



Queensland

Environmental Protection (Great Barrier Reef Protection Measures) and Other Legislation Amendment Regulation 2019

Subordinate Legislation 2019 No. 234

made under the

Chemical Usage (Agricultural and Veterinary) Control Act 1988

Environmental Protection Act 1994

Planning Act 2016

Rural and Regional Adjustment Act 1994

State Penalties Enforcement Act 1999

Waste Reduction and Recycling Act 2011

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Part 1 Preliminary

1 Short title

This regulation may be cited as the *Environmental Protection (Great Barrier Reef Protection Measures) and Other Legislation Amendment Regulation 2019*.

2 Commencement

This regulation commences on 1 December 2019.

Part 2 Amendment of Environmental Protection Regulation 2019

3 Regulation amended

This part amends the *Environmental Protection Regulation 2019*.

4 Insertion of new ch 2A

After section 12—

insert—

Chapter 2A Great Barrier Reef catchment

12A Great Barrier Reef catchment—Act, s 75

For section 75(1) of the Act, the map held by the department called ‘Great Barrier Reef catchment and river basins’ and dated 23 August 2018 is prescribed.

12B Lots taken to be in particular river basins

- (1) For the purpose of applying this regulation, or an agricultural ERA standard approved under this regulation, all the land in a lot is taken to be in a particular river basin if more than 50% of the lot is in the basin.
- (2) In this section—
lot means—
 - (a) a lot under the *Land Title Act 1994*; or
 - (b) a separate, distinct parcel of land for which an interest is recorded in a register under the *Land Act 1994*.

5 Renumbering of ss 12A to 20

Sections 12A to 20—
renumber as sections 13 to 22.

6 Replacement of ch 3, pt 2

Chapter 3, part 2—
omit, insert—

Part 2 Agricultural ERAs

Division 1 Prescribed methodologies for agricultural ERA standards

23 Prescribed methodologies for cultivation of bananas—Act, s 81

- (1) This section prescribes, for section 81(6) of the Act, definition *prescribed methodology*, the methodology for working out the amount of

nitrogen and phosphorus to be applied to a crop, plant or soil without exceeding the needs of the crop or plant, or a plant in the soil, for the cultivation of bananas.

- (2) The methodology is the methodology stated in the document called 'Farming in Reef catchments; Prescribed methodology for banana cultivation' published on the department's website.

24 Prescribed methodologies for cultivation of sugarcane—Act, s 81

- (1) This section prescribes, for section 81(6) of the Act, definition *prescribed methodology*, the methodology for each of the following for the cultivation of sugarcane—
 - (a) working out the amount of nitrogen and phosphorus to be applied to a crop, plant or soil without exceeding the needs of the crop or plant, or a plant in the soil;
 - (b) conducting tests of soil.
- (2) The methodology for a matter mentioned in subsection (1) is the methodology for the matter stated in the document called 'Farming in Reef catchments; Prescribed methodology for sugarcane cultivation' published on the department's website.

Division 2 Agricultural ERA advice

25 Summary of tailored advice—Act, s 86

- (1) This section prescribes, for section 86(3)(f) of the Act, the details that must be included in a summary of tailored advice.
- (2) If the advice makes a recommendation about the

application of a fertiliser product, the details are—

- (a) the name, or a description, of the product; and
 - (b) the application rate recommended for the product; and
 - (c) the method of application recommended for the product; and
 - (d) the timing and frequency of application recommended for the product.
- (3) In this section—

fertiliser product means a product that is, or contains, nitrogen or phosphorous.

7 **Amendment of s 35 (Matters to be complied with for environmental management decisions)**

- (1) Section 35(3), after ‘prescribed ERA,’—

insert—

other than the prescribed ERA mentioned in schedule 2, section 13A,

- (2) Section 35—

insert—

- (4) For an environmental management decision relating to the prescribed ERA mentioned in schedule 2, section 13A, the administering authority making the decision must—
- (a) carry out an environmental objective assessment against the environmental objectives for water and groundwater mentioned in schedule 8, part 3, division 1, to the extent the performance outcomes for the environmental objectives relate to fine sediment, or dissolved inorganic nitrogen,

- entering the water of the Great Barrier Reef;
and
- (b) consider each environmental value, declared under this regulation, to the extent the value relates to fine sediment, or dissolved inorganic nitrogen, entering the water of the Great Barrier Reef; and
 - (c) if the activity is to be carried out in a strategic environmental area—consider the impacts of the activity on each environmental attribute for the area under the *Regional Planning Interests Act 2014*, to the extent the attribute relates to fine sediment, or dissolved inorganic nitrogen, entering the water of the Great Barrier Reef; and
 - (d) consider each of the following matters under a relevant environmental protection policy, to the extent the matter relates to fine sediment, or dissolved inorganic nitrogen, entering the water of the Great Barrier Reef—
 - (i) the management hierarchy;
 - (ii) environmental values;
 - (iii) quality objectives;
 - (iv) the management intent.

