

Queensland



**NATURAL RESOURCES
LEGISLATION
AMENDMENT ACT 1997**

Act No. 41 of 1997

Queensland



NATURAL RESOURCES LEGISLATION AMENDMENT ACT 1997

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Queensland



**Natural Resources Legislation Amendment
Act 1997**

Act No. 41 of 1997

**An Act to amend legislation about natural resources, and for related
purposes**

[Assented to 25 August 1997]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Natural Resources Legislation Amendment Act 1997*.

Commencement

2.(1) Part 3¹ commences or is taken to have commenced on 1 July 1997.

(2) Part 4,² other than sections 30, 31 and 33,³ commences on date of assent.

(3) The remaining provisions of this Act commence on a day to be fixed by proclamation.

PART 2—AMENDMENT OF LAND ACT 1994

Act amended in pt 2

3. This part amends the *Land Act 1994*.

¹ Part 3 (Amendment of *Valuation of Land Act 1944*)

² Part 4 (Amendment of *Water Resources Act 1989*)

³ Sections 30 (Amendment of s 222 (Prohibition as to taking water on non-payment of charges therefor)), 31 (Omission of ss 227 and 228) and 33 (Insertion of new pt 12)

Amendment of s 155 (Length of term leases)**4. Section 155(2)—**

omit, insert—

‘(2) However, a term lease may be issued for up to 100 years if it is for—

- (a) a significant development; or
- (b) a timber plantation; or
- (c) a development that involves existing improvements that in the opinion of the Minister have required a high level of investment.’.

Insertion of new ch 8, pt 7, div 2A**5. After section 503—**

insert—

‘Division 2A—Further opportunity to convert certain perpetual town leases, that were previously miners homesteads, to freehold

‘Objective

‘**503A.** The object of this division is to give an opportunity to lessees of certain perpetual town leases (non-competitive leases), to convert their tenures to freehold.

‘Definitions

‘**503B.** In this division—

“**miners homestead**” has the meaning given in division 2 but does not include a special perpetual mining purposes lease that commenced on or after 1 January 1995.

“**repealed miners homestead Acts**” has the meaning given in division 2.

“**special perpetual mining purposes lease**” means a special perpetual mining purposes lease issued under the *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957*, the *Alcan Queensland*

Pty. Limited Agreement Act 1965 or the Aurukun Associates Agreement Act 1975.

‘Who may apply under this division

‘503C.(1) This section applies to a perpetual town lease (non-competitive lease) that was previously a miners homestead.

‘(2) The lessee may apply to convert the lease to freehold.

‘Time within which application must be made

‘503D. The application must be given to the chief executive before 1 February 1998.

‘How application is dealt with

‘503E.(1) The application must be dealt with as if—

- (a) the repealed miners homestead Acts had not been repealed; and
- (b) the application were made under the *Mining Titles Freeholding Act 1980*; and
- (c) the lease were a miners homestead.

‘(2) However, if a mining titles freeholding lease would have issued under the repealed miners homestead Acts a pre-Wolfe freeholding lease is to be issued instead.

‘(3) A perpetual town lease (non-competitive lease) that was previously a miners homestead is to be treated as a miners homestead for the purposes only of an application under subsection (1).

‘Lapse of offer

‘503F.(1) An offer to convert the lease to freehold is valid for 3 months.

‘(2) An offer must be accepted in writing.

‘(3) If an offer is not accepted or rejected in writing within the stated time, the offer lapses.

‘(4) The Minister, before or after the offer lapses, may extend the time stated in the offer.

‘Surrender of existing lease

‘503G. If a lessee accepts an offer to convert to freehold, the lessee must surrender the existing lease before the new tenure is issued.

‘Existing encumbrances

‘503H. The new tenure is subject to all encumbrances to which the existing lease was subject and in the same priorities.

‘Credit for rent paid

‘503I.(1) If an application to convert to freehold is approved, the following amounts are credited to the cost of freeholding—

- (a) rent paid on the perpetual town lease (non-competitive lease) in excess of the amount that would have been payable if the lease had remained a miners homestead; and
- (b) rent paid for the period after the application was lodged.

‘(2) If the rent paid is more than the cost of freeholding, the overpaid amount must be refunded to the lessee together with interest at the rate prescribed under a regulation.

‘(3) The interest is payable from the date the excess rent was received to the day the amount of the excess is refunded.’

