

Queensland



# **PLANT PROTECTION AMENDMENT BILL 1996**

Queensland



**PLANT PROTECTION AMENDMENT  
BILL 1996**

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**1996**

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**A BILL**

**FOR**

***An Act to amend the Plant Protection Act 1989***

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**The Parliament of Queensland enacts—**

1

**Short title**

2

Clause 1. This Act may be cited as the *Plant Protection Amendment Act 1996*.

3

**Commencement**

4

Clause 2. Section 22 is taken to have commenced on 20 October 1995.

5

**Act amended**

6

Clause 3. This Act amends the *Plant Protection Act 1989*.

7

**Long title**

8

Clause 4. Title—

9

*omit, insert—*

10

**‘An Act about preventing, controlling and removing pest infestation of plants, and for related purposes’.**

11

12

**Insertion of new s 2**

13

Clause 5. After section 1—

14

*insert—*

15

**‘Objectives of Act**

16

**‘2. The main objectives of this Act are to—**

17

(a) prevent, control or remove pest infestation of plants in Queensland; and

18

19

(b) help other jurisdictions prevent, control or remove plant pests, diseases, pest infestations, infections or conditions; and

20

21

(c) facilitate the movement of plants into and out of Queensland.’.

22

	<b>Amendment of s 3 (Interpretation)</b>	1
Clause	<b>6. Section 3(1)—</b>	2
	<i>insert—</i>	3
	“ <b>accredited person</b> ” means a person who is accredited under part 4 to give assurance certificates.	4 5
	“ <b>accreditation conditions</b> ” see section 21C(1). <sup>1</sup>	6
	“ <b>accreditation document</b> ” means a document given to an accredited person by the chief executive for the accreditation.	7 8
	“ <b>acceptable assurance certificate</b> ” means—	9
	(a) an assurance certificate given under this Act by an accredited person; or	10 11
	(b) a certificate given under a corresponding law to part 4.	12
	“ <b>amendment</b> ” of an accreditation document, includes amendment of an accreditation condition.	13 14
	“ <b>another jurisdiction</b> ” means the Commonwealth or another State.	15
	“ <b>assurance certificate</b> ”, for a plant, means a certificate under part 4 about a plant, including, for example, a certificate that a plant—	16 17
	(a) is free of any or a stated pest infestation; or	18
	(b) is free of any or a stated pest, disease, pest infestation, infection or condition within the meaning of a corresponding law to this Act; or	19 20 21
	(c) is in a stated condition; or	22
	(d) is from a stated area; or	23
	(e) has been treated in a stated way; or	24
	(f) complies with accreditation conditions or stated accreditation conditions; or	25 26
	(g) meets other stated requirements, including requirements prescribed under a regulation.	27 28

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<sup>1</sup> Section 21C (Accreditation conditions)

*Plant Protection Amendment*

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**“corresponding law”**, to this Act or a provision of this Act, means a law of another jurisdiction that is declared under a regulation to be a corresponding law to this Act or the provision. 1  
2  
3

**“inspector”** means a person who is appointed under this Act as an inspector. 4  
5

**“inspector’s certificate”** see section 19A(1).<sup>2</sup> 6

**“intergovernmental agreement”** see section 21L(1).<sup>3</sup> 7

**“possess”** a thing, for a person, includes have under control anywhere— 8

(a) whether for the use or benefit of the person or anyone else; and 9

(b) although someone else has the actual possession or custody of the thing. 10  
11

**“State”** includes Territory.’. 12

**Replacement of ss 5–6A** 13

Clause 7. Sections 5 to 6A— 14

*omit, insert—* 15

**‘Power for corresponding laws** 16

**‘6.** The chief executive or an inspector may— 17

(a) exercise functions or powers under a corresponding law; and 18

(b) do anything necessary or convenient to perform functions under a corresponding law. 19  
20

---

<sup>2</sup> Section 19A (Inspectors’ powers—certificates)

<sup>3</sup> Section 21L (Intergovernmental agreements)

**‘PART 2—APPOINTMENT OF INSPECTORS**

1

**‘Appointing inspectors**

2

**‘6A.(1)** The chief executive may appoint a person as an inspector. 3

**‘(2)** The chief executive may appoint a person as an inspector only if the 4  
chief executive is satisfied the person has the necessary expertise or 5  
experience. 6

**‘Limiting inspectors’ powers**

7

**‘6B.** The powers of an inspector may be limited under— 8

(a) a regulation; or 9

(b) a condition of appointment; or 10

(c) a written notice given by the chief executive to the inspector. 11

**‘Inspectors’ appointment conditions**

12

**‘6C.(1)** An inspector holds office on the conditions stated in the 13  
instrument of appointment and other limitations mentioned in section 6B. 14

