



Queensland

Natural Resources Legislation Amendment Act 2004

Act No. 33 of 2004



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Natural Resources Legislation Amendment Act 2004

Act No. 33 of 2004

An Act to amend legislation about natural resources

[Assented to 27 October 2004]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Natural Resources Legislation Amendment Act 2004*.

Part 2 Amendment of Land Protection (Pest and Stock Route Management) Act 2002

2 Act amended in pt 2

This part amends the *Land Protection (Pest and Stock Route Management) Act 2002*.

3 Amendment of s 6 (Relationship with Nature Conservation Act and Forestry Act)

- (1) Section 6, heading, ‘Nature Conservation Act and Forestry Act’—

omit, insert—

‘particular Acts’.

- (2) Section 6(1) and (2), after ‘Act 1992’—

insert—

‘, the Fisheries Act 1994’.

4 **Amendment of s 37 (Declaring declared pests by emergency pest notice)**

- (1) Section 37(2), ‘gazette’—
omit.
- (2) Section 37(7), ‘ceases to have effect 3 months after it is gazetted’—
omit, insert—
‘expires 3 months after it commences’.

5 **Amendment of s 41 (Keeping declared pest)**

Section 41—

insert—

- ‘(2) A person does not commit an offence against subsection (1) if the person keeps the declared pest for identification by—
 - (a) for a declared pest that is an animal—Queensland Museum; or
 - (b) for a declared pest that is a plant—Queensland Herbarium.’.

6 **Insertion of new s 41A**

After section 41—

insert—

‘41A Amnesty for keeping particular declared pests

- ‘(1) This section applies if the chief executive becomes aware that many persons are keeping animals of a particular type that is a declared pest (a *particular declared pest*) other than under declared pest permits.
- ‘(2) The chief executive may, with the approval of the Minister, declare an amnesty (an *amnesty declaration*) for the particular declared pest.
- ‘(3) A person who keeps a particular declared pest other than under a declared pest permit does not commit an offence against section 41 in relation to the particular declared pest if the person surrenders the pest—

- (a) during the amnesty period for the particular declared pest; and
 - (b) in the way stated in the amnesty declaration.
- ‘(4) The chief executive may destroy or dispose of, in a reasonable way decided by the chief executive, a particular declared pest surrendered under subsection (3).
- ‘(5) Compensation is not payable for the destruction or disposal of a declared pest under an amnesty declaration.
- ‘(6) In this section—
- amnesty period***, for a particular declared pest mentioned in an amnesty declaration, means the period stated in the amnesty declaration as the period for surrendering the particular declared pest.’.

7 Amendment of s 44 (Supplying declared pest)

Section 44—

insert—

- ‘(2) A person does not commit an offence against subsection (1) if the person supplies the declared pest for identification to—
- (a) for a declared pest that is an animal—Queensland Museum; or
 - (b) for a declared pest that is a plant—Queensland Herbarium.’.

8 Amendment of s 45 (Supplying things containing reproductive material of particular declared pests)

- (1) Section 45(3)—

renumber as section 45(4).

- (2) Section 45—

insert—

- ‘(3) Both the supplier and the person to whom the thing is supplied must keep a copy of the written notice given under subsection (2) for 5 years after the notice is given.

Maximum penalty for subsection (3)—10 penalty units.’.

9 Amendment of s 79 (Extending compliance period)

- (1) Section 79(1), (3) and (4), ‘person’—

omit, insert—

‘landowner’.

- (2) Section 79(2)—

omit, insert—

- ‘(2) The request must—

(a) be in writing; and

(b) state the reason for the request; and

(c) state the period of extension requested.’.

- (3) Section 79(3)(a)(i), ‘and’—

omit, insert—

‘or’.

- (4) Section 79(3)(a)(ii), after ‘it is’—

insert—

‘otherwise’.

- (5) Section 79(4), after ‘period,’—

insert—

‘or to extend the period other than as requested under subsection (2)(c),’.

