

THIS PUBLIC BILL has this day been read a Third time and passed

The Clerk of the Parliament.

*Legislative Assembly Chamber,
Brisbane, September 2019*



Queensland

**No.
A BILL for**

An Act to amend the Biodiscovery Act 2004, the Chemical Usage (Agricultural and Veterinary) Control Act 1988, the Environmental Protection Act 1994, the Fisheries Act 1994, the Nature Conservation Act 1992 and the Vegetation Management Act 1999 for particular purposes



Queensland

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

Contents

		Page
Part 1	Preliminary	
1	Short title	8
2	Commencement	8
Part 2	Amendment of Biodiscovery Act 2004	
3	Act amended	8
4	Amendment of s 50 (Offence to take without a collection authority)	8
Part 3	Amendment of Chemical Usage (Agricultural and Veterinary) Control Act 1988	
5	Act amended	9
6	Insertion of new pt 4, div 2	9
	Division 2 Transitional provision for Environmental Protection (Great Barrier Reef Protection Measures) and Other Legislation Amendment Act 2019	
40	Definition of agricultural ERA	9
Part 4	Amendment of Environmental Protection Act 1994	
7	Act amended	10
8	Replacement of ch 4A (Great Barrier Reef protection measures)	10
	Chapter 4A Great Barrier Reef protection measures	
	Part 1 Preliminary	
74	Purpose of chapter	10
75	What is the Great Barrier Reef catchment	11
76	Other definitions for chapter	11
	Part 2 Environmental protection policy	
77	Environmental protection policy must set objectives for reduced contaminant loads	12
78	Objectives set in policy must be reviewed every 5 years	12

Contents

	Part 3	Requirements for carrying out agricultural ERAs	
	79	What is an agricultural ERA	13
	80	Who carries out an agricultural ERA	14
	81	What is an agricultural ERA standard	14
	82	Offence to contravene agricultural ERA standard . . .	16
	Part 4	Agricultural ERA advice	
	83	Definitions for part	17
	84	Meaning of tailored advice about carrying out an agricultural ERA	17
	85	Tailored advice must not be false or misleading . . .	18
	86	Record of tailored advice	18
	Part 5	Great Barrier Reef water quality offsets	
	87	Definitions for part	20
	88	Application of Environmental Offsets Act 2014 to Great Barrier Reef water quality offsets	21
	Part 6	General	
	89	Regulation-making power for particular records and returns	22
9		Amendment of s 207 (Conditions that may be imposed)	23
10		Insertion of new ch 5A, pt 5A	23
	Part 5A	Accreditation programs for agricultural ERAs	
	Division 1	Preliminary	
	318YA	Definitions for part	24
	318YB	What is an accreditation program	24
	Division 2	Recognition of accreditation program	
	318YC	Application	25
	318YD	Criteria for recognition	26
	318YE	Conditions of recognition	26
	318YF	Term of recognition	28
	Division 3	Renewal of recognition of accreditation program	
	318YG	Assessment of program	28
	318YH	Renewal of recognition of program	29
	318YI	Approval continues pending decision about renewal	30
	Division 4	Application to amend recognised accreditation program or conditions	
	318YJ	Application to approve amendment of recognised accreditation program or condition	30

	318YK	Deciding amendment application	31
	Division 5	General provisions for applications	
	318YL	Application of division	31
	318YM	Inquiry about application	31
	318YN	Decision on application	32
	318YO	Failure to decide application	32
	Division 6	Amendment, suspension and cancellation by chief executive	
	318YP	Amendment by chief executive	33
	318YQ	Grounds for suspending or cancelling program recognition	34
	318YR	Show cause notice	34
	318YS	Representations about show cause notice	35
	318YT	Ending show cause process without further action	36
	318YU	Amendment, suspension or cancellation	36
	318YV	Immediate suspension of recognition of accreditation program	37
	318YW	Required action after amendment, suspension, cancellation or end of accreditation program or recognition	39
11		Insertion of new s 322A	39
	322A	Chief executive may require environmental audit about recognised accreditation program for agricultural ERA	40
12		Amendment of s 323 (Administering authority may require environmental audit about other matters)	40
13		Amendment of s 324 (Content of audit notice)	41
14		Amendment of s 326 (Administering authority may conduct environmental audit for resource activities)	41
15		Amendment of s 326A (Administering authority's costs of environmental audit or report)	41
16		Amendment of s 330 (What is a transitional environmental program)	42
17		Amendment of s 363A (Prescribed provisions)	42
18		Amendment of s 426 (Environmental authority required for particular environmentally relevant activities)	43
19		Amendment of s 452 (Entry of place—general)	43
20		Amendment of s 466 (Power to require production of documents)	43
21		Amendment of s 520 (Dissatisfied person)	44
22		Amendment of s 538 (Appeals may be heard with planning appeals)	44
23		Amendment of s 540A (Registers to be kept by chief executive)	45