**‘(2)** If the appointment provides for a term of appointment, the inspector 15  
stops holding office at the end of the term. 16

**‘(3)** The inspector may resign by signed notice of resignation given to the 17  
chief executive. 18

**‘(4)** However, a person may not resign as an inspector if a term of 19  
appointment to another office held by the person under an Act requires the 20  
person to be an inspector. 21

**‘(5)** The conditions of appointment may provide that the inspector stops 22  
holding office when the inspector stops holding another office stated in the 23  
appointment conditions. 24

**‘PART 3—PEST CONTROL**

1

*‘Division 1—Pest control measures under subordinate legislation*

2

**‘Purpose of powers**

3

‘**6D.** This division provides powers to prevent, control or remove pest infestation of plants.’.

4

5

**Amendment of s 9 (Control over spread of pest infestations within Queensland)**

6

7

Clause **8.** Section 9—

8

*insert—*

9

‘**(4)** A person must not contravene a regulation or notice under this section.

10

11

Maximum penalty—1000 penalty units.’.

12

**Amendment of s 10 (Crop plant district)**

13

Clause **9.** Section 10—

14

*insert—*

15

‘**(5)** A person must not contravene a notice under subsection (2).

16

Maximum penalty—250 penalty units.’.

17

**Amendment of s 12 (Notification of pests)**

18

Clause **10.** Section 12(2)—

19

*insert—*

20

‘Maximum penalty—1000 penalty units.’.

21

	<b>Amendment of s 13 (Special powers in relation to specific pest infestations)</b>	1 2
Clause	<b>11.</b> Section 13—	3
	<i>insert—</i>	4
	‘(4) A person must comply with a direction under this section, unless the person has a reasonable excuse for not complying with it.	5 6
	Maximum penalty—1000 penalty units.’	7
	<b>Amendment of s 14 (Destruction of healthy crop to prevent pest infestation)</b>	8 9
Clause	<b>12.</b> Section 14—	10
	<i>insert—</i>	11
	‘(6) A person must comply with a direction under this section, unless the person has a reasonable excuse for not complying with it.	12 13
	Maximum penalty—200 penalty units.’	14
	<b>Amendment of s 15 (Special powers in respect of volunteer plants)</b>	15
Clause	<b>13.</b> Section 15—	16
	<i>insert—</i>	17
	‘(2) A person must comply with a direction under this section, unless the person has a reasonable excuse for not complying with it.	18 19
	Maximum penalty—200 penalty units.’	20
	<b>Amendment of s 19 (General powers of inspectors)</b>	21
Clause	<b>14.(1)</b> Section 19—	22
	<i>insert—</i>	23
	‘(6) A person must comply with a direction or requirement under this section, unless the person has a reasonable excuse for not complying with it.	24 25 26
	Maximum penalty—200 penalty units.	27

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‘(7) For a direction or requirement under subsection (1)(g)(i) to produce anything or under subsection (1)(i) to answer a question, it is a reasonable excuse for the person to fail to comply with the direction or requirement if the production of the thing or answering the question might tend to incriminate the person.’.

(2) Section 19(1)(i), ‘section 23’—

*omit, insert—*

‘subsection (7)’.

### **Insertion of new s 19A**

Clause **15.** After section 19—

*insert—*

#### **‘Inspectors’ powers—certificates**

**‘19A.(1)** An inspector may give a person a certificate (an **“inspector’s certificate”**) about a plant, including, for example, that the plant—

- (a) is free of any or a stated pest infestation; or
- (b) is free of any or a stated pest, disease, pest infestation, infection or condition within the meaning of a corresponding law to this Act; or
- (c) is in a stated condition; or
- (d) from a stated area; or
- (e) has been treated with stated treatments; or
- (f) complies with accreditation conditions or stated accreditation conditions; or
- (g) meets stated requirements.

