal from protected areas of—
  - (i) trespassers; or
  - (ii) persons who are believed on reasonable grounds to have contravened this Act;
- (d) the presence and use of vehicles and boats in, and the flight of aircraft over, protected areas;
- (e) the impounding, removal and disposal of vehicles, boats, aircraft or property—
  - (i) found in a protected area in contravention of a regulation; or
  - (ii) found abandoned in a protected area;
- (f) the taking of animals or plants into, or out of, protected areas, and the impounding, removal, destruction or disposal of animals found straying in protected areas;
- (g) giving effect to, and enforcing compliance with, conservation plans;
- (h) the taking or keeping of wildlife, the moving of wildlife into, in and out of the State and the dealing with, use or release of wildlife into the wild;
- (i) the records to be kept and returns to be lodged by the holders of licences, permits and other authorities and requirements as to the inspection of the records;
- (j) the disqualification of persons from holding a licence, permit or other authority;
- (k) the matters in respect of which fees, costs and charges are payable under this Act, the amounts of the fees, costs and charges, the persons

who are liable to pay the fees, costs and charges, when the fees, costs and charges are payable, and the recovery of any amount of the fees, costs and charges not paid;

(l) the institution and conduct of appeals against decisions under a regulation;

(m) offences under a regulation or conservation plan in respect of which a notice may be given to an offender or affixed in or on any place advising that a prescribed penalty may be paid for any such offence without involving court proceedings;

(n) exemption from compliance with provisions of a regulation or a conservation plan;

(o) prescribing offences for contraventions of a regulation, and fixing a maximum penalty of a fine of not more than 165 penalty units for such a contravention.

**(3)** Without limiting subsection (2)(d), a regulation may—

(a) provide, in relation to a contravention of a provision of a regulation relating to the presence or use of vehicles in a protected area, that the owner of the vehicle (whether or not the owner was in charge of the vehicle at the relevant time) is taken to have committed an offence against the provision contravened; and

(b) define who is the owner of the vehicle for the purpose of the regulation.

## **PART 12—REPEALS AND CONSEQUENTIAL AMENDMENTS**

### **Acts repealed**

**158.** The Acts specified in Schedule 1 are repealed.

### **Acts amended**

**159.** The Acts specified in Schedule 2 are amended as set out in the

Schedule.

## **PART 13—SAVINGS AND TRANSITIONAL**

### *Division 1—Preliminary*

#### **Meaning of “commencing day” in Part**

**160.** In this Part—

“**commencing day**” means the day on which this Part commences.

### *Division 2—National Parks and Wildlife Act 1975*

#### **Meaning of “repealed Act” in Division**

**161.** In this Division—

“**repealed Act**” means the *National Parks and Wildlife Act 1975*.

#### **Field officers**

**162.** All field officers under the repealed Act holding office immediately before the commencing day are taken to be appointed as conservation officers under this Act.

#### **Honorary protectors**

**163.** All honorary protectors under the repealed Act holding office immediately before the commencing day are taken to be appointed as honorary protectors under this Act until 1 year after the commencing day.

#### **Dedication of existing National Parks**

**164.** The Governor in Council must, on or before the commencing day, dedicate each National Park under the repealed Act as, or as part of, a

National Park (Scientific) or National Park.

### **Agreements etc. in relation to National Parks**

**165.(1)** Every agreement, permit or other authority made, issued or given under section 35 of the repealed Act and in force immediately before the commencing day continues in force until it expires, or is earlier terminated, in accordance with its terms.

**(2)** The provisions of the repealed Act continue to apply to the agreement, permit or other authority as if this Act had not been enacted.

### *Division 3—Protected wildlife*

#### **Meaning of “repealed Act” in Division**

**166.** In this Division—

“repealed Act” means the *Fauna Conservation Act 1974*.

#### **Property in protected animals**

**167.** If—

(a) immediately before the commencing day a person is keeping an animal that was not fauna under the repealed Act; and

(b) on the commencing day, the animal becomes a protected animal because of a regulation made under this Act;

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

#### **Keeping of protected animals**

**168.(1)** If a person is keeping a newly protected animal at the beginning of the commencing day, the person is taken, for the purposes of section 81, to be the holder of a licence issued under a regulation permitting the person to keep the animal until—

(a) the person gets a licence to keep the animal; or

(b) 6 months after the commencing day;

whichever is the earlier.