Contents

24	Insertion of new ch 13, pt 28	45
	Part 28 Transitional provisions for Environmental Protection (Great Barrier Reef Protection Measures) and Other Legislation Amendment Act 2019	
767	Definitions for part	46
768	Initial agricultural ERA standards	46
769	Recognition of existing accreditation programs	46
770	Persons accredited under existing accreditation programs	48
771	Record keeping obligation for existing agricultural ERA continues	48
772	Proceedings for offences against previous provisions	48
773	Amnesty for environmental risk management plan offences	49
774	Review of impact of ch 4A on contaminant levels . . .	50
25	Amendment of sch 2 (Original decisions)	50
26	Amendment of sch 4 (Dictionary)	51
Part 5	Amendment of Fisheries Act 1994	
27	Act amended	53
28	Amendment of s 5 (Meaning of fish)	53
Part 6	Amendment of Nature Conservation Act 1992	
29	Act amended	54
30	Amendment of s 71 (Classes of wildlife to which Act applies) . .	54
31	Replacement of ss 76–78	54
76	Native wildlife may be prescribed as extinct wildlife .	54
77	Native wildlife may be prescribed as extinct in the wild wildlife	54
78	Native wildlife may be prescribed as critically endangered wildlife	55
78A	Native wildlife may be prescribed as endangered wildlife	56
78B	Native wildlife may be prescribed as vulnerable wildlife	57
32	Amendment of s 79 (Native wildlife may be prescribed as near threatened wildlife)	58
33	Amendment of s 88 (Restrictions on taking protected animal and keeping or use of unlawfully taken protected animal)	58
34	Amendment of s 89 (Restriction on taking etc. particular protected plants)	58
35	Insertion of new s 143B	58

	143B	Chief executive may approve use of information system	58
36		Amendment of schedule (Dictionary)	59
Part 7		Amendment of Vegetation Management Act 1999	
37		Act amended	60
38		Amendment of schedule (Dictionary)	60
Part 8		Acts amended	
39		Acts amended	60
Schedule 1		Acts amended	61
		Chemical Usage (Agricultural and Veterinary) Control Act 1988	61
		Environmental Protection Act 1994	62

2019

A Bill

for

An Act to amend the *Biodiscovery Act 2004*, the *Chemical Usage (Agricultural and Veterinary) Control Act 1988*, the *Environmental Protection Act 1994*, the *Fisheries Act 1994*, the *Nature Conservation Act 1992* and the *Vegetation Management Act 1999* for particular purposes

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

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

2 Commencement

This Act commences on a day to be fixed by proclamation.

Part 2 Amendment of Biodiscovery Act 2004

3 Act amended

This part amends the *Biodiscovery Act 2004*.

4 Amendment of s 50 (Offence to take without a collection authority)

Section 50(2), definition *NCA material*, paragraph (a), from ‘endangered’ to ‘animal,’—

omit, insert—

protected wildlife

Part 3 Amendment of Chemical Usage (Agricultural and Veterinary) Control Act 1988

5 Act amended

This part amends the *Chemical Usage (Agricultural and Veterinary) Control Act 1988*.

Note—

See also the amendments in schedule 1.

6 Insertion of new pt 4, div 2

Part 4—

insert—

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

40 Definition of *agricultural ERA*

- (1) This section applies for a period of 1 year starting on the commencement of this section.
- (2) For a relevant regulation, *agricultural ERA* has the meaning given by the *Environmental Protection Act 1994*, section 75 as in force immediately before commencement of the amendment Act, section 8.
- (3) In this section—

amendment Act means the *Environmental*

Protection (Great Barrier Reef Protection Measures) and Other Legislation Amendment Act 2019.

relevant regulation means a regulation made under this Act to the extent the regulation is about the qualifications of a person who uses, stores or possesses an agricultural chemical product for carrying out an agricultural ERA.