PART 3—AMENDMENT OF VALUATION OF LAND ACT 1944

Act amended in pt 3

6. This part amends the *Valuation of Land Act 1944*.

Amendment of s 2 (Definitions)**7. Section 2—***insert—*

‘**“approved subdivider”**, of land, means a person who has been issued an approved subdivider’s certificate for the land.

“approved subdivider’s certificate”, for land, see section 96A(1).⁴.

Replacement of s 25 (Valuation of subdivided land)**8. Section 25—***omit, insert—***‘Valuation—discounting for subdivided land**

‘25.(1) This section applies to a parcel of land (**“parcel”**) if—

- (a) the parcel is 1 of the parts into which land has been subdivided; and
- (b) the person who subdivided the land (**“subdivider”**) is—
 - (i) an approved subdivider for the land; and
 - (ii) the owner of the parcel; and
- (c) the parcel is vacant land.

‘(2) For making and levying rates on the parcel under a rating Act for the discounted valuation period, the rating authority must cause the unimproved value of the parcel to be discounted by—

- (a) from 1 July 1997 to 30 June 1998—40%; and
- (b) after 30 June 1998—the percentage prescribed under a regulation.

‘(3) For the *Local Government Act 1993*, section 623⁵ and the *City of Brisbane Act 1924*, section 70⁶ a change or alteration in the unimproved value of the parcel is taken to happen when the discounted valuation period

⁴ Section 96A (Approved subdivider’s certificate)

⁵ Section 623 (Change in unimproved value of land)

⁶ Section 70 (Levy of rate on alteration in unimproved value etc.)

ends.

‘(4) For calculating the rate levied on the parcel after the change under the *Local Government Act 1993*, section 623—

- (a) the previous unimproved value of the land is taken to be the unimproved value of the parcel as discounted under subsection (2); and
- (b) the new unimproved value of the land is taken to be the unimproved value of the parcel without regard to the discount.

‘(5) For adjusting the amount of a rate levied by the council on the parcel after the change under the *City of Brisbane Act 1924*, section 70⁷—

- (a) the unimproved value of the land is taken to be the unimproved value of the parcel as discounted under subsection (2); and
- (b) the altered unimproved value of the land is taken to be the unimproved value of the parcel without regard to the discount.

‘(6) This section does not affect the operation of section 17.⁸

‘(7) In this section—

“**discounted valuation period**”, for a parcel of land, means the period starting when the land of which the parcel was a part was subdivided and ending on the earlier of the following days—

- (a) 30 June in the year immediately following the financial year in which the land of which the parcel was a part was subdivided;
- (b) the day on which there is a change in the ownership of the parcel;
- (c) the day the parcel stops being vacant land.

“**rating Act**” means—

- (a) the *City of Brisbane Act 1924*; or
- (b) the *Local Government Act 1993*.

“**rating authority**” means the local government in whose area the parcel is located.’.

⁷ Section 70 (Levy of rate on alteration in unimproved value etc.)

⁸ Section 17 (Exclusive use for single dwelling house or farming)

Amendment of s 34 (Lands to be included in 1 valuation)**9.** Section 34—*insert—*

‘(4) In this section—

“**parcel**” does not include a parcel the unimproved value of which must be discounted under section 25.⁹.

Insertion of new ss 96A and 96B**10.** After section 96—*insert—***‘Approved subdivider’s certificate**

‘**96A.(1)** A person who subdivides land may, for the purposes of section 25,¹⁰ apply to the chief executive for a certificate (“**approved subdivider’s certificate**”) for the land.

‘(2) The chief executive may approve the application only if the chief executive is satisfied that the person is subdividing the land for the purpose of selling all or part of the subdivided land for profit.

‘(3) The application must be—

- (a) made in the approved form; and
- (b) given to the chief executive before the land is subdivided or as soon as practicable after the land is subdivided; and
- (c) accompanied by enough information to enable the chief executive to decide whether or not the person is subdividing the land for the purpose of selling all or part of the subdivided land for profit.

‘(4) The chief executive may require the person to provide, within a stated reasonable time, the additional information the chief executive reasonably needs to enable the chief executive to make the decision mentioned in subsection (3)(c).

⁹ Section 25 (Valuation—discounting for subdivided land)

¹⁰ Section 25 (Valuation—discounting for subdivided land)

‘(5) The person must provide the additional information within the time, not less than 14 days, stated in the request.