(2) In this section—

“**newly protected animal**” means a protected animal that, immediately before the commencing day, was not fauna under the repealed Act.

### **Licences etc. in relation to protected wildlife**

**169.(1)** A licence, permit or other authority issued or given under the repealed Act and in force immediately before the commencing day is taken to have been issued or given under this Act and, subject to subsection (2), continues in force until it expires, or is earlier terminated, in accordance with its terms.

(2) A permit issued under section 24 of the repealed Act continues in force until—

- (a) it expires, or is earlier terminated, in accordance with its terms; or
- (b) 1 year after the commencing day;

whichever is the earlier.

### ***Division 4—General***

#### **Transitional regulations**

**170.** The Governor in Council may make regulations with respect to any matter for which—

- (a) it is necessary or convenient to facilitate the transition from the operation of the Acts repealed by this Act to the operation of this Act; and
- (b) this Part does not make provision or sufficient provision.

## **SCHEDULE 1**

### **ACTS REPEALED**

section 158

*Fauna Conservation Act 1974*

*Fauna Conservation Act and Another Act Amendment Act 1976*

*Fauna Conservation Act Amendment Act 1979*

*Fauna Conservation Act and Another Act Amendment Act 1984*

*Fauna Conservation Act and Another Act Amendment Act 1989*

*National Parks and Wildlife Act 1975*

*National Parks and Wildlife Act and Another Act Amendment Act 1982*

*Native Plants Protection Act 1930*

## SCHEDULE 2

### ACTS AMENDED

section 159

### ABORIGINAL LAND ACT 1991

#### 1. Section 1.03 (definition “National Park”)—

*omit, insert—*

‘“National Park” means an area dedicated under the *Nature Conservation Act 1992* as a National Park;’.

#### 2. Part 5, Division 5—

*omit, insert—*

##### *‘Division 5—National Parks*

##### **‘National Park subject to lease to State etc.**

**‘5.20(1)** If granted land is, or includes part of, a National Park (the **‘National Park land’**), the grant of the National Park land—

(a) is subject to the condition that the grantees lease the National Park land, in perpetuity, to the State for the purposes of the management of the National Park land under the *Nature Conservation Act 1992*; and

(b) is subject to such other conditions as the Governor in Council determines, by order in council, in relation to the National Park land or National Parks generally.

**‘(2)** There is to be a board of management for the National Park land.

**‘(3)** Subject to subsection (4), the board of management is to be composed in the way approved by the Minister.

**‘(4)** The Aboriginal people particularly concerned with the National Park land are to be represented on the board of management.

‘(5) The Minister must, in cooperation with the board of management and before the grant of the land, prepare a management plan for the National Park land.

‘(6) Part 7 of the *Nature Conservation Act 1992* applies to the management plan as if it were a conservation plan required to be prepared under the Part.

‘(7) In the preparation of a management plan, the Minister must—

- (a) consult with, and consider the views of, the Aboriginal people particularly concerned with the National Park land; and
- (b) as far as practicable, but subject to this section and the *Nature Conservation Act 1992*, act in a way that is consistent with any Aboriginal tradition applicable to the National Park land (including any tradition relating to activities on the National Park land).

‘(8) The lease of the National Park land must be subject to the following conditions—

- (a) that the National Park is to be managed in accordance with the management plan as in force from time to time;
- (b) that the management plan is to be implemented by the board of management.

‘(9) The grantees of the granted land must—

- (a) sign a lease of the National Park land in registrable form containing the required conditions and such other terms and conditions as are agreed; and
- (b) give the signed lease to the Minister before or at the time of delivery of the deed of grant issued under section 5.01 in relation to the land.

‘(10) Nothing in this Act or a management plan or lease under this section is to result in a decrease, in the aggregate, in the public rights of access that existed in relation to the National Park land immediately before the land became claimable land.

‘(11) In this section—

“**Minister**” means the Minister administering the *Nature Conservation Act 1992*.’.