10 Amendment of s 80 (Noncompliance with pest control notice)

- (1) Section 80—

insert—

‘(1A) The entry notice must also state the period, of not more than 2 months, that the notice remains in force.’

- (2) Section 80(1A) and (2)—
renumber as section 80(2) and (3).

11 Amendment of s 90 (Emergency quarantine notice)

- (1) Section 90—
insert—

‘(8A) Subsection (1) does not allow the chief executive officer of the local government to give an emergency quarantine notice in relation to State land in the area.’

- (2) Section 90(8A) and (9)—
renumber as section 90(9) and (10).

12 Amendment of s 116 (Application for permit)

Section 116(2)(c)—
omit, insert—

‘(c) both of the following apply—

- (i) the permit is for either—

(A) if the issuing entity is a local government prescribed for section 104—relevant land identified in the issuing entity’s stock route network management plan as land containing more pasture and water than is needed for the use of travelling stock; or

(B) otherwise—relevant land the issuing entity is satisfied contains more pasture and water than is needed for the use of travelling stock;

- (ii) the issuing entity has given notice that a person may apply for a permit for the land.’

13 Amendment of s 118 (Deciding application)

- (1) Section 118(2)(a)—

omit, insert—

‘(a) if the issuing entity has a stock route network management plan—the use of the land for agistment is consistent with the plan; and’.

(2) Section 118(2)(b)(ii)—

omit, insert—

‘(ii) there is more pasture and water available on the land than is needed for the use of travelling stock; and’.

14 Amendment of s 159 (Amounts payable by landowner)

Section 159, heading, ‘landowner’—

omit, insert—

‘permit holder’.

15 Amendment of s 163 (Water facility agreements)

(1) Section 163(1)(e), ‘constructing’—

omit, insert—

‘constructing or maintaining’.

(2) Section 163(1)—

insert—

‘(f) allowing access to the owner’s land for any purpose mentioned in paragraphs (a) to (e).’.

16 Amendment of s 165 (Registration of particular agreements)

Section 165(2) and (3)—

omit, insert—

‘(2) As soon as practicable after the agreement is entered, the chief executive must give the land registrar written notice of the agreement.

- ‘(3) The land registrar must keep records showing that the land specified in the notice is the subject of a water facility agreement.
- ‘(4) The land registrar must keep the records in a way that allows a search of the register kept by the registrar under any Act relating to title to the land to show the existence of the agreement.
- ‘(5) As soon as practicable after the agreement is terminated, the chief executive must give the land registrar written notice of the termination.
- ‘(6) As soon as practicable after receiving a notice under subsection (5), the land registrar must remove the particulars of the agreement from the registrar’s records.
- ‘(7) While the agreement is in force, the landowner’s obligations under the agreement attach to the land and bind the owner and the owner’s successors in title to the land.
- ‘(8) In this section—
land registrar means—
 - (a) for freehold land—the registrar of titles; and
 - (b) for land leased from the State—the chief executive.’.

17 Insertion of new ss 195A and 195B

After section 195—

insert—

‘195A Investigations about eligibility for appointment

- ‘(1) The chief executive may make investigations about a person to decide whether the person is eligible for appointment as a member.
- ‘(2) Without limiting subsection (1), the chief executive may ask the commissioner of the police service for a written report about the criminal history of the person.
- ‘(3) The commissioner must give the report to the chief executive.
- ‘(4) However, the report is required to contain only criminal history in the commissioner’s possession or to which the commissioner has access.

‘195B Criminal history is confidential document

‘(1) An officer, employee or agent of the department must not, directly or indirectly, disclose to anyone else a report, or information contained in a report, given under section 195A.

Maximum penalty—100 penalty units.

‘(2) However, the officer, employee or agent does not commit an offence against subsection (1) if—

(a) disclosure of the report or information to someone else is authorised by the chief executive; or

(b) the disclosure is otherwise required or permitted by law.

‘(3) The chief executive may authorise disclosure under subsection (2)(a) only to the extent necessary to perform a function under or in relation to this Act.