**‘(2)** Before giving a person an inspector’s certificate for a plant, an inspector may—

- (a) inspect, test or treat the plant; or
- (b) take samples of the plant; or
- (c) supervise the treatment or grading of the plant; or

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- (d) examine materials or equipment used to treat or grade the plant; or 1  
2
- (e) do anything else the inspector reasonably considers necessary or desirable. 3  
4

‘(3) A certificate may be for movement of the plant within Queensland or out of Queensland or for another purpose. 5  
6

‘(4) The chief executive may charge a reasonable fee for an inspector’s certificate. 7  
8

‘(5) A person who is not an inspector must not give an inspector’s certificate. 9  
10

Maximum penalty—1000 penalty units. 11

‘(6) A person must not make a statement or other representation about a plant that is likely to cause someone reasonably to believe that an inspector’s certificate has been given for the plant if— 12  
13  
14

(a) an inspector’s certificate has not been given for a plant; and 15

(b) the representation is made for the sale or movement of the plant or to an inspector performing functions under this Act. 16  
17

Maximum penalty—50 penalty units.’ 18

**Replacement of s 21 (Duty to convert stored information to writing) 19**

Clause **16. Section 21— 20**

*omit, insert— 21*

**‘PART 4—ACCREDITATION 22**

*‘Division 1—Accreditation 23*

**‘Purpose and operation of accreditation system 24**

‘21.(1) The purpose of the accreditation system provided by this part is to allow for accredited persons to give assurance certificates about plants that— 25  
26  
27

(a) best suit particular circumstances of accredited persons; and 28

*Plant Protection Amendment*

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(b) reduce the need for day-to-day oversight by the chief executive and exercise of powers by inspectors. 1  
2

‘(2) An assurance certificate is intended to provide a convenient way to comply with or be exempted from the requirements of this Act or of the laws of another jurisdiction about plants, including for example, about the origin, condition or movement of plants. 3  
4  
5  
6

‘(3) An assurance certificate may be given by an accredited person or, if accreditation conditions permit, by a person acting for an accredited person. 7  
8

‘(4) An assurance certificate may be given for the person giving the certificate or someone else, subject to accreditation conditions, the certificate and any Act. 9  
10  
11

**‘Accreditation** 12

‘21A.(1) A person may apply to the chief executive for the grant of an accreditation. 13  
14

‘(2) The chief executive may— 15

(a) grant the accreditation applied for or another accreditation; or 16

(b) refuse accreditation. 17

‘(3) An accreditation may be given in a way the chief executive considers appropriate. 18  
19

*Example—* 20

The chief executive may give an accreditation in the form of a certificate, or an agreement or arrangement with the accredited person. 21  
22

**‘Refusal to grant accreditation** 23

‘21B. If the chief executive refuses to grant accreditation to an applicant, the chief executive must give the applicant a written notice stating— 24  
25

(a) the decision; and 26

(b) the reasons for the decision; and 27

(c) that the applicant may apply to the chief executive for reconsideration of the decision. 28  
29

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<b>‘Accreditation conditions</b>	1
<b>‘21C.(1)</b> The chief executive may grant an accreditation on conditions (“ <b>accreditation conditions</b> ”).	2 3
<b>‘(2)</b> A condition may provide for—	4
(a) the accredited person to give only a stated type of assurance certificate; or	5 6
(b) conditions on which an assurance certificate may be given; or	7
(c) other restrictions on the use of the accreditation; or	8
(d) the chief executive to cancel the accreditation or suspend the accreditation for a stated period or until the happening of a stated event; or	9 10 11
(e) security for the performance of the conditions by the accredited person and the enforcement of the security, even if there is a penalty or liability under this Act; or	12 13 14
(f) payment to the chief executive by the accredited person of the reasonable costs stated in the conditions for preparing or performing the conditions and ensuring that the conditions are complied with; or	15 16 17 18
(g) a matter prescribed under a regulation.	19
<b>‘(3)</b> Subsection (2) does not limit conditions that may be imposed by the chief executive.	20 21
<b>‘(4)</b> In this section—	22
<b>“security”</b> includes mortgage, bond, insurance and surety.	23
 <b>‘Register</b>	 24
<b>‘21D.(1)</b> The chief executive must keep a register of accredited persons.	25
<b>‘(2)</b> The register may be kept in the form (whether or not in a documentary form) the chief executive considers appropriate.	26 27

***Division 2—Cancellation, suspension and amendment***

1

**‘Cancellation and suspension—grounds**

2

**‘21E.(1)** Each of the following is a ground for cancelling or suspending an accreditation—

3

4

(a) the accreditation was obtained by incorrect or misleading information or documents;

5

6

(b) the holder has not paid fees or other amounts payable to the chief executive;

7

8

(c) the holder has contravened an accreditation condition;

9

(d) the holder has committed an offence against this Act;

10

(e) the holder is within 5 years convicted of an offence—

11

(i) in the State involving fraud; or

12

(ii) elsewhere, if the act or omission that formed the offence would have been an offence involving fraud had it happened in the State;

13

14

15

(f) the holder was accredited or held similar accreditation (however described) in another jurisdiction within 2 years and that accreditation was cancelled.

16

17

18

**‘(2)** In this section—

19

**“holder”**, if the holder of an accreditation is a corporation, includes a related entity of the holder under the Corporations Law, section 9.<sup>4</sup>.