Part 4 Amendment of Environmental Protection Act 1994

7 Act amended

This Act amends the *Environmental Protection Act 1994*.

Note—

See also the amendments in schedule 1.

8 Replacement of ch 4A (Great Barrier Reef protection measures)

Chapter 4A—

omit, insert—

Chapter 4A Great Barrier Reef protection measures

Part 1 Preliminary

74 Purpose of chapter

The purpose of this chapter is to provide for measures to improve the quality of the water entering the Great Barrier Reef to—

- (a) support the outstanding universal value of the Great Barrier Reef for which the reef was inscribed on the World Heritage List; and
- (b) protect and enhance the biological integrity and diversity of the aquatic ecosystems of the Great Barrier Reef, including—
 - (i) the coral reef, mangrove and seagrass ecosystems of the reef; and
 - (ii) the aquatic ecosystems of the river basins from which water enters the Great Barrier Reef; and
- (c) improve the health and resilience of the aquatic ecosystems of the reef so they are better able to withstand and recover from disturbances.

75 What is the *Great Barrier Reef catchment*

- (1) The *Great Barrier Reef catchment* is the area shown on a map prescribed by regulation as the Great Barrier Reef catchment.
- (2) Each part of the Great Barrier Reef catchment shown as a river basin on the map is a *river basin*.

76 Other definitions for chapter

In this chapter—

agricultural ERA see section 79.

agricultural ERA standard see section 81(1).

carries out, an agricultural ERA, see section 80.

Great Barrier Reef catchment see section 75(1).

river basin see section 75(2).

Part 2 Environmental protection policy

77 Environmental protection policy must set objectives for reduced contaminant loads

- (1) This section applies in relation to the entry of the following contaminants to the water of the Great Barrier Reef because of human activity carried out on land in the Great Barrier Reef catchment—
 - (a) dissolved inorganic nitrogen in the water;
 - (b) sediment suspended in the water.
- (2) The Minister must ensure an environmental protection policy sets an objective to reduce the load of each of the contaminants entering the waters from each river basin in the catchment.
- (3) The objective must be to reduce each of the loads to a stated limit, over a stated period, that is consistent with achieving the improvement in the quality of the water entering the Great Barrier Reef stated in the purpose of this chapter.
- (4) This section does not limit the matters relating to the quality of the water entering the Great Barrier Reef that may be dealt with in an environmental protection policy.
- (5) In this section—
load, of a contaminant that enters water, means the total volume of the contaminant that enters the water in a year.

78 Objectives set in policy must be reviewed every 5 years

- (1) The Minister must review an environmental protection policy, to the extent the policy sets an objective mentioned in section 77(2), at least

once—

- (a) in the period of 5 years after the policy is made; and
 - (b) in each subsequent 5-year period.
- (2) A review must be started during a period mentioned in subsection (1) and completed within 1 year.

Part 3 Requirements for carrying out agricultural ERAs

79 What is an *agricultural ERA*

- (1) An *agricultural ERA* is any of the following activities carried out, on a commercial basis, on land in the Great Barrier Reef catchment—

- (a) cattle grazing;
- (b) horticulture;

Example—

commercial cultivation of bananas

- (c) cultivation of another crop.

Example—

commercial cultivation of sugarcane or grains

- (2) For subsection (1), all the land in a lot is taken to be in the Great Barrier Reef catchment if more than 75% of the lot, or 20,000ha of land in the lot, is in the catchment.

- (3) 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*.

80 Who *carries out* an agricultural ERA

- (1) A person *carries out* an agricultural ERA if the person carries out the activity on land—
 - (a) of which the person is the owner; or
 - (b) under an arrangement about the use of the land with the owner of the land.
- (2) Also, a person *carries out* an agricultural ERA if the person is employed or otherwise engaged by a person mentioned in subsection (1) to oversee the carrying out of the agricultural ERA on the other person's behalf.

81 What is an *agricultural ERA standard*

- (1) An *agricultural ERA standard* is an ERA standard for an agricultural ERA that states it is an agricultural ERA standard.

Note—

See section 318 for the chief executive's power to make an ERA standard.