‘(4) The chief executive must destroy the report as soon as practicable after considering the person’s eligibility.’.

18 Amendment of s 224 (Qualifications for appointment)

Section 224—

insert—

‘(3) Also, a regulation establishing a pest operational board may prescribe residential or land ownership or occupation requirements as qualifications for appointment as a director.’.

19 Insertion of new ss 224A and 224B

After section 224—

insert—

‘224A Investigations about eligibility for appointment

‘(1) The chief executive may make investigations about a person to decide whether the person is eligible for appointment as a director.

‘(2) Without limiting subsection (1), the chief executive may ask the commissioner of the police service for a written report about the criminal history of the person.

‘(3) The commissioner must give the report to the chief executive.

- ‘(4) However, the report is required to contain only criminal history in the commissioner’s possession or to which the commissioner has access.

‘224B Criminal history is confidential document

- ‘(1) An officer, employee or agent of the department must not, directly or indirectly, disclose to anyone else a report, or information contained in a report, given under section 224A.

Maximum penalty—100 penalty units.

- ‘(2) However, the officer, employee or agent does not commit an offence against subsection (1) if—

(a) disclosure of the report or information to someone else is authorised by the chief executive; or

(b) the disclosure is otherwise required or permitted by law.

- ‘(3) The chief executive may authorise disclosure under subsection (2)(a) only to the extent necessary to perform a function under or in relation to this Act.

- ‘(4) The chief executive must destroy the report as soon as practicable after considering the person’s eligibility.’.

20 Amendment of s 274 (Destruction or disposal of seized things)

- (1) Section 274—

insert—

- ‘(3A) However, the authorised person may immediately destroy or dispose of the pest if—

(a) the owner is given an opportunity under subsection (2) to produce a declared pest permit for the pest; and

(b) the owner immediately gives a written declaration to the authorised person, admitting that the owner does not hold a declared pest permit for the pest.’.

- (2) Section 274(3A) to (5)—

renumber as section 274(4) to (6).

21 Amendment of sch 3 (Dictionary)

(1) Schedule 3—

insert—

‘criminal history, of a person, has the meaning given by the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 3, but does not include convictions for which the rehabilitation period has expired, and has not been revived, under that Act.’.

(2) Schedule 3, definition *State-controlled land*, paragraph (c), after ‘(Aboriginal land),’—

insert—

‘national park (recovery),’.

Part 2A Amendment of Petroleum and Other Legislation Amendment Act 2004**21A Act amended in pt 2A**

This part amends the *Petroleum and Other Legislation Amendment Act 2004*.

21B Amendment of s 19 (Replacement of s 25 (Limit to number of permits and leases))

Section 19, inserted section 25L(2)(a), ‘renewed’—

omit, insert—

‘replaced’.

21C Amendment of s 104 (Amendment of s 159 (Obligation to lodge proposed later development plan))

Section 104(2), ‘omit,’—

omit.

21D Amendment of s 153 (Amendment of s 409 (Requirements for making application))

Section 153(1), ‘omit,’—
omit.

Part 3 Amendment of Surveyors Act 2003

22 Act amended in pt 3

This part amends the *Surveyors Act 2003*.

23 Amendment of s 16 (Disqualification from membership)—

Section 16(1)(b), ‘this Act’
omit, insert—
‘this Act or the repealed Act’.

24 Amendment of s 36 (Eligibility for registration or registration endorsement—individuals)

- (1) Section 36(2)(a)(i) and 36(3)(a), ‘this Act’—
omit, insert—
‘this Act, the repealed Act’.
- (2) Section 36(2)(c)(i), ‘this Act’—
omit, insert—
‘this Act or the repealed Act’.

25 Amendment of s 38 (Eligibility for registration and registration endorsement—corporations)

- (1) Section 38(2)(b), ‘this Act’
omit, insert—

‘this Act or the repealed Act’.