20

21

**‘Amendment of accreditation**

22

**‘21F.** If the chief executive considers an accreditation should be amended, the chief executive may amend the accreditation under section 21G.<sup>5</sup>

23

24

25

<sup>4</sup> Corporations Law, section 9 (Dictionary)

<sup>5</sup> Section 21G (Cancellation suspension and amendment—procedures)

**‘Cancellation suspension and amendment—procedures**

**‘21G.(1)** If the chief executive considers a ground exists to cancel or suspend an accreditation or if the chief executive proposes to amend an accreditation (the **“proposed action”**), the chief executive must give the holder written notice—

- (a) stating the proposed action; and
- (b) stating the ground for the proposed action; and
- (c) outlining the facts and circumstances forming the basis for the ground; and
- (d) if the proposed action is to suspend the accreditation—stating the proposed suspension period; and
- (e) if the proposed action is to amend the accreditation—stating the proposed amendment; and
- (f) inviting the holder to show (within a stated time of at least 28 days) why the proposed action should not be taken.

**‘(2)** If, after considering all written representations made within the stated time, the chief executive still considers a ground exists to take the proposed action, the chief executive may—

- (a) if the proposed action was to cancel the accreditation—amend the accreditation, suspend the accreditation for a period or cancel it; or
- (b) if the proposed action was to suspend the accreditation—suspend the accreditation for no longer than the period stated in the notice; or
- (c) if the proposed action was to amend the accreditation—amend the accreditation.

**‘(3)** The chief executive must inform the holder of the decision by written notice.

**‘(4)** If the chief executive decides to cancel, suspend or amend the accreditation, the notice must state—

- (a) the reasons for the decision; and
- (b) that the holder may apply to the chief executive for reconsideration of the decision.

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‘(5) The decision takes effect on the later of the following—	1
(a) the day the notice is given to the holder;	2
(b) the day stated in the notice.	3
‘(6) However, despite subsection (1), if the chief executive considers it necessary in the public interest, the chief executive may, by written notice given to the holder, immediately suspend the accreditation until the earliest of the following—	4 5 6 7
(a) the chief executive informs the holder of the chief executive’s decision by notice under subsection (3), given after complying with subsections (1) and (2);	8 9 10
(b) the end of 56 days after the notice is given to the holder.	11
‘(7) If the chief executive immediately suspends the accreditation, the notice must state—	12 13
(a) the reasons for the decision; and	14
(b) that the holder may apply to the chief executive for reconsideration of the decision.	15 16
‘(8) Subsections (1) to (7) do not apply—	17
(a) if the chief executive proposes to amend the accreditation only—	18
(i) for a formal or clerical reason; or	19
(ii) in another way that does not adversely affect the holder’s interests; or	20 21
(b) if the holder asks the chief executive to cancel or amend the accreditation and the chief executive proposes to give effect to the request.	22 23 24
‘(9) The chief executive may cancel or amend an accreditation under subsection (8) by written notice given to the holder.	25 26
<b>‘Return of cancelled suspended or amended accreditation</b>	27
‘21H.(1) This section applies if the chief executive cancels, suspends or amends an accreditation.	28 29

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‘(2) The chief executive may, by written notice, require the holder to return an accreditation document to the chief executive within 14 days, or a later stated time.

‘(3) The holder must comply with the notice, unless the holder has a reasonable excuse for not complying with it.

Maximum penalty—40 penalty units.

‘(4) If a suspended accreditation document is returned, the chief executive must return the document to the holder at the end of the suspension period.

‘(5) If an amended accreditation document is returned, the chief executive must return the document to the holder after amending it.

‘(6) However, the amendment of an accreditation does not depend on an accreditation document being returned.

*‘Division 3—Offences about accreditation***‘Contravention of accreditation conditions**

‘21I. An accredited person must not contravene an accreditation condition.

Maximum penalty—200 penalty units.

**‘Offences about certification**

‘21J.(1) A person who is not an accredited person or an inspector must not give for a plant anything that purports to be an assurance certificate.

Maximum penalty—1000 penalty units.