## ACTS INTERPRETATION ACT 1954

### 1. Section 36—

*insert—*

‘ “**adjacent area in respect of the State**” means the area the boundary of which is described in Schedule 2 to the *Petroleum (Submerged Lands) Act 1967* of the Commonwealth, as in force immediately before the commencement of the *Coastal Waters (State Powers) Act 1980* of the Commonwealth;

“**coastal waters of the State**” means—

(a) the parts of the territorial sea of Australia that are within the adjacent area in respect of the State, other than any part mentioned in section 4(2) of the *Coastal Waters (State Powers) Act 1980* of the Commonwealth; or

(b) any sea that is on the landward side of any part of the territorial sea of Australia and within the adjacent area in respect of the State, but is not within the limits of the State;

“**Queensland waters**” means all waters that are—

(a) within the limits of the State; or

(b) coastal waters of the State;

“**territorial sea of Australia**” means the territorial sea of Australia within the limits mentioned in section 4(1) of the *Coastal Waters (State Powers) Act 1980* of the Commonwealth;’.

**COMMUNITY SERVICES (ABORIGINES) ACT 1984****1. Section 77(1)—**

*omit* ‘Notwithstanding’,

*insert* ‘Subject to section 85 of the *Nature Conservation Act 1992*, but despite’.

**2. Section 77B(1)—**

*omit* ‘Despite’,

*insert* ‘Subject to section 85 of the *Nature Conservation Act 1992*, but despite’.

**COMMUNITY SERVICES (TORRES STRAIT) ACT  
1984****1. Section 76(1)—**

*omit* ‘Notwithstanding’,

*insert* ‘Subject to section 85 of the *Nature Conservation Act 1992*, but despite’.

**2. Section 76B(1)—**

*omit* ‘Despite’,

*insert* ‘Subject to section 85 of the *Nature Conservation Act 1992*, but despite’.

## DEER FARMING ACT 1985

### 1. Section 4—

*omit.*

### 2. Schedules 2 and 3—

*omit.*

## ELECTRICITY ACT 1976

### 1. Section 208A—

*omit, insert—*

#### **‘Electric lines and works on protected areas**

**‘208A.(1)** A person must not construct or place electric lines or works on or over any part of a protected area without the prior written consent of the Minister administering the *Nature Conservation Act 1992*.

**‘(2)** In considering whether to give a consent under subsection (1), the Minister must take into account—

- (a) the extent and significance of the disturbance that the construction or placement of the lines or works will or is likely to cause to the protected area; and
- (b) the report of the Electricity Authority on alternative routes or positions for the construction or placement of the lines or works outside the protected area; and
- (c) the extent of any disability or disadvantage in using an alternative route or position.

**‘(3)** The Minister may give a consent subject to such conditions as the Minister considers necessary to minimise interference to the protected area.

**(4)** In this section—

**“protected area”** means a protected area under the *Nature Conservation Act 1992*, and includes an area that is, or includes, a critical habitat identified in a conservation plan under that Act.’.

## **FIRE SERVICE ACT 1990**

### **1. Section 6—**

*insert—*

‘**“protected area”** means a protected area under the *Nature Conservation Act 1992*, and includes an area that is, or includes, a critical habitat identified in a conservation plan under that Act;’.

### **2. Section 66(1)(a)—**

*omit, insert—*

‘(a) in a protected area by a person acting in the performance of duties under the *Nature Conservation Act 1992*; or’.

### **3. Section 66(1)(c)—**

*omit.*

### **4. Section 66(2)(a)—**

*omit, insert—*

‘(a) in a protected area without the approval of the chief executive of the department that deals with matters arising under the *Nature Conservation Act 1992*; or’.

### **5. Section 67(b)—**

*omit* ‘a field officer (within the meaning of the *National Parks and*

*Wildlife Act 1975-1989*),

*insert* ‘a conservation officer within the meaning of the *Nature Conservation Act 1992*’.

**6. Section 68(4)—**

*omit* ‘a field officer (within the meaning of the *National Parks and Wildlife Act 1975-1989*)’,

*insert* ‘a conservation officer within the meaning of the *Nature Conservation Act 1992*’.

**7. After section 149—**

*insert—*

**‘Court may order costs of rehabilitation etc. of protected area**

**‘149A.** On conviction of a person for an offence against section 62 in relation to a protected area, the court may order the person to pay to the State such amount as it considers appropriate for, or towards—

- (a) the costs of controlling and extinguishing the fire in relation to which the offence is committed; and
- (b) the costs of rehabilitation or restoration of the area.’.