(2) Section 38(3)(a)—

omit, insert—

‘(a) if the corporation requires an endorsement other than as a consulting surveyor—a surveyor who holds the registration endorsement required; or’.

26 Amendment of s 43 (Who may assess competency)

Section 43—

insert—

‘(4) The procedure may include 1 or more of the following—

- (a) training a person under an agreement (a *professional training agreement*) entered into between the board, the person and a surveyor who supervises the training;
- (b) assessing a person’s surveying project (a *professional assessment project*);
- (c) assessing a person’s skills and experience (*competence equivalence*).

‘(5) Subsection (4) does not limit the procedures that may be decided under subsection (2)(a).’.

27 Amendment of s 44 (Application for competency assessment)

Section 44—

insert—

‘(3) The assessment fee may consist of a fee for 1 or more of the following—

- (a) lodging the application;
- (b) varying or reloading a professional training agreement;
- (c) assessing and reporting on training under a professional training agreement;

- (d) assessing a professional assessment project;
- (e) assessing competence equivalence.’.

28 Amendment of s 46 (Additional requirements for application by corporation)

Section 46(1)(c)—

omit, insert—

‘(c) employs a surveyor; and’.

29 Amendment of s 63 (Amending, suspending or cancelling registration or registration endorsement)

Section 63(1)(b), ‘this Act’

omit, insert—

‘this Act or the repealed Act’

30 Amendment of s 85 (Complaints about registrant’s professional conduct)

Section 85(3), ‘that Act’—

omit, insert—

‘that Act or the repealed Act’.

31 Insertion of new s 194A

After section 194—

insert—

‘194A References

‘(1) A reference to this Act in any of the following provisions is taken also to have included, from 1 August 2004 until the commencement of this section, a reference to the repealed Act—

- (a) section 16;
- (b) section 36;
- (c) section 38;

- (d) section 63;
 - (e) schedule 3, definition *professional conduct*;
 - (f) schedule 3, definition *professional misconduct*.
- ‘(2) The reference to the *Survey and Mapping Infrastructure Act 2003* in section 85(3) of this Act is taken also to have included, from 1 August 2004 until the commencement of this section, a reference to the repealed Act.’.

32 Replacement of s 199 (Continuation of existing members’ membership)

Section 199—

omit, insert—

‘199 Continuation of existing members’ membership

- ‘(1) For the interim period—
- (a) the existing members continue in office and are taken to have been appointed as members under this Act; and
 - (b) the existing president continues in office and is taken to have been appointed as chairperson under this Act.
- ‘(2) Despite sections 12 and 21,¹ if a casual vacancy occurs in the office of the chairperson or a member during the interim period, the Minister may appoint another person to fill the vacancy for the remainder of the period.
- ‘(3) Subject to section 15(3),² at the end of the interim period, the existing president and existing members go out of office.
- ‘(4) In this section—
- existing members*** means the members of the old board holding office immediately before 1 August 2004.
- existing president*** means the person holding office as president of the old board immediately before 1 August 2004.
- interim period*** means the period from 1 August 2004 until—
- (a) 1 February 2005; or

1 Sections 12 (Membership of board) and 21 (Casual vacancy in member’s office)

2 Section 15 (Term of appointment)

- (b) the members of the board are sooner appointed under section 12.

old board means the Surveyors Board of Queensland constituted under the repealed Act and in existence immediately before 1 August 2004.’.

33 Amendment of sch 3 (Dictionary)

- (1) Schedule 3—

insert—

‘*competence equivalence* see section 43.

former registrant means a person who is not currently, registered under part 3 but who has previously been registered under part 3 or the repealed Act.

professional assessment project see section 43.

professional training agreement see section 43.’.

- (2) Schedule 3, definition *information notice*, paragraph (c), ‘applicant’—

omit, insert—

‘recipient of the information notice’.

- (3) Schedule 3, definition *information notice*, paragraph (d), ‘applicant’—

omit, insert—

‘recipient’.