- (2) The purpose of an agricultural ERA standard is to ensure the agricultural ERA to which the standard relates is carried out in a way that best achieves—
 - (a) the purpose of this chapter; and
 - (b) the objective of preventing contaminants entering, or minimising the amount of contaminants that enter, the water of the Great Barrier Reef because of the agricultural ERA being carried out on land in the Great Barrier Reef catchment; and

Examples of contaminants that may enter the water of the Great Barrier Reef because of an agricultural ERA—

nutrients, other chemicals, sediment

- (c) an objective set by an environmental protection policy under section 77.
- (3) Without limiting section 318, an agricultural ERA standard may include a standard condition—
 - (a) about the use of water, nutrients, agricultural chemical products or other substances in carrying out the agricultural ERA; or
 - (b) that requires compliance with a prescribed methodology for—
 - (i) working out the amount of a nutrient to be applied to a crop, plant or soil without exceeding the needs of the crop or plant, or a plant in the soil; or
 - (ii) conducting tests related to carrying out the agricultural ERA, including, for example, tests of soil, water or plants and the intervals at which the tests must be carried out; or
 - (iii) another matter related to carrying out the agricultural ERA; or
 - (c) about the way land, the features of land and farming infrastructure are designed and used, and farming operations are undertaken, to carry out the agricultural ERA.

Examples of features of land that may be designed and used to carry out an agricultural ERA—

the slope of the land, land banks, drainage channels

- (4) The chief executive must review an agricultural ERA standard at least once—

- (a) in the period of 5 years after the standard is made; and
 - (b) in each subsequent 5-year period.
- (5) A review must be started during a period mentioned in subsection (4) and completed within 1 year.
- (6) In this section—
prescribed methodology, for a matter, means a methodology for the matter prescribed by regulation for this section.

82 Offence to contravene agricultural ERA standard

- (1) This section applies if—
 - (a) an agricultural ERA is not a prescribed ERA; and
 - (b) an agricultural ERA standard applies to the agricultural ERA.
- (2) A person who carries out the agricultural ERA must not contravene the agricultural ERA standard.
Maximum penalty—
 - (a) if the offence is committed wilfully—1,665 penalty units; or
 - (b) otherwise—600 penalty units.
- (3) In a proceeding for an offence against subsection (2), it is a defence for a person to prove that—
 - (a) the person is accredited under a recognised accreditation program for the agricultural ERA; and
 - (b) the person's conduct that is alleged to constitute the offence does not contravene the recognised accreditation program.

Part 4 Agricultural ERA advice

83 Definitions for part

In this part—

adviser means a person who gives advice about carrying out an agricultural ERA—

- (a) as a service for reward; or

Example—

An agronomist gives advice about the amount of a nutrient needed for a banana crop and charges a fee for giving the advice.

- (b) in connection with the provision of goods or another service for reward.

Examples—

- 1 A fertiliser distributor or agent gives advice about the amount of a nutrient needed for a sugarcane crop in connection with selling fertiliser for the crop.
- 2 A hydrologist gives advice about the amount of water needed for sugarcane crops in connection with providing a service of designing and installing an irrigation system for the crop.

give advice includes make a recommendation.

tailored advice, about carrying out an agricultural ERA, see section 84.

84 Meaning of ***tailored advice*** about carrying out an agricultural ERA

- (1) Advice about carrying out an agricultural ERA is ***tailored advice*** if the advice—

- (a) relates to a standard condition in an agricultural ERA standard that applies to the agricultural ERA; and
 - (b) is tailored to consider and address—
 - (i) the particular objectives that the person carrying out the agricultural ERA wants to achieve by carrying it out; and
 - (ii) the particular circumstances under which the agricultural ERA is being carried out.
- (2) For subsection (1), it does not matter whether the advice is given as a result of a test conducted in relation to soil, water or a plant.

85 Tailored advice must not be false or misleading

An adviser must not give tailored advice about carrying out an agricultural ERA that the adviser knows, or ought reasonably to know, is false or misleading in a material particular to a person—

- (a) who carries out the agricultural ERA; or
- (b) who is acting on behalf of another person who carries out the agricultural ERA.

Maximum penalty—600 penalty units.