## FISHERIES ACT 1976

**1. Section 6(1) (definition “fish”)—**

*omit* ‘turtle, mammal.’.

**2. Section 6(1) (definition “fish”, after ‘star sand’)—**

*insert* ‘, or a fish that is a protected animal under the *Nature Conservation Act 1992*’.

**3. Section 6(1) (definition “marine product”)—**

*omit, insert—*

‘**“marine product”** includes—

- (a) oyster, pearl oyster, trochus, green snail, coral, coral limestone, shell grit and star sand, wherever found; and
- (b) in a marine park—
  - (i) all forms of indigenous animal and plant life; and
  - (ii) Aboriginal remains, artifacts or handicrafts of Aboriginal origin; and
  - (iii) traces of Aboriginal remains, artifacts or handicrafts; and
  - (iv) wrecks, relics and traces of wrecks or relics; and
  - (v) all other materials comprising the tidal land of a marine park;

but does not include protected wildlife, or cultural or natural resources, within the meaning of the *Nature Conservation Act 1992*.’

## **FISHING INDUSTRY ORGANIZATION AND MARKETING ACT 1982**

**1. Section 6(1) (definition “fish”, after ‘aquarium purposes’)—**

*insert ‘or a fish that is a protected animal under the Nature Conservation Act 1992’.*

**2. Section 6(1) (definition “marine product”)—**

*omit, insert—*

‘**“marine product”** includes—

- (a) all forms of indigenous animal and plant life; and
- (b) trochus, green snail, coral, coral limestone, shell grit and star sand;

but does not include protected wildlife within the meaning of the *Nature Conservation Act 1992*;

## FORESTRY ACT 1959

### 1. Section 5 (definitions “Environmental Park” and “National Park”)—

*omit.*

### 2. Section 5—

*insert—*

“**protected area**” means an area dedicated under the *Nature Conservation Act 1992* as—

- (a) a National Park (Scientific); or
- (b) a National Park; or
- (c) a National Park (Aboriginal land); or
- (d) a National Park (Torres Strait Islander land); or
- (e) a Conservation Park;

### 2. Section 45 (first sentence)—

*omit* ‘, Timber Reserves and National Parks’,

*insert* ‘and Timber Reserves’.

### 3. Section 46(1)—

*omit* ‘National Parks or on Environmental Parks’,

*insert* ‘protected areas’.

### 4. Section 48 (first sentence)—

*omit* ‘ an Environmental Park,’, *insert* ‘a protected area’.

**5. Section 55(1)(iii)—**

*omit* ‘ other than land reserved and set apart as an Environmental Park’.

**6. Section 71—**

*omit, insert—*

**‘Impounding**

**‘71.(1)** For the purposes of the provisions of the *Local Government Act 1936* that relate to the seizure and impounding of animals, the chief executive of the department is taken to be the owner and occupier of State Forests and Timber Reserves.

**‘(2)** Subsection (1) does not affect the operation of section 72 or any right conferred by any Act or law on—

- (a) the occupier of a Crown holding within a State Forest or Timber reserve; or
- (b) the holder of a licence over a State Forest or Timber Reserve.’.

**7. Section 102(1)(b)—**

*omit, insert—*

**‘(b)** the *Nature Conservation Act 1992*;’.

**LAND ACT 1962****1. Section 5 (definition “public purposes”)—**

*omit* ‘Environmental parks’.

**2. Section 140(5A)(b)—**

*omit, insert—*

‘(b) a conservation agreement under the *Nature Conservation Act 1992*; or’.

**3. Section 191(5)(b)—**

*omit, insert—*

‘(b) a conservation agreement under the *Nature Conservation Act 1992*; or’.

**4. Section 207B(5)(b)—**

*omit, insert—*

‘(b) a conservation agreement under the *Nature Conservation Act 1992*; or’.

**5. Section 334(5)—**

*omit.*

**6. Sections 334A and 334B—**

*omit.*

**7. Section 338(3)—**

*omit.*

**8. Section 339A—**

*omit.*

**9. Section 343(1)—**

*omit, insert—*

‘(1) The trustees of land granted in trust, or of a reserve, must not lease or agree to lease the land, or any part of the land, without the Minister’s prior written approval.’.