‘(6) If the person fails to provide the additional information, the person is taken to have withdrawn the request immediately after the stated time ends.

‘(7) The chief executive must consider the application and approve or refuse to approve it within 42 days.

‘(8) If the chief executive approves the application, the chief executive must issue to the applicant an approved subdivider’s certificate.

‘(9) If the chief executive refuses to issue the certificate, the chief executive must notify the person as soon as practicable after the decision is made and give the person an information notice.

‘(10) If the certificate is issued after the land is subdivided, it is taken to have been issued when the land is subdivided.

‘(11) In this section—

“**information notice**”, for a decision of the chief executive, is a written notice stating—

- (a) the decision; and
- (b) the reasons for the decision; and
- (c) that the person to whom the notice is given may object to the decision under section 96B within 42 days after the person is notified of the chief executive’s decision.

‘Objection to, and appeal against, chief executive’s decision

‘**96B.(1)** A person who is dissatisfied with the chief executive’s decision under section 96A may object to the decision under subsection (2).

‘(2) The objection must be lodged in writing with the chief executive within 42 days after the person is notified of the chief executive’s decision.

‘(3) Sections 53 and 54¹¹ apply to the objection with all necessary changes.

‘(4) A person who has objected to a decision under subsection (2) may,

¹¹ Sections 53 (Consideration of objections) and 54 (Notice to objector)

if dissatisfied with the chief executive's decision on the objection, appeal to the Land Court under subsection (5).

'(5) The appeal must be started within 42 days after the person is notified of the chief executive's decision on the objection.

'(6) Sections 56 to 65¹² and section 67¹³ apply to the appeal with all necessary changes.

'(7) The Land Court or, on the appeal, the Land Appeal Court may—

- (a) confirm the chief executive's decision; or
- (b) vary the decision; or
- (c) set aside the decision and substitute another decision the chief executive could have made.

'(8) The Land Court or Land Appeal Court may make the order for costs it considers appropriate.'

Insertion of new s 100

11. After section 99—

insert—

'Transitional—valuation of subdivided land under s 25

'**100.(1)** This section applies to land valued as a single parcel under section 25¹⁴ as in force immediately before 1 July 1997.

'(2) Despite the repeal of section 25, that section continues to apply to the land until the end of 30 June 1998.

'(3) This section expires on 1 July 1998.'

¹² Sections 56 (How to start appeal), 57 (Late filing), 58 (Defect in notice of appeal—action of registrar), 59 (Defect in notice of appeal—action of Land Court), 60 (Jurisdiction not affected by failure to serve chief executive), 61 (Defect in notice of appeal served on chief executive), 62 (Costs of adjournment), 63 (Constitution of Land Court at first instance), 64 (Appeal to Land Appeal Court) and 65 (Appeal to Court of Appeal)

¹³ Section 67 (Practice and procedure for appeals)

¹⁴ Section 25 (Valuation of subdivided land)

PART 4—AMENDMENT OF WATER RESOURCES ACT 1989

Act amended in pt 4

12. This part amends the *Water Resources Act 1989*.

Amendment of title

13. Title, after ‘surveillance of’—

insert—

‘referable’.

Amendment of s 2 (Interpretation)

14. Section 2(3), ‘affect or affects directly the safety of the referable dam’—

omit, insert—

‘ensure the safety of the referable dam and the protection of life or property that would or could be endangered by the uncontrolled loss or release of water or hazardous waste caused by the collapse or failure of the referable dam’.

Amendment of s 15 (Power of corporation to supply water by agreement)

15. Section 15(3)—

omit, insert—

‘(3) However, the terms of the agreement must—

- (a) for a secondary supply agreement—comply with terms approved by the Governor in Council for that type of secondary supply agreement; or
- (b) otherwise—be approved by the Governor in Council.’.

Amendment of s 43 (Inquiry by chief executive and grant or refusal of application)

16.(1) Section 43(1), after ‘cause inquiry to be made’—

insert—

‘into anything the chief executive considers appropriate, including any of the following that are relevant to the application’.

(2) Section 43(1)(a) and (b), ‘into—’—

omit.