- (4) Schedule 3, definition *professional conduct*, after ‘registrant’—

insert—

‘or former registrant’.

- (5) Schedule 3, definition *professional conduct*, after ‘registrant’s’—

insert—

‘or former registrant’s’.

- (6) Schedule 3, definition *professional conduct*, paragraph (d)—

omit, insert—

‘(d) the registrant’s or former registrant’s compliance with—

- (i) this Act or the repealed Act; or
- (ii) the code of practice or any code of professional conduct compiled or adopted under the repealed Act; or
- (iii) survey standards made under the *Survey and Mapping Infrastructure Act 2003* or the repealed Act.’.

(7) Schedule 3, definition *professional misconduct*, after ‘registrant’—

insert—

‘or former registrant’.

(8) Schedule 3, definition *professional misconduct*, after ‘registrant’s’—

insert—

‘or former registrant’s’.

(9) Schedule 3, definition *professional misconduct*, paragraph (d)—

omit, insert—

‘(d) noncompliance with—

- (i) this Act or the repealed Act; or
- (ii) the code of practice or any code of professional conduct compiled or adopted under the repealed Act; or
- (iii) survey standards made under the *Survey and Mapping Infrastructure Act 2003* or the repealed Act.’.

Part 4 **Amendment of Survey and Mapping Infrastructure Act 2003**

34 Act amended in pt 4

This part amends the *Survey and Mapping Infrastructure Act 2003*.

35 Amendment of s 15 (Obligation on person placing permanent survey mark)

- (1) Section 15(2), ‘within 40 business days after the mark is placed’—

omit, insert—

‘as required under subsection (3)’.

- (2) Section 15(2), after ‘approved form’—

insert—

‘(a *permanent survey mark plan*)’.

- (3) Section 15—

insert—

- ‘(3) The copy of the permanent survey mark plan must be given to the chief executive—

(a) if, before the end of 40 days after the mark is placed, the person gives the chief executive a copy of a plan of survey under section 16 or lodges the plan in the land registry—at the same time as the person gives the copy of the plan of survey to the chief executive or lodges the plan in the land registry; or

(b) if paragraph (a) does not apply—within 40 business days after the mark is placed.’.

36 Amendment of s 16 (Obligation on cadastral surveyor)

- (1) Section 16(1), ‘subsection (2)’—

omit, insert—

‘subsection (3)’.

(2) Section 16(2)—

renumber as section 16(3).

(3) Section 16—

insert—

‘(2) However, subsection (1) does not apply if, within 40 business days of placing or supervising the placement of a survey mark, the cadastral surveyor lodges a copy of the plan of survey in the land registry.’.

37 Amendment of s 46 (State digital cadastral dataset)

Section 46(2), ‘kept under the *Land Act 1994* or *Land Title Act 1994*’—

omit.

38 Amendment of s 47 (Effect and use of information in State digital cadastral dataset)

Section 47(2), ‘kept under the *Land Act 1994* or *Land Title Act 1994*’—

omit.

39 Amendment of schedule (Dictionary)

Schedule—

insert—

‘***approved form*** means a form approved under section 65.

land registry means the land registry kept under the *Land Act 1994* or the *Land Title Act 1994*.’.

- (c) from the day the development approval has effect, the approval can not be changed in any way that—
- (i) increases the size of the area approved to be cleared; or
 - (ii) changes the location of the area approved to be cleared; or
 - (iii) extends the currency period for the approval.
- ‘(2) Subsection (1)(b)(ii) does not apply to an application decided before the commencement of this section if an appeal against the decision was started before the commencement.
- ‘(3) Subsection (1)(c) applies to a development approval even if the approval had effect before the commencement of this section.
- ‘(4) Despite the Planning Act, section 3.5.21,⁵ the currency period for a development approval for an existing application (pre VACA) must end no later than 31 December 2006.
- ‘(5) In this section—
- existing application (pre VACA)* means a development application, as defined under the Planning Act, involving the clearing of vegetation and made before midday 16 May 2003.
- location*, of an area proposed to be cleared in an existing application (pre VACA), means—
- (a) the boundary delineating the area in the property vegetation management plan for the application; or
 - (b) if the application was amended before it was decided—the boundary of the area described in the amendment.