‘(2) A person must not make a statement or other representation about a plant that is likely to cause someone reasonably to believe that an acceptable assurance certificate has been given for the plant, if—

- (a) an acceptable assurance certificate has not been given for a plant; and

- (b) the representation is made for the sale or movement of the plant or to an inspector. 1  
2
- Maximum penalty—1000 penalty units. 3

## **‘PART 5—INTERGOVERNMENTAL AGREEMENTS** 4

### **‘Purpose of intergovernmental agreements** 5

‘**21K.(1)** The purpose of this part is to provide for intergovernmental agreements with other jurisdictions for the objectives of this Act<sup>6</sup>. 6  
7

‘**(2)** The purpose is to be achieved mainly by ensuring the integrity and mutual recognition of acceptable assurance certificates. 8  
9

### **‘Intergovernmental agreements** 10

‘**21L.(1)** The chief executive may, as agent of the State, enter into an intergovernmental agreement with another jurisdiction (an “**intergovernmental agreement**”). 11  
12  
13

‘**(2)** The agreement may— 14

- (a) provide for recognition of assurance certificates given under the corresponding law of the other jurisdiction; and 15  
16
- (b) impose audit, inspection or other requirements on a party to ensure the integrity and mutual recognition of acceptable assurance certificates; and 17  
18  
19
- (c) provide for another matter necessary or convenient to achieve the objects of this Act. 20  
21

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<sup>6</sup> For the objectives of this Act see section 2 (Objectives of Act).

## **‘PART 6—REVIEW OF ADMINISTRATIVE DECISIONS**

### **‘Application for reconsideration of administrative decisions**

**‘21M.(1)** A person aggrieved by the making, or failure to make, a decision of an administrative character under this Act may apply to the chief executive for reconsideration of the decision.<sup>7</sup>

**‘(2)** An application must be made in writing and set out the grounds on which the applicant seeks the reconsideration.

**‘(3)** A decision made by the chief executive on an application for reconsideration under this section cannot be the subject of a further application for reconsideration of the decision.

**‘(4)** References in this section to a person aggrieved, to the making or failure to make a decision, and to a decision of an administrative character, have the same respective meanings as in the *Judicial Review Act 1991*.<sup>8</sup>

### **‘Decision on reconsideration**

**‘21N.(1)** The chief executive may on an application under section 21M<sup>9</sup>—

<sup>7</sup> Under the *Judicial Review Act 1991*, part 4, a person aggrieved by an administrative decision of the chief executive can also ask the chief executive to provide a written statement of reasons for the decision, if they were not given. See the *Acts Interpretation Act 1954*, section 27B for what the chief executive must set out in those reasons.

<sup>8</sup> Under the *Judicial Review Act 1991*, section 7, a reference to a person aggrieved by a decision includes a reference to a person whose interests are adversely affected by the decision. Under the *Judicial Review Act 1991*, section 5, references to making, or refusing to make, a decision are defined in an inclusive way and in the widest possible terms. For example, the making of a decision includes the doing or refusing to do anything. Under the *Judicial Review Act 1991*, decisions of an administrative character do not include decisions to make legislative instruments, e.g. instruments that are subordinate legislation.

<sup>9</sup> Section 21M (Application to chief executive for reconsideration of administrative decisions)

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- (a) confirm, amend or reverse the decision subject to the application; or 1  
2
- (b) set aside the decision and make a decision in substitution for the decision set aside. 3  
4
- ‘(2) The chief executive must immediately give the applicant written notice of the decision. 5  
6
- ‘(3) If the decision is not the decision sought by the applicant, the notice must state— 7  
8
- (a) the reasons for the decision; or 9
- (b) that the applicant may appeal against the decision to a magistrates court within 28 days. 10  
11
- ‘Right to appeal to the Magistrates Court 12**
- ‘21O.(1) A person dissatisfied by a decision of the chief executive under section 21N<sup>10</sup> may appeal against the decision. 13  
14
- ‘(2) The appeal may be made to the Magistrates Court nearest the place where the dissatisfied person lives, or carries on, or proposes to carry on, a business affected by the decision. 15  
16  
17
- ‘How to start appeal 18**
- ‘21P.(1) An appeal is started by filing a written notice of appeal with the relevant clerk of the court. 19  
20
- ‘(2) A copy of the notice must be served on the chief executive. 21
- ‘(3) A person may only appeal within 28 days after notice of the decision was given to the person. 22  
23
- ‘(4) However, if— 24
- (a) the notice did not state the reasons for the decision, and 25
- (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (3); 26  
27

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<sup>10</sup> Section 21N (Powers of chief executive on an application under this part)

the person may apply within 28 days after the person is given a statement of the reasons. 1  
2

‘(5) Also, the court may at any time extend the period for filing the notice of appeal. 3  
4

‘(6) The notice of appeal must state the grounds of appeal. 5

### ‘Stay of operation of decisions 6

‘21Q.(1) The Magistrates Court may grant a stay of a decision appealed against to secure the effectiveness of the appeal. 7  
8