(3) Section 43(1)(c)—

omit, insert—

‘(c) if the application relates to an existing or proposed referable dam—

- (i) the sufficiency of the dam to prevent the uncontrolled loss or release of the water or hazardous waste contained by the dam; and
- (ii) the risk to life or property that would or could be endangered by the uncontrolled loss or release of water or hazardous waste caused by the collapse or failure of the referable dam; and
- (iii) the matters mentioned in paragraph (a) or (b), if either paragraph applies to the application.’.

(4) Section 43, after subsection (1)—

insert—

‘**(1A)** However, if the application relates to an existing or proposed referable dam situated, or to be situated, neither on a watercourse, lake or spring nor in a designated area, the chief executive need only cause inquiry to be made into—

- (a) the matters mentioned in subsection (1)(c)(i) and (ii); and
- (b) anything else the chief executive considers relevant, excluding the matters mentioned in subsection (1)(a) and (b).’.

(5) Section 43, ‘where’—

omit, insert—

‘if’.

Amendment of s 44 (Licences)

17. Section 44(1)(i), from ‘ensuring’—

omit, insert—

‘ensuring the safety of a referable dam and the protection of life or property that would or could be endangered by the uncontrolled loss or release of water or hazardous waste caused by the collapse or failure of a referable dam, this Act and the terms of the licence prevail.’.

Amendment of s 51 (Appeal to Land Court)

18. Section 51(3)(c)—

omit, insert—

‘(c) a referable dam, that is about the safety of the referable dam and the protection of life or property that would or could be endangered by the uncontrolled loss or release of water or hazardous waste caused by the collapse or failure of the referable dam.’.

Amendment of s 79 (Purpose of this part)

19. Section 79, from ‘owners of land,’—

omit, insert—

‘owners of land—

- (a) entitlements to enter into agreements under section 15¹⁵ to take and use nominal allocations of water provided by the works; or
- (b) entitlements to be issued licences under this part to take and use nominal allocations of water provided by the works.’.

¹⁵ Section 15 (Power of corporation to supply water by agreement)

Amendment of s 80 (Definitions)

20.(1) Section 80, heading, after ‘**Definitions**’—

insert—

‘**for pt 5**’.

(2) Section 80—

insert—

‘**“agreement party”** means a person who enters into an agreement with the corporation under section 15¹⁶ under an entitlement under this part.

“potential agreement” means an agreement that might be entered into within the terms of a notice of intention to sell.’.

(3) Section 80, definition **“entitlement”**, ‘to be issued a licence under this part’—

omit, insert—

‘to enter into an agreement with the corporation under section 15¹⁷ or to be issued a licence under this part’.

(4) Section 80, definition **“entitlement information”**, paragraph (d)—

omit, insert—

‘(d) the terms that may be included in a potential agreement or potential licence, including, for example—

- (i) conditions about the subsequent sale of some or all of the entitlements of the agreement party or licence holder; and
- (ii) fees or charges that may be imposed in relation to the agreement or licence; and
- (iii) terms mentioned in section 15¹⁸ for an agreement under that section or in section 44(1)¹⁹ for a licence; and’.

¹⁶ Section 15 (Power of corporation to supply water by agreement)

¹⁷ Section 15 (Power of corporation to supply water by agreement)

¹⁸ Section 15 (Power of corporation to supply water by agreement)

¹⁹ Section 44 (Licences)

Amendment of s 83 (Inquiry before publication of notice of intention to sell)

21. Section 83(1), from ‘if an application’—

omit, insert—

‘if applications were made under section 42²⁰ for the issue of licences relating to the water to be made available for sale under the notice of intention to sell.’.

Amendment of s 84 (Persons who are eligible to give objections)

22.(1) Section 84(a), from ‘to an application’—

omit, insert—

‘if an application were made under section 42²¹ for any licence relating to any of the water to be made available for sale under the notice of intention to sell;’.

(2) Section 84(b), after ‘allocations for’—

insert—

‘a potential agreement or’.

Amendment of s 85 (Chief executive must inquire into objections)

23. Section 85(1), after ‘arising from’—

insert—

‘the entering into of potential agreements or’.

Amendment of s 86 (Chief executive may amend notice of intention to sell)

24. Section 86(6)(a), after ‘available for’—

²⁰ Section 42 (Application for licence)

²¹ Section 42 (Application for licence)

insert—

‘potential agreements or’.

Amendment of s 90 (Issue of licence on sale of entitlement)

25. Section 90(1), after ‘entitlement’—

insert—

‘to be issued a licence’.