86 Record of tailored advice

- (1) This section applies if an adviser gives tailored advice about carrying out an agricultural ERA to a person—
 - (a) who carries out the agricultural ERA; or
 - (b) who is acting on behalf of another person who carries out the agricultural ERA.
- (2) The adviser must, unless the adviser has a

reasonable excuse—

- (a) prepare a record that contains the information stated in subsection (3) about the tailored advice within 5 business days after giving the advice; and
 - (b) give a copy of the record to the person; and
 - (c) keep the record, or a copy of the record, for at least 6 years.
- (3) For subsection (2), the information is—
- (a) the adviser's name and ACN or ABN (if any); and
 - (b) the person's name and ACN or ABN (if any); and
 - (c) if the person is acting on behalf of another person who carries out the agricultural ERA—the name and ACN or ABN (if any) of the person who carries out the agricultural ERA; and
 - (d) the location of the land on which the agricultural ERA is being carried out; and
 - (e) the day the advice was given; and
 - (f) a summary of the advice given that includes the details prescribed by regulation.

Examples of details that may be prescribed—

- the fertiliser product recommended for use
- the recommended rate for the fertiliser product to be applied
- measures recommended to control sediment and erosion

Part 5

Great Barrier Reef water quality offsets

87 Definitions for part

- (1) A *Great Barrier Reef water quality offset* is an activity—
 - (a) carried out to counterbalance a residual impact of a relevant activity; and
 - (b) carried out on land on which the relevant activity is carried out or on other land in the Great Barrier Reef catchment; and
 - (c) that complies with an environmental offsets policy for a Great Barrier Reef water quality offset.
- (2) A *residual impact* of a relevant activity is the presence of a restricted contaminant in water in a river basin in the Great Barrier Reef catchment that—
 - (a) was released into the water because of the relevant activity; and
 - (b) remains, or will or is likely to remain, (whether temporarily or permanently) despite on-site mitigation measures for the activity.
- (3) A *Great Barrier Reef water quality offset condition* for a relevant activity is a condition that—
 - (a) requires a Great Barrier Reef water quality offset to be undertaken; or
Examples—
 - action to rehabilitate a degraded riverbank,
 - construct a wetland or establish native habitat across a number of properties
 - (b) otherwise relates to an environmental offset.
Example—
 - payment of a financial settlement offset
- (4) The Minister may recommend to the Governor in

Council the making of a regulation prescribing a contaminant to be a restricted contaminant only if satisfied that, if released into water entering the Great Barrier Reef, the contaminant is likely to—

- (a) have an adverse impact on the quality of the water entering the reef; and
- (b) be contrary to achieving the purpose of this chapter.

(5) In this section—

environmental offsets policy see the *Environmental Offsets Act 2014*, section 12.

on-site mitigation measure, for a relevant activity, means a measure undertaken on land on which the activity is carried out, to avoid or minimise the release of a restricted contaminant into water in a river basin in the Great Barrier Reef catchment because of the activity being carried out on the land.

relevant activity means a prescribed ERA, or resource activity, carried out on land in the Great Barrier Reef catchment.

restricted contaminant means a contaminant prescribed as a restricted contaminant for this section.

88 Application of Environmental Offsets Act 2014 to Great Barrier Reef water quality offsets

- (1) The *Environmental Offsets Act 2014* applies in relation to a Great Barrier Reef water quality offset condition and an environmental offsets policy for a Great Barrier Reef water quality offset as if—
 - (a) a reference in that Act to an environmental offset were a reference to a Great Barrier Reef water quality offset; and

- (b) a reference in that Act to an environmental offset condition were a reference to a Great Barrier Reef water quality offset condition; and
 - (c) a reference in that Act to a significant residual impact were a reference to a residual impact; and
 - (d) a reference in that Act to a prescribed activity were a reference to a relevant activity under this section; and
 - (e) a reference in that Act to a prescribed environmental matter were a reference to a river basin in the Great Barrier Reef catchment; and
 - (f) a reference in that Act to maintaining the viability of a prescribed environmental matter were, in relation to the prescribed environmental matter mentioned in paragraph (e), a reference to maintaining or improving the quality of the water entering the Great Barrier Reef from a river basin in the Great Barrier Reef catchment.
- (2) In this section—
- environmental offsets policy* see the *Environmental Offsets Act 2014*, section 12.
- relevant activity* see section 87(5).

Part 6 General

89 Regulation-making power for particular records and returns

- (1) A regulation may be made under section 580(2)(b) applying to—
 - (a) a record or return relating to—

- (i) the sale of a fertiliser product or agricultural chemical; or
- (ii) the application of a fertiliser product or agricultural chemical; or
- (iii) a soil test; or
- (iv) a crop yield; and
- (b) a person involved in the production, manufacture, distribution, supply or use of an agricultural ERA product, fertiliser product or agricultural chemical.