‘(2) A stay— 9

(a) may be given on the conditions the court considers appropriate; and 10  
11

(b) operates for the period fixed by the court; and 12

(c) may be revoked or amended by the court. 13

‘(3) The period of a stay under this section must not extend past the time when the court decides the appeal. 14  
15

‘(4) An appeal against a decision affects the decision, or carrying out of the decision, only if the decision is stayed. 16  
17

### ‘Powers of Magistrates Court on appeal 18

‘21R.(1) In deciding an appeal, the Magistrates Court— 19

(a) has the same powers as the chief executive; and 20

(b) is not bound by the rules of evidence; and 21

(c) must comply with natural justice; and 22

(d) may hear the appeal in court or chambers. 23

‘(2) An appeal is by way of rehearing. 24

‘(3) The court may— 25

(a) confirm the decision; or 26

(b) set aside the decision and substitute another decision; or 27

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- (c) set aside the decision and return the issue to the chief executive with the directions the court considers appropriate.

**‘Effect of Magistrates Court’s decision on appeal**

**‘21S.** If the Magistrates Court substitutes another decision, the substituted decision is, for this Act, taken to be the chief executive’s decision.

**‘Appeals**

**‘21T.** An appeal to a District Court from a decision of a Magistrates Court may be made only on a question of law.

**‘PART 7—MISCELLANEOUS’.****Replacement of s 23 (Offences in relation to information)**

Clause **17.** Section 23—  
*omit, insert—*

**‘False or misleading information**

**‘23.(1)** A person must not state to the chief executive or an inspector anything the person knows is false or misleading in a material particular.

Maximum penalty—200 penalty units.

**‘(2)** A complaint against a person for an offence against subsection (1) is sufficient if it states the statement made was false or misleading to the person’s knowledge.

**‘False, misleading or incomplete documents**

**‘23A.(1)** A person must not give the chief executive or an inspector a document containing information the person knows is false, misleading or incomplete in a material particular.

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	Maximum penalty—200 penalty units.	1
	‘(2) Subsection (1) does not apply to a person who, when giving the document—	2
		3
	(a) informs the chief executive or inspector, to the best of the person’s ability, how it is false, misleading or incomplete; and	4
		5
	(b) gives the correct information to the chief executive or inspector if the person has, or can reasonably obtain, the correct information.	6
		7
	‘(3) A complaint against a person for an offence against subsection (1) is sufficient if it states the document was false, misleading or incomplete to the person’s knowledge.’.	8
		9
		10
	<b>Amendment of s 24 (Obstruction)</b>	11
Clause	<b>18.</b> Section 24(1) and (3)—	12
	<i>insert—</i>	13
	‘Maximum penalty—200 penalty units.’.	14
	<b>Amendment of s 26 (Dealing with seized matters or things)</b>	15
Clause	<b>19.</b> Section 26, ‘Minister’—	16
	<i>omit, insert—</i>	17
	‘chief executive’.	18
	<b>Replacement of ss 31 and 32</b>	19
Clause	<b>20.</b> Sections 31 and 32—	20
	<i>omit, insert—</i>	21
	<b>‘Delegation by chief executive</b>	22
	‘ <b>31.</b> The chief executive may delegate to an officer or employee of the department the chief executive’s powers under this Act, other than the power to—	23
		24
		25
	(a) appoint inspectors; or	26
	(b) enter into intergovernmental agreements.	27

	<b>‘Prosecution of offences</b>	1
	‘ <b>32.</b> The prosecution of an offence against this Act is a summary proceeding under the <i>Justices Act 1886</i> .’	2 3
	<b>Amendment of s 35 (Regulation making power)</b>	4
Clause	<b>21.</b> Section 35—	5
	<i>insert—</i>	6
	‘(2) A regulation may—	7
	(a) impose fees; and	8
	(b) create offences and prescribe penalties of not more than 20 penalty units for each offence.’	9 10
	<b>Insertion of new s 35A</b>	11
Clause	<b>22.</b> After section 35—	12
	<i>insert—</i>	13
	<b>‘Validations</b>	14
	‘ <b>35A.(1)</b> An inspector’s approval for fruit to be taken out of the pest quarantine areas mentioned in the following regulations is taken to have been validly given—	15 16 17
	(a) the <i>Plant Protection (Papaya Fruit Fly) Quarantine Regulation 1995</i> (1995 SL No. 292);	18 19
	(b) the <i>Plant Protection (Papaya Fruit Fly) Quarantine Regulation (No. 2) 1995</i> (1995 SL No. 301).	20 21
	‘(2) The <i>Plant Protection (Papaya Fruit Fly) Quarantine Regulation (No. 2) 1995</i> , section 2 is taken to have referred to 144° 15' east and not 144° 15' west.	22 23 24
	‘(3) This section expires the day after the <i>Plant Protection Amendment Act 1996</i> commences.’	25 26 27