8 Insertion of new s 41AA

After section 41—

insert—

41AA Release of particular contaminants to Great Barrier Reef catchment waters and other waters

- (1) This section applies to the administering authority

for making an environmental management decision relating to an activity (the *relevant activity*) that is, or will be, carried out in—

- (a) the Great Barrier Reef catchment; or
 - (b) the coastal waters of the State that are between the following geodesic lines—
 - (i) a line running north from the point that is the most northern coastline of the State in the Great Barrier Reef catchment;
 - (ii) a line running east from the point that is the most southern coastline of the State in the Great Barrier Reef catchment.
- (2) However, this section does not apply to—
- (a) a prescribed ERA mentioned in schedule 2, section 16, to the extent the activity is dredging in waters mentioned in subsection (1)(b); or
 - (b) a prescribed ERA mentioned in schedule 2, section 13A.
- (3) The administering authority must refuse to grant the application if the authority considers the relevant activity will, or may, have a residual impact.
- (4) A *residual impact* of a relevant activity is the presence of fine sediment, or dissolved inorganic nitrogen, in Great Barrier Reef catchment waters, or waters mentioned in subsection (1)(b), that—
- (a) was released to the water because of the relevant activity; and
 - (b) remains, or will or is likely to remain, (whether temporarily or permanently) in the water despite mitigation measures for the relevant activity.

- (5) A *mitigation measure*, for a relevant activity, is a measure carried out to avoid or minimise the release of fine sediment, or dissolved inorganic nitrogen, to Great Barrier Reef catchment waters, or waters mentioned in subsection (1)(b), because of the relevant activity being carried out.
- (6) In this section—
- Great Barrier Reef catchment waters* means water in—
- (a) a river in the Great Barrier Reef catchment; or
 - (b) a tributary of a river mentioned in paragraph (a).

9 **Amendment of s 183 (Holders of particular environmental authorities exempt from annual fee)**

Section 183(1)—

omit, insert—

- (1) This section applies to the holder of an environmental authority for—
- (a) mining activities that are eligible ERAs for only 1 of the following activities—
 - (i) an environmentally relevant activity carried out for the sole purpose of maintaining a State heritage place or a National heritage place;
 - (ii) dimension stone mining for the sole purpose of constructing or maintaining a war grave; or
 - (b) a prescribed ERA mentioned in schedule 2, section 13A.

10 Insertion of new ch 11, pt 4

Chapter 11—

insert—

**Part 4 Transitional provisions
for Environmental
Protection (Great
Barrier Reef Protection
Measures) and Other
Legislation
Amendment Regulation
2019**

214 Application of s 41AA during transitional period

- (1) Section 41AA does not apply in relation to an application made under the Act if the application was made before the transitional period ends.
- (2) In this section—
transitional period means the period that starts on the commencement and ends 1 year after the commencement.

215 Application of sch 2, pt 2A generally

- (1) Schedule 2, part 2A does not apply during the transitional period.
- (2) Also, after the end of the transitional period, schedule 2, part 2A does not apply to premises to which a development approval attaches, while the development approval is in effect, if the development approval—
 - (a) was in effect immediately before the commencement; and

(b) is for—

- (i) operational work that is high value agriculture clearing or irrigated high value agriculture clearing; or
- (ii) a material change of use of premises that involves high value agriculture clearing or irrigated high value agriculture clearing.

(3) In this section—

development approval see the *Planning Act 2016*, schedule 2.

high value agriculture clearing means high value agriculture clearing within the meaning of the *Vegetation Management Act 1999* immediately before 8 March 2018.

irrigated high value agriculture clearing means irrigated high value agriculture clearing within the meaning of the *Vegetation Management Act 1999* immediately before 8 March 2018.

material change of use, of premises, see the *Planning Act 2016*, schedule 2.

operational work see the *Planning Act 2016*, schedule 2.

premises see the *Planning Act 2016*, schedule 2.

transitional period means the period that starts on the commencement and ends 6 months after the commencement.