(2) In this section—

agricultural ERA product means a product from carrying out an agricultural ERA.

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

9 Amendment of s 207 (Conditions that may be imposed)

(1) Section 207(1)—

insert—

- (ca) for an authority or draft authority for an environmentally relevant activity carried out on land in the Great Barrier Reef catchment—be a Great Barrier Reef water quality offset condition; or

(2) Section 207(1)(ca) to (g)—

renumber as section 207(1)(d) to (h).

10 Insertion of new ch 5A, pt 5A

Chapter 5A—

insert—

Part 5A Accreditation programs for agricultural ERAs

Division 1 Preliminary

318YA Definitions for part

In this part—

accreditation program, for an agricultural ERA, see section 318YB.

accredited, under a recognised accreditation program for an agricultural ERA, means accredited under the program as carrying out the agricultural ERA in compliance with the requirements of the program.

owner, of an accreditation program, means a person who has the right to manage, administer and change the accreditation program.

recognised accreditation program, for an agricultural ERA, means an accreditation program recognised under this part by the chief executive for the agricultural ERA.

318YB What is an *accreditation program*

An ***accreditation program*** for an agricultural ERA is a program that provides for the following functions in relation to carrying out the agricultural ERA—

- (a) setting requirements (***program requirements***) for carrying out the agricultural ERA that are consistent with an agricultural ERA standard that applies to the agricultural ERA;

- (b) accrediting persons who carry out the agricultural ERA in compliance with the program requirements, including—
 - (i) setting the terms and conditions of accreditation; and
 - (ii) auditing a person's compliance with the program requirements and the person's accreditation; and
 - (iii) responding to a person's non-compliance with the program requirements or the person's accreditation, including by suspending or cancelling the person's accreditation;
- (c) reviewing decisions and resolving disputes under the program;
- (d) maintaining a register of persons accredited under the program and making the register available to the chief executive and authorised persons;
- (e) collecting and reporting information about the operation of the program and the accreditation of persons under the program;
- (f) regularly reviewing and evaluating the program.

Division 2 Recognition of accreditation program

318YC Application

- (1) The owner of an accreditation program for an agricultural ERA may apply to the chief executive for the program to be recognised for the agricultural ERA.

- (2) The application must be in the approved form and accompanied by information about—
 - (a) the governance and administration arrangements for the ownership, operation and management of the accreditation program; and
 - (b) the arrangements, procedures and controls for each of the functions of an accreditation program mentioned in section 318YB.

318YD Criteria for recognition

The chief executive may recognise an accreditation program for an agricultural ERA if the chief executive is satisfied the program—

- (a) has governance and administration arrangements that appropriately provide for the ownership, operation and management of the program; and
- (b) has arrangements, procedures and controls that provide a sound basis for the operation of a program that provides for each of the functions mentioned in section 318YB; and
- (c) complies with other criteria prescribed by regulation.

318YE Conditions of recognition

- (1) This section applies if the chief executive recognises an accreditation program for an agricultural ERA.
- (2) The recognition is granted on the following conditions—
 - (a) a person may only be accredited, however described, under the program if the person, in carrying out the agricultural ERA, does

- not contravene an agricultural ERA standard that applies to the agricultural ERA;
- (b) the owner of the program must make and keep records about decisions made to accredit persons under the program;
 - (c) the owner of the program must keep an up-to-date register of persons who have been accredited under the program that contains, for each person—
 - (i) the person's name, ACN or ABN (if any) and contact details; and
 - (ii) the address of the land on which the person carries out the agricultural ERA; and
 - (iii) the term of the accreditation; and
 - (iv) the conditions (if any) imposed on the person's accreditation; and
 - (v) another matter prescribed by regulation;
 - (d) the owner of the program must give the chief executive a copy of the register mentioned in paragraph (c) each year, within 10 business days after the anniversary of the program's recognition;
 - (e) the condition stated in subsection (3);
 - (f) another condition imposed by the chief executive.
- (3) If an agricultural ERA standard that applies to the agricultural ERA changes, the owner of the recognised accreditation program must—
- (a) review the program for consistency with the changed standard; and
 - (b) if the program is not consistent with the changed standard, within 3 months after the

changed standard is approved under section 318D—

- (i) amend the program so it is consistent with the changed standard; and
 - (ii) give a copy of the amended program to the chief executive.
- (4) The chief executive may impose conditions on the recognition of an accreditation program when—
 - (a) the recognition is granted; or
 - (b) amendment of the recognised accreditation program is approved.