<b>SCHEDULE</b>	1
<b>MINOR AMENDMENTS</b>	2
section 3	3
<b>1. Before section 1—</b>	4
<i>insert—</i>	5
<b>‘PART 1—PRELIMINARY’.</b>	6
<b>2. Section 3, heading—</b>	7
<i>omit, insert—</i>	8
<b>‘Definitions’.</b>	9
<b>3. Section 3(1), definition “plant”—</b>	10
<i>omit, insert—</i>	11
<b>“plant”</b> means a member of the plant kingdom and includes the seed or seedling of or a part of a plant, whether living or dead and whether or not attached to a plant but does not include timber in service or, unless another Act provides, sugar cane. <sup>11</sup>	12
<b>“plant”</b> means a member of the plant kingdom and includes the seed or seedling of or a part of a plant, whether living or dead and whether or not attached to a plant but does not include timber in service or, unless another Act provides, sugar cane. <sup>11</sup>	13
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<b>“plant”</b> means a member of the plant kingdom and includes the seed or seedling of or a part of a plant, whether living or dead and whether or not attached to a plant but does not include timber in service or, unless another Act provides, sugar cane. <sup>11</sup>	16
<b>4. Section 3(1), definition “pest”, ‘pursuant to subsection (2) or (3)’—</b>	17
<i>omit, insert—</i>	18
‘under section 4’.	19

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<sup>11</sup> For the application of this Act to sugarcane, see the *Sugar Industry Act 1991*, section 76.

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 SCHEDULE (continued)

<b>5. Section 3(2), as heading—</b>	1
<i>insert—</i>	2
<b>‘Pest declarations’.</b>	3
<b>6. Section 3(3A) and (3B), ‘subsection (3)’—</b>	4
<i>omit, insert—</i>	5
‘subsection (2)’.	6
<b>7. Sections 3(2) to 3(3B), as amended—</b>	7
<i>renumber</i> as section 4(1) to (4).	8
<b>8. Section 3(4), as heading—</b>	9
<i>insert—</i>	10
<b>‘Exercise of pest infestation powers’.</b>	11
<b>9. Section 3(4), as amended—</b>	12
<i>renumber</i> as section 5.	13
<b>10. Sections 3(5) and (8)—</b>	14
<i>omit.</i>	15
<b>11. Section 7(1), words before ‘every farm’—</b>	16
<i>omit, insert—</i>	17
‘7.(1) A regulation may be made requiring’.	18

## SCHEDULE (continued)

<b>12. Section 7(1), ‘must’—</b>	1
<i>omit, insert—</i>	2
‘to’.	3
<b>13. Section 7(2), words after ‘a registration fee;’—</b>	4
<i>omit.</i>	5
<b>14. Section 8(1), words before paragraph (c)—</b>	6
<i>omit, insert—</i>	7
‘ <b>8.(1)</b> The Governor in Council may by regulation, or, if the Minister considers urgent action is needed, the Minister may by notice—’.	8
	9
<b>15. Section 8 (1)(e), ‘(c) and (d)’—</b>	10
<i>omit, insert—</i>	11
‘(a) and (b)’.	12
<b>16. Section 8(1)(c) to (e), as amended—</b>	13
<i>renumber</i> as section 8(1)(a) to (c).	14
<b>17. Section 8(1A) and (3), ‘(1)(b)’—</b>	15
<i>omit, insert—</i>	16
‘(1)’.	17
<b>18. Section 8(2)—</b>	18
<i>omit.</i>	19

## SCHEDULE (continued)

<b>19. Section 8(1A), as amended—</b>	1
<i>renumber</i> as section 8(2).	2
<b>20. Section 8(4), ‘made for the purposes of’—</b>	3
<i>omit, insert—</i>	4
‘under’.	5
<b>21. Section 8—</b>	6
<i>insert—</i>	7
‘(5) In this section—	8
<b>“introduction into Queensland”</b> includes introduction into Queensland	9
generally, from a place outside Australia and from another State.’.	10
<b>22. Section 9(1), words before ‘movement’—</b>	11
<i>omit, insert—</i>	12
‘ <b>9.(1)</b> The Governor in Council may by regulation, or, if the Minister	13
considers urgent action is needed, the Minister may by notice, prohibit the’.	14
<b>23. Section 9(1)(c) to (g)—</b>	15
<i>renumber</i> as section 9(1)(a) to (e).	16
<b>24. Section 9 (2) and (3), ‘(1)(b)’—</b>	17
<i>omit, insert—</i>	18
‘(1)’.	19