‘77 Existing applications (pre VACA) and permits under the Land Act 1994

- ‘(1) An existing application (pre VACA) must be dealt with under the *Land Act 1994*, as in force on 20 May 2004.
- ‘(2) Despite subsection (1)—

⁵ Planning Act, section 3.5.21 (When approval lapses)

- (a) before an existing application (pre VACA) is decided, the application can not be changed in any way that increases the size of the area proposed to be cleared; and
 - (b) from the day the application is decided until the end of the appeal period, the application can not be changed in any way that—
 - (i) increases the size of the area proposed to be cleared; or
 - (ii) changes the location of the area proposed to be cleared; and
 - (c) from the end of the appeal period, the permit can not be changed in any way that—
 - (i) increases the size of the area approved to be cleared; or
 - (ii) changes the location of the area approved to be cleared; or
 - (iii) extends the term of the permit.
- ‘(3) Subsection (2)(b)(ii) does not apply to an application decided before the commencement of this section if an appeal against the decision was started before the commencement.
- ‘(4) Subsection (2)(c) applies to a tree clearing permit even if the appeal period, in relation to the permit, ended before the commencement of this section.
- ‘(5) Despite the *Land Act 1994*, section 264,⁶ the term of a tree clearing permit for an existing application (pre VACA) must end no later than 31 December 2006.
- ‘(6) In this section—
- end of the appeal period*** means—
- (a) for an application for an internal review of a decision under the *Land Act 1994*, section 263—the day the Minister makes a review decision under the *Land Act 1994*, section 426; and

6 *Land Act 1994*, section 264 (Terms of tree clearing permit)

- (b) for an appeal against a review decision—the day the court decides the appeal under the *Land Act 1994*, section 429; and
- (c) otherwise—42 days after notice of the decision is given to the applicant.

existing application (pre VACA) means an application for a tree clearing permit, made before midday 16 May 2003 under the *Land Act 1994*, chapter 5, part 6, as in force at that time.

location, of an area proposed to be cleared in an existing application (pre VACA), means—

- (a) the boundary delineating the area in—
 - (i) the property vegetation management plan for the application; or
 - (ii) the map requested by the chief executive under the *Land Act 1994*, section 260(2)(b)⁷ for the application; or
- (b) if the application was amended before it was decided—the boundary of the area described in the amendment.⁸

46 Amendment of s 78 (Existing applications (post VACA) under the Land Act 1994)

Section 78(2)—

omit, insert—

- ‘(2) Despite subsection (1), the chief executive must refuse to issue the tree clearing permit, without considering the issues stated in the *Land Act 1994*, section 262⁸, unless the applicant satisfies the chief executive—
 - (a) the proposed tree clearing is necessary for 1 or more of the following—

⁷ *Land Act 1994*, section 260 (How application for tree clearing permit made)

⁸ *Land Act 1994*, section 262 (Issues chief executive must consider)

- (i) a project declared to be a significant project under the *State Development and Public Works Organisation Act 1971*, section 26;⁹
 - (ii) a project that is of major significance because of its regional, State or national benefit;
 - (iii) supplying fodder for stock in a drought declared area;
 - (iv) weed control;
 - (v) ensuring public safety;
 - (vi) establishing a necessary fence, road or other built infrastructure if there is no suitable alternative site for the fence, road or infrastructure; or
- (b) the area proposed to be cleared is an area of regrowth vegetation.

‘(3) In this section—

existing application (post VACA) means an application for a tree clearing permit made at or after midday 16 May 2003 under the *Land Act 1994*, chapter 5, part 6, as in force at that time.

tree has the same meaning as in the *Forestry Act 1959*.’

⁹ *State Development and Public Works Organisation Act 1971*, section 26 (Declaration of significant project)