318YF Term of recognition

- (1) Recognition of an accreditation program for an agricultural ERA remains in force for the period, of not more than 5 years, decided by the chief executive and stated in the instrument of recognition.
- (2) Subsection (1) does not apply if the recognition is cancelled before the period ends.

Division 3 Renewal of recognition of accreditation program

318YG Assessment of program

- (1) Before applying for renewal of the recognition of an accreditation program for an agricultural ERA, the owner of the program must have the management and operation of the program assessed under this section by a person approved by the chief executive.
- (2) On request by the owner of the program, the chief executive may approve a stated person to carry

out the assessment if the chief executive is satisfied the person is—

- (a) appropriately qualified to carry out the assessment; and
 - (b) not employed, engaged or otherwise involved in the operation or management of the program.
- (3) The matters assessed by the person must include—
- (a) the operation of the program in relation to providing the functions mentioned in section 318YB; and
 - (b) the arrangements, procedures and controls that are in place for each of the functions.
- (4) The assessment must not be started earlier than 1 year before the term of the recognition ends.

318YH Renewal of recognition of program

- (1) The owner of an accreditation program for an agricultural ERA may apply to the chief executive for renewal of the recognition of the program before the recognition expires.
- (2) The application must be—
 - (a) in the approved form; and
 - (b) accompanied by a report of the assessment carried out under section 318YG, prepared by the person who carried out the assessment, that includes the matters mentioned in section 318YG(3)(a) and (b).
- (3) In deciding the application, the chief executive must consider—
 - (a) the assessment report; and

- (b) the criteria under section 318YD for deciding an application for recognition of an accreditation program for an agricultural ERA.

318YI Approval continues pending decision about renewal

- (1) This section applies if the owner of an accreditation program for an agricultural ERA applies for renewal of the recognition of the program under section 318YH at least 60 days before the term of the recognition ends.
- (2) The recognition continues in force after it would otherwise expire until—
 - (a) the application for renewal is withdrawn; or
 - (b) if the application for renewal is approved—the application is decided; or
 - (c) if the application for renewal is refused—the chief executive gives an information notice for the decision to the applicant; or
 - (d) the owner's approval is suspended or cancelled before the application for renewal is decided or withdrawn.

Division 4 Application to amend recognised accreditation program or conditions

318YJ Application to approve amendment of recognised accreditation program or condition

- (1) The owner of a recognised accreditation program for an agricultural ERA may apply to the chief executive to—

- (a) approve an amendment of the program; or
 - (b) amend a condition imposed on the recognition of the program.
- (2) The application must—
 - (a) be in the approved form; and
 - (b) include sufficient information about the proposed amendment for the chief executive to decide the application.
- (3) This section does not apply to an amendment of a recognised accreditation program for an agricultural ERA if the owner of the program is required to make the amendment under a condition mentioned in section 318YE(3).

318YK Deciding amendment application

In deciding the application, the chief executive must consider the criteria mentioned in section 318YD for deciding an application for recognition of an accreditation program for an agricultural ERA.

Division 5 General provisions for applications

318YL Application of division

This division applies for deciding applications under this part.

318YM Inquiry about application

- (1) Before deciding the application, the chief executive may, by a written notice given to the applicant, require the applicant to give the chief

executive, within the reasonable period of at least 30 days stated in the notice, the further information the chief executive reasonably requires to decide the application.

- (2) The applicant is taken to have withdrawn the application if the applicant does not comply with the requirement under subsection (1) within the stated period.
- (3) A notice under subsection (1) must be given to the applicant within 30 days after the chief executive receives the application.
- (4) The information under subsection (1) must, if the notice requires, be verified by statutory declaration.

318YN Decision on application

- (1) The chief executive must consider the application and decide to—
 - (a) approve the application; or
 - (b) approve the application on conditions; or
 - (c) refuse the application.
- (2) If the chief executive decides to approve the application, the chief executive must give the applicant a notice about the decision.
- (3) If the chief executive decides to refuse the application, or impose conditions on a person's approval, the chief executive must give the applicant an information notice for the decision as soon as practicable after making the decision.