## SCHEDULE (continued)

<b>25. Section 9(3)(a), ‘(1)(a)’—</b>	1
<i>omit, insert—</i>	2
‘(1)’.	3
<b>26. Section 10(1), words before ‘may’—</b>	4
<i>omit, insert—</i>	5
‘ <b>10.(1)</b> A regulation’.	6
<b>27. Section 10(1)(a), after ‘declared’—</b>	7
<i>insert—</i>	8
‘(the “ <b>declared crop plant</b> ”)’.	9
<b>28. Section 10(2), words before paragraph (a)—</b>	10
<i>omit, insert—</i>	11
‘(2) For a crop plant district, the Minister, may by notice, give directions	12
the Minister considers necessary or desirable to prevent, control or remove	13
pest infestation of the declared crop plant, including directions—’.	14
<b>29. Section 10(3A)—</b>	15
<i>renumber</i> as section 10(4).	16
<b>30. Section 11(1), words before ‘declare’—</b>	17
<i>omit, insert—</i>	18
‘ <b>11.(1)</b> The Governor in Council may by regulation, or, if the Minister	19
considers urgent action is needed, the Minister may by notice,’.	20

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 SCHEDULE (continued)

<b>31. Section 11(2A) and (5), ‘(1)(b)’—</b>	1
<i>omit, insert—</i>	2
‘(1)’.	3
<b>32. Section 11(3A), (3B) and (6)(b), ‘(3)’—</b>	4
<i>omit, insert—</i>	5
‘(4)’.	6
<b>33. Section 11(4), after ‘compliance with’—</b>	7
<i>insert—</i>	8
‘, or permit an exemption from.’	9
<b>34. Section 11(4), ‘to achieve’—</b>	10
<i>omit.</i>	11
<b>35. Section 11—</b>	12
<i>insert—</i>	13
‘(4A) Subsection (7) does not limit another provision of this Act.’	14
<b>36. Section 11(5)(a), ‘(1)(a)’—</b>	15
<i>omit, insert—</i>	16
‘(1)’.	17
<b>37. Section 11(6)(c), ‘(4)’—</b>	18
<i>omit, insert—</i>	19
‘(7)’.	20

## SCHEDULE (continued)

<b>38. Section 11(2A) to (6)—</b>	1
<i>renumber</i> as section 11(3) to (10).	2
<b>39. Section 12(1)—</b>	3
<i>omit, insert—</i>	4
‘ <b>12.(1)</b> A regulation may declare a pest to be a notifiable pest for this Act.’.	5
	6
<b>40. Section 12(3)—</b>	7
<i>omit.</i>	8
<b>41. After section 12—</b>	9
<i>insert—</i>	10
‘ <i>Division 2—Other pest control measures</i> ’.	11
<b>42. Section 13(1) and (2), ‘eradicating’—</b>	12
<i>omit, insert—</i>	13
‘removing’.	14
<b>43. Section 14(1), ‘eradicate’—</b>	15
<i>omit, insert—</i>	16
‘remove’.	17
<b>44. Section 15, ‘eradicate’—</b>	18
<i>omit, insert—</i>	19
‘remove’.	20

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 SCHEDULE (continued)

<b>45. After section 15—</b>	1
<i>insert—</i>	2
<b><i>‘Division 3—Enforcement’.</i></b>	3
<b>46. Section 26(1), ‘eradicating’—</b>	4
<i>omit, insert—</i>	5
‘removing’.	6
<b>47. Section 33(a), ‘or other officer under this Act’—</b>	7
<i>omit.</i>	8
<b>48. Section 33(b) and (c), ‘or other officer appointed or authorised under this Act’—</b>	9
<i>omit.</i>	10
11	11
<b>49. Section 33(c), ‘and, in the absence of evidence to the contrary, conclusive evidence,’—</b>	12
<i>omit.</i>	13
14	14
<b>50. Section 33(d)(i)—</b>	15
<i>omit.</i>	16
<b>51. Section 33(d), ‘,and in the absence of evidence to the contrary, conclusive evidence’—</b>	17
<i>omit.</i>	18
19	19

## SCHEDULE (continued)

<b>52. Section 33(d)(ii) to (iv)—</b>	1
<i>renumber</i> as section 33(d)(i) to (iii).	2
<b>53. Section 33(e), words after ‘described’—</b>	3
<i>omit, insert—</i>	4
‘in the certificate is evidence that the measures were taken and the costs	5
or expenses were reasonably incurred for the measures.’.	6
	7