216 Application of sch 2, pt 2A to activities on particular land

- (1) This section applies in relation to land if—
 - (a) the cultivation of crops or horticulture—

-
- (i) was carried out on the land, on a commercial basis, at any time during the 3 years before the commencement; and
 - (ii) immediately before the commencement, was no longer carried out on the land; and
- (b) schedule 2, section 13A(3) does not apply in relation to the land.
- (2) During the transitional period, a reference to land in schedule 2, section 13A(1) does not include the land mentioned in subsection (1).
 - (3) An activity mentioned in subsection (1)(a) includes preparatory work for the activity.
 - (4) In this section—
preparatory work, for an activity, see schedule 2, section 13A(7), definition *preparatory work*.
transitional period means the period that starts on the commencement and ends 5 years after the commencement.

11 Amendment of sch 2 (Prescribed ERAs and aggregate environmental scores)

- (1) Schedule 2, authorising provision, ‘sections 13 and 17’—
omit, insert—
sections 15 and 19
- (2) Schedule 2—
insert—

Part 2A

Cropping and horticulture activities

13A Commercial cropping and horticulture in Great Barrier Reef catchment

- (1) Commercial cropping and horticulture (the *relevant activity*) consists of the cultivation of 1 or more crops, or horticulture carried out—
 - (a) on a least 5ha of land in the Great Barrier Reef catchment, whether or not the land is contiguous; and
 - (b) on a commercial basis, whether or not as a single enterprise; and
 - (c) if the crop cultivation or horticulture is carried out on land in more than 1 river basin—as a single enterprise on at least 5ha of land in at least 1 river basin, whether or not the land is contiguous.
- (2) The relevant activity includes preparatory work for the crop cultivation or horticulture.
- (3) Without limiting subsection (1)(c), an activity, or more than 1 activity, is carried out as a single enterprise if the activity or activities are carried out—
 - (a) by the same person; and
 - (b) on 1 or more parcels of land—
 - (i) of which the person is the owner; or
 - (ii) under an arrangement about the use of the land with the owner of the land.
- (4) The relevant activity does not include crop cultivation or horticulture (the *current activity*) if the land on which the current activity is carried out was used to carry out crop cultivation or horticulture, on a commercial basis, for—
 - (a) at least 3 of the 10 years before the current activity was started on the land, whether or not the years were consecutive; and

- (b) at least 1 of the 5 years before the current activity was started on the land.
- (5) Also, the relevant activity does not include—
- (a) crop cultivation or horticulture using a closed system that prevents fine sediment, or dissolved inorganic nitrogen, from being released on to land, or into water, in the Great Barrier Reef catchment; or
- Example—*
 hydroponics where water is recycled on site
- (b) the cultivation of trees in the following areas—
- (i) a State forest, timber reserve or forest consent area within the meaning of the *Forestry Act 1959*; or
- (ii) a forest entitlement area within the meaning of the *Land Act 1994*; or
- (c) a forest practice within the meaning of the *Vegetation Management Act 1999*; or
- (d) preparatory work for an activity mentioned in paragraph (a), (b) or (c).
- (6) In the following table, the aggregate environmental score for the relevant activity is the score stated opposite the threshold within which the activity is carried out.

Threshold	Aggregate environmental score	3
carrying out the relevant activity	no score	

- (7) In this section—
- building work*** see the *Planning Act 2016*, schedule 2.
- drainage work*** see the *Plumbing and Drainage*

Act 2018, schedule 1.

plumbing work see the *Plumbing and Drainage Act 2018*, schedule 1.

preparatory work, for an activity, means work, other than building work, plumbing work or drainage work, carried out to prepare land for the activity, including, for example—

- (a) excavating or filling the land; or
- (b) clearing or destroying vegetation on the land; or
- (c) ploughing the land, or otherwise preparing soil on the land for planting; or
- (d) other work in, on, over or under the land that materially affects the land or its use.