**10. Section 350(1)—**

*omit* ‘, save in either case, where the land is reserved and set apart as environmental park, when the occupation or use is authorized by a lease duly granted under this Act’.

**11. Part 11, Division 2A—**

*omit.*

**LOCAL GOVERNMENT (ABORIGINAL LANDS) ACT  
1978****1. Section 29(1)—**

*omit* ‘Notwithstanding the provisions of any Act’,

*insert* ‘Subject to section 85 of the *Nature Conservation Act 1992*, but despite the provisions of any other Act,’.

## MARINE PARKS ACT 1982

### 1. Section 9(1)—

*insert—*

‘“**chief executive**” means the chief executive of the department;’.

### 2. Section 9(1) (definition “Director”)—

*omit.*

### 3. Sections 11, 12(2), 13, 14, 16(1), 18, 19(1), 23, 25, 25A, 27(b) and 30(5)—

*omit* ‘Director’ (wherever occurring), *insert* ‘chief executive’.

### 4. Section 23 (heading)—

*omit* ‘Director’s’, *insert* ‘Chief executive’s’.

## MINERAL RESOURCES ACT 1989

### 1. Section 1.4(3)(a)—

*omit, insert—*

‘(a) is within a protected area; or’.

### 2. Section 1.8 (definition “land”, paragraphs (e) and (f))—

*omit, insert—*

‘a protected area;’

### 3. Section 1.8—

*insert—*

**“protected area”** means an area dedicated under the *Nature Conservation Act 1992* as—

- (i) a National Park (Scientific); or
- (ii) a National Park; or
- (iii) a National Park (Aboriginal land); or
- (iv) a National Park (Torres Strait Islander land); or
- (v) a Conservation Park; or’.

**4. Section 1.8(1)(definition “reserve”, after paragraph (a)(v))—**

*insert—*

‘(vi) a Resources Reserve under the *Nature Conservation Act 1992*;’.

**5. Section 11.9—**

*omit.*

## **RECREATION AREAS MANAGEMENT ACT 1988**

**1. Section 3(b)(i)—**

*omit, insert—*

‘(i) the chief executive of the department that deals with matters arising under the *Nature Conservation Act 1992*; or’.

**2. Section 5 (definition “Crown land”, paragraph (d))—**

*omit, insert—*

‘(d) set apart and declared as a State Forest, Timber Reserve, Marine Park, Wetland Reserve or Fish Habitat Reserve; or

(da) dedicated under the *Nature Conservation Act 1992* as—

- (i) a National Park (Scientific); or
- (ii) a National Park; or
- (iii) a National Park (Aboriginal land); or
- (iv) a National Park (Torres Strait Islander land); or
- (v) a Conservation Park; or’.

**3. Section 6(1)(a)—**

*omit ‘National Parks and Wildlife Act 1975-1984’,  
insert ‘Nature Conservation Act 1992’.*

**4. Section 13(2)—**

*omit ‘National Parks and Wildlife Act 1975-1984’,  
insert ‘Nature Conservation Act 1992’.*

**5. Section 15(b)—**

*omit, insert—*

‘(b) the chief executive of the department that deals with matters arising under the *Nature Conservation Act 1992* or the chief executive’s nominee.’.

**6. Section 22(3)(a)—**

*omit, insert—*

‘(a) all conservation officers within the meaning of the *Nature Conservation Act 1992*;’.

**7. Section 27(5)(a)—**

*omit ‘National Parks and Wildlife Act 1975-1989’,  
insert ‘Nature Conservation Act 1992’.*

## RURAL LANDS PROTECTION ACT 1985

### 1. Section 5(1)—

*omit* ‘section 34 of the *National Parks and Wildlife Act 1975-1984*’,  
*insert* ‘the *Nature Conservation Act 1992*’.

### 2. Section 6(1) (definition “National Park”)—

*omit*.

### 3. Section 6(1) (definition “private land”, paragraph (1))—

*omit, insert—*

‘ (1) a protected area;’.

### 4. Section 6(1)—

*insert—*

‘ “**protected area**” means an area dedicated under the *Nature Conservation Act 1992* as—

- (a) a National Park (Scientific); or
- (b) a National Park; or
- (c) a National Park (Aboriginal land); or
- (d) a National Park (Torres Strait Islander land); or
- (e) a Conservation Park;’.