Insertion of new s 90A

26. After section 90—

insert—

‘Entering into agreement on sale of entitlement

‘**90A.** On the sale of an entitlement to enter into an agreement under section 15,²² the corporation may enter into an agreement under section 15 as required under the terms of the sale.’.

Amendment of s 91 (Control of safety of referable dams)

27.(1) Section 91, heading, ‘of safety’—

omit.

(2) Section 91(1), from ‘ensuring’ to ‘thereof’—

omit, insert—

‘ensuring the safety of a referable dam and the protection of life or property that would or could be endangered by the uncontrolled loss or release of water or hazardous waste caused by the collapse or failure of the referable dam,’.

²² Section 15 (Power of corporation to supply water by agreement)

Amendment of s 92 (Power of chief executive to declare certain works or proposed works to be a referable dam)

28. Section 92(1), from ‘ensuring’ to ‘thereof’—

omit, insert—

‘ensuring the safety of certain works and the protection of life or property that would or could be endangered by the uncontrolled loss or release of water or hazardous waste caused by the collapse or failure of the works’.

Amendment of s 93 (Requirements of chief executive as to referable dam)

29. Section 93(1)(b)(iii), from ‘to ensure’—

omit, insert—

‘as specified in the notice to ensure the safety of the referable dam and the protection of life or property that would or could be endangered by the uncontrolled loss or release of water or hazardous waste caused by the collapse or failure of the referable dam.’.

Amendment of s 222 (Prohibition as to taking water on non-payment of charges therefor)

30. Section 222(1), ‘with respect thereto by section 228 or, as the case requires, 229’—

omit, insert—

‘for the charges under a regulation or, as the case requires, section 229’.

Omission of ss 227 and 228

31. Sections 227 and 228—

omit.

Amendment of s 232 (Person may sell right to nominal allocation)

32. Section 232(4)—

omit, insert—

‘(4) A regulation may provide for, in relation to a sale under subsection (2) or (3)—

- (a) the conditions that are to apply to the sale; and
- (b) the making and levying of a charge by the chief executive to recover the corporation’s costs, expenses and losses resulting for any reason from the sale.

‘(4A) Without limiting subsection (4)(b), a charge for a sale under subsection (2) or (3) levied under subsection (4)(b) may be for—

- (a) the corporation’s administrative costs and expenses; and
- (b) costs and expenses resulting from construction or maintenance of headworks or other works; and
- (c) losses of revenue to the corporation due to decrease in the use or potential use of works or increased delivery costs; and
- (d) costs, expenses or losses of the corporation over a future period; and
- (e) a part of the corporation’s costs, expenses or losses resulting from more than 1 sale under subsection (2) or (3) apportioned in relation to the sale on any basis decided under a regulation.’.

Insertion of new pt 12

33. After section 251—

insert—

‘PART 12—TRANSITIONAL PROVISIONS

‘Transitional provision for Natural Resources Amendment Legislation Act 1997

‘**252.(1)** Despite the repeal of sections 227 and 228²³ by the *Natural*

²³ Sections 227 (Water charges) and 228 (Payment of water charge interest thereon and recovery thereof)

Resources Legislation Amendment Act 1997, those sections apply, as if they had not been repealed, to a charge made and levied under section 227 before its repeal.

‘(2) Subsection (1) does not limit the *Acts Interpretation Act 1954*, section 20.²⁴’.

Amendment of sch

34.(1) Schedule, item 23, ‘The fixing of the scale of’—
omit, insert—

‘The making and levying, and the fixing of the scale or structure of,’.

(2) Schedule—
insert—

‘Recovery of charges for water

‘23A. For charges levied under item 23—

- (a) persons required to pay the charges; and
- (b) notification to persons required to pay the charges, including what is taken to be sufficient notification; and
- (c) discounts; and
- (d) conditions of payment of charges; and
- (e) recovery of unpaid charges; and
- (f) under item 36, interest that must be paid if the charges are not paid as required, conditions of payment and recovery of unpaid interest.

‘Carryovers and forward draws of water allocations

‘28A. For any nominal allocation—

- (a) the carryover of unused water from 1 period for which there is an announced allocation to the next period; and

²⁴ Section 20 (Saving of operation of repealed Act etc.)

- (b) the forward draw of water from 1 period for which there is or will be an announced allocation into the previous period; and
- (c) conditions, including charges under item 23, for the carryover or forward draw of water.’.