12 Amendment of sch 3 (Aggregate environmental scores for particular resource activities)

Schedule 3, authorising provision, ‘section 13(2)’—

omit, insert—

section 15(2)

13 Amendment of sch 4 (Scheduled areas)

Schedule 4, authorising provision, ‘section 14’—

omit, insert—

section 16

14 Amendment of sch 7 (Approved ERA standards)

Schedule 7, before item 1—

insert—

Part 1 Agricultural ERA standards

- 1 Agricultural ERA standard for banana cultivation – version 1
- 2 Agricultural ERA standard for beef cattle grazing – version 1
- 3 Agricultural ERA standard for sugarcane cultivation – version 1

Part 2 Other ERA standards

15 Amendment of sch 15 (Fees)

- (1) Schedule 15, part 2, item 5(b)—

omit, insert—

- (b) for a site-specific application or variation application for the prescribed ERA mentioned in schedule 2, section 13A 872.70

- (c) for a site-specific application or variation application for another activity 666.00 plus 30%
of the annual fee
for the authority
the subject of the
application

- (2) Schedule 15, part 2, item 8—

omit, insert—

- 8 assessment fee for amendment application for environmental authority (Act, s 228(4))—

- (a) if the environmental authority is for a prescribed ERA mentioned in schedule 2, section 13A 206.70
- (b) if the environmental authority is for another activity—
- (i) for an amendment of the environmental authority 30% of the annual fee for the authority the subject of the application
- (ii) for an amendment of the environmental authority and the PRCP schedule to which the authority relates 30% of the annual fee for the authority the subject of the application
- (iii) for an amendment of only the PRCP schedule to which the environmental authority relates 30% of the annual fee for the authority to which the PRCP schedule the subject of the application relates

16 Amendment of sch 19 (Dictionary)

- (1) Schedule 19, part 2—

insert—

river basin see section 75(2) of the Act.

- (2) Schedule 19, part 2, definition *aggregate environmental score*, ‘section 13’—

omit, insert—

section 15

- (3) Schedule 19, part 2, definition *concurrency ERA*, ‘section 15’—

omit, insert—

section 17

- (4) Schedule 19, part 2, definition *scheduled area*, ‘section 14’—

omit, insert—

section 16

Part 3 Amendment of other legislation

Division 1 Amendment of Chemical Usage (Agricultural and Veterinary) Control Regulation 2017

17 Regulation amended

This division amends the *Chemical Usage (Agricultural and Veterinary) Control Regulation 2017*.

18 Amendment of s 32 (Required record)

- (1) Section 32(1)—

omit, insert—

- (1) This section applies if—
- (a) a person carries out relevant cattle grazing or relevant sugarcane growing; and
 - (b) a prescribed agricultural ERA product is used for carrying out the cattle grazing or sugarcane growing.

19 Amendment of sch 1 (Dictionary)

- (1) Schedule 1, definitions *relevant cattle grazing* and *relevant sugarcane growing*—

omit.

- (2) Schedule 1—

insert—

Great Barrier Reef catchment map means the map called ‘Great Barrier Reef catchment and river basins’, dated 23 August 2018 and held by the department in which the *Environmental Protection Act 1994* is administered.

relevant cattle grazing means cattle grazing that is—

- (a) an agricultural ERA; and
- (b) carried out in any of the following regions shown on the Great Barrier Reef catchment map—
 - (i) the Wet Tropics Region;
 - (ii) the Burdekin Region;
 - (iii) the Mackay Whitsunday Region.

relevant sugarcane growing means commercial sugarcane growing that is—

- (a) an agricultural ERA; and
- (b) carried out in any of the following regions shown on the Great Barrier Reef catchment map—
 - (i) the Wet Tropics Region;
 - (ii) the Burdekin Region;
 - (iii) the Mackay Whitsunday Region.

Division 2 **Amendment of Environmental Protection (Water and Wetland Biodiversity) Policy 2019**

20 **Policy amended**

This division amends the *Environmental Protection (Water and Wetland Biodiversity) Policy 2019*.

21 **Amendment of s 11 (Water quality objectives for waters)**

(1) Section 11—

insert—

- (3A) Without limiting subsections (2) and (3), the water quality objectives for Great Barrier Reef catchment waters also includes the objectives stated in the document called ‘Great Barrier Reef River Basins End of Basin Load Water Quality Objectives’, dated September 2019.

Note—

The document is available on the department’s website.

(2) Section 11(3A) and (4)—

renumber as section 11(4) and (5).

(3) Section 11—

insert—

(6) In this section—

Great Barrier Reef catchment waters means water in—

- (a) a river in the Great Barrier Reef catchment;
or
(b) a tributary of a river mentioned in paragraph (a).