### 5. Section 69(1)—

*omit, insert—*

‘(1) The Governor in Council may, by order in council—

- (a) declare animals of a class specified in the order in council (other than protected animals within the meaning of the *Nature Conservation Act 1992*) to be declared animals; and

(b) declare plants of a class specified in the order in council (other than protected plants within the meaning of the *Nature Conservation Act 1992*) to be declared plants.’.

**6. Section 85A—**

*omit* ‘National Park’, *insert* ‘protected area’.

**7. Section 236(1)—**

*omit* ‘National Park’, *insert* ‘protected area’.

## **TORRES STRAIT ISLANDER LAND ACT 1991**

**1. Section 1.04 (definition “National Park”)—**

*omit, insert—*

‘ “**National Park**” means an area dedicated under the *Nature Conservation Act 1992* as a National Park;’.

**2. Part 5, Division 5—**

*omit, insert—*

***Division 5—National Parks*****‘National Park subject to lease to State etc.**

**‘5.20(1)** If granted land is, or includes part of, a National Park (the **‘National Park land’**), the grant of the National Park land—

(a) is subject to the condition that the grantees lease the National Park land, in perpetuity, to the State for the purposes of the management of the National Park land under the *Nature Conservation Act 1992*; and

(b) is subject to such other conditions as the Governor in Council determines, by order in council, in relation to the National Park land or National Parks generally.

**‘(2)** There is to be a board of management for the National Park land.

**‘(3)** Subject to subsection (4), the board of management is to be composed in the way approved by the Minister.

**‘(4)** The Torres Strait Islanders particularly concerned with the National Park land are to be represented on the board of management.

**‘(5)** The Minister must, in cooperation with the board of management and before the grant of the land, prepare a management plan for the National Park land.

**‘(6)** Part 7 of the *Nature Conservation Act 1992* applies to the management plan as if it were a conservation plan required to be prepared under the Part.

**‘(7)** In the preparation of a management plan, the Minister must—

(a) consult with, and consider the views of, the Torres Strait Islanders particularly concerned with the National Park land; and

(b) as far as practicable, but subject to this section and the *Nature Conservation Act 1992*, act in a way that is consistent with any Island custom applicable to the National Park land (including any tradition relating to activities on the National Park land).

**‘(8)** The lease of the National Park land must be subject to the following conditions—

(a) that the National Park is to be managed in accordance with the management plan as in force from time to time;

(b) that the management plan is to be implemented by the board of management.

‘(9) The grantees of the granted land must—

(a) sign a lease of the National Park land in registrable form containing the required conditions and such other terms and conditions as are agreed; and

(b) give the signed lease to the Minister before or at the time of delivery of the deed of grant issued under section 5.01 in relation to the land.

‘(10) Nothing in this Act or a management plan or lease under this section is to result in a decrease, in the aggregate, in the public rights of access that existed in relation to the National Park land immediately before the land became claimable land.

‘(11) In this section—

“**Minister**” means the Minister administering the *Nature Conservation Act 1992*.’.

## TRANSPORT INFRASTRUCTURE (ROADS) ACT 1991

### 1. Section 5.3(2)(e)—

*omit, insert—*

‘(e) provision of access in respect of—

(i) a protected area under the *Nature Conservation Act 1992*; or

(ii) a scenic reserve; or

(iii) a marine park; or’.

### 2. Section 5.2(5), (6) and (7)—

*omit, insert—*

‘(5) The Corporation may recommend to the appropriate authority that land taken for a purpose mentioned in—

(a) subsection (2)(e)(i)—be dedicated or declared under the *Nature Conservation Act 1992* as part of the area for which access is provided; or

(b) subsection (2)(e)(ii) or (iii) or subsection (2)(f)—

(i) be reserved and set apart under the *Land Act 1962* for a public purpose and placed under the control of the Corporation as trustee of the land; or

(ii) be leased or otherwise dealt with under the *Land Act 1962*.

‘(6) The Corporation may, with the approval of the Minister, take or lease any land or acquire an easement over land to provide access to land mentioned in subsection (2)(e) or (f), and maintain any private road works existing on the land.’.