22 Amendment of pt 9, hdg (Repeal)

Part 9, heading, after ‘Repeal’—

insert—

and transitional provisions

23 Insertion of new pt 9, div 1, hdg

Before section 21—

insert—

Division 1 Repeal

24 Insertion of new pt 9, div 2

Part 9, as amended by this regulation—

insert—

**Division 2 Transitional provision for
Environmental Protection
(Great Barrier Reef
Protection Measures) and
Other Legislation
Amendment Regulation
2019**

22 Application of s 11 during transitional period

(1) Section 11(4) does not apply in relation to an environmental management decision made during the transitional period.

(2) In this section—

environmental management decision see the *Environmental Protection Regulation 2019*, section 32.

transitional period means the period that starts on the commencement and ends 1 year after the commencement.

Division 3 Amendment of Planning Regulation 2017

25 Regulation amended

This division amends the *Planning Regulation 2017*.

26 Amendment of sch 24 (Dictionary)

- (1) Schedule 24, definition *aggregate environmental score*, ‘section 13’—

omit, insert—

section 15

- (2) Schedule 24, definition *concurrence ERA*, ‘section 15’—

omit, insert—

section 17

Division 4 Amendment of Rural and Regional Adjustment Regulation 2011

27 Regulation amended

This division amends the *Rural and Regional Adjustment Regulation 2011*.

28 Amendment of sch 13 (Farming in reef catchments rebate scheme)

- (1) Schedule 13, section 2, definition *eligible area* and *eligible professional advice*—

omit.

(2) Schedule 13, section 2—

insert—

agricultural ERA standard see the *Environmental Protection Act 1994*, section 81(1).

eligible area means the following regions shown on the map, held by the environment department, called ‘Great Barrier Reef catchment and river basins’ dated 23 August 2018—

- (a) the Wet Tropics Region;
- (b) the Burdekin Region;
- (c) the Mackay Whitsunday Region;
- (d) the Fitzroy Region;
- (e) the Burnett Mary Region.

eligible professional advice means written advice about—

- (a) managing nutrient and sediment pollution in the eligible area in a way—
 - (i) that contributes to achieving the targets for water quality improvement for the Great Barrier Reef under the Reef 2050 Water Quality Improvement Plan; and
 - (ii) that complies with an agricultural ERA standard that applies to the primary production enterprise to which the advice relates; and
- (b) actions that may be taken to contribute to achieving the targets and complying with the standard.

(3) Schedule 13, section 4(2)—

omit, insert—

-
- (2) For subsection (1), land in a lot is *substantially* in the eligible area if more than 75% of the lot, or 20,000ha of land in the lot, is in the eligible area.
- (4) Schedule 13, section 6(1)(b)(iii), from ‘stating that’—
omit, insert—
that complies with subsection (2); and
- (5) Schedule 13, section 6—
insert—
(1A) For subsection (1)(b)(iii), the declaration must state that the actions mentioned in the advice are consistent with—
(a) contributing to achieving the targets for water quality improvement for the Great Barrier Reef under the Reef 2050 Water Quality Improvement Plan; and
(b) an agricultural ERA standard that applies to the primary production enterprise to which the advice relates.
- (6) Schedule 13, section 6(1A) and (2)—
renumber as schedule 13, section 6(2) and (3).

Division 5 Amendment of State Penalties Enforcement Regulation 2014

29 Regulation amended

This division amends the *State Penalties Enforcement Regulation 2014*.

[s 30]

30 Amendment of sch 1 (Infringement notice offences and fines for nominated laws)

(1) Schedule 1, entry for *Environmental Protection Act 1994*, entries for sections 78, 83(1), 84(1), 86, 92, 101(1) and 105(2)—

omit.

(2) Schedule 1, entry for *Environmental Protection Act 1994*—

insert—

s 82(2) in the circumstances in paragraph (b) of the penalty—

- for a contravention of a requirement to make or keep a record 5 25
- otherwise 15 75

s 318YW(2) 5 25

s 318YW(4) 5 25

(3) Schedule 1, entry for *Environmental Protection Regulation 2019*, entries for section 20(1) and (3)—

omit, insert—

s 22(1) 2 -

s 22(3) 2 -

Division 6 Amendment of Waste Reduction and Recycling Regulation 2011

31 Regulation amended

This division amends the *Waste Reduction and Recycling Regulation 2011*.

32 Amendment of sch 9 (Dictionary)

Schedule 9, definition *scheduled area*, ‘section 14’—
omit, insert—
section 16

ENDNOTES

- 1 Made by the Governor in Council on 21 November 2019.
- 2 Notified on the Queensland legislation website on 22 November 2019.
- 3 The administering agency is the Department of Environment and Science.

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