318YO Failure to decide application

- (1) Subject to subsections (2) and (3), if the chief executive fails to decide the application within 30 days after receiving it, the failure is taken to be a

decision by the chief executive to refuse to grant the application.

- (2) Subsection (3) applies if—
 - (a) a person has made an application under this part; and
 - (b) the chief executive has, under section 318YM(1), required the applicant to give the chief executive further information.
- (3) The chief executive is taken to have refused to grant the application if the chief executive does not decide the application within 30 days after the chief executive receives the further information.
- (4) If the application is taken to be refused under this section, the applicant is entitled to be given an information notice by the chief executive for the decision.

Division 6 Amendment, suspension and cancellation by chief executive

318YP Amendment by chief executive

- (1) If the chief executive believes a recognised accreditation program should be amended, the chief executive may direct the owner to amend the program under this division.
- (2) If the chief executive believes a condition of the recognition of the program should be amended, the chief executive may amend the condition under this division.

318YQ Grounds for suspending or cancelling program recognition

Each of the following is a ground for suspending or cancelling recognition of an accreditation program—

- (a) the recognition was obtained by materially incorrect or misleading information or by a mistake;
- (b) the owner of the program has contravened a condition of the recognition;
- (c) the owner of the program has committed—
 - (i) an offence against this Act; or
 - (ii) an offence against a law relating to the supply or use of an agricultural chemical product; or
 - (iii) an offence against a law of the Commonwealth, another State or a foreign country that substantially corresponds to an offence mentioned in subparagraph (i) or (ii).

318YR Show cause notice

- (1) The chief executive must give a notice under this section (a *show cause notice*) to the owner of a recognised accreditation program if the chief executive proposes to take any of the following actions (the *proposed action*)—
 - (a) direct the owner to amend the program;
 - (b) amend a condition of the recognition of the program;
 - (c) suspend or cancel the recognition of the program.
- (2) The show cause notice must state each of the following—

- (a) the proposed action;
 - (b) if the proposed action is to direct the owner to amend the accreditation program or a condition of the program's recognition—
 - (i) the proposed amendment; and
 - (ii) the reasons for the proposed amendment;
 - (c) if the proposed action is to suspend or cancel the recognition of the program—
 - (i) the ground for the proposed action; and
 - (ii) an outline of the facts and circumstances forming the basis for the ground;
 - (d) if the proposed action is to suspend the recognition of the program—the proposed suspension period;
 - (e) that the holder may, within a stated period (the *show cause period*), make written representations to the chief executive to show why the proposed action should not be taken.
- (3) The show cause period must end at least 28 days after the holder is given the show cause notice.

318YS Representations about show cause notice

- (1) The owner of the accreditation program may make written representations about the show cause notice to the chief executive in the show cause period.
- (2) The chief executive must consider all representations made during the show cause period.

318YT Ending show cause process without further action

- (1) This section applies if, after considering the representations made during the show cause period, the chief executive—
 - (a) if the proposed action was to direct the owner of the accreditation program to amend the program or to amend a condition of the recognition of the program—no longer considers the program or condition should be amended; or
 - (b) if the proposed action was to suspend or cancel the recognition of the program—
 - (i) no longer believes a ground exists to suspend or cancel the recognition of the program; or
 - (ii) no longer believes taking the proposed action is warranted.
- (2) The chief executive must—
 - (a) take no further action about the show cause notice; and
 - (b) give a notice that no further action is to be taken about the show cause notice to the owner of the accreditation program.

318YU Amendment, suspension or cancellation

- (1) Subsection (2) applies if, after considering any representations made during the show cause period, the chief executive—
 - (a) if the proposed action was to suspend or cancel the recognition of the accreditation program—believes a ground exists for suspension or cancellation; and

- (b) believes taking the proposed action is warranted.
- (2) The chief executive may—
 - (a) if the proposed action was to direct the owner of the accreditation program to amend the program in a stated way—direct the owner to make the stated amendment; or
 - (b) if the proposed action was to amend a condition of recognition of the program in a stated way—make the stated amendment; or
 - (c) if the proposed action was to suspend the recognition of the program for a stated period—suspend the recognition for no longer than the stated period; and
 - (d) if the proposed action was to cancel the recognition of the program—suspend the recognition for a stated period or cancel the recognition.
- (3) If the chief executive decides to act under subsection (2), the chief executive must give an information notice for the decision to the owner of the accreditation program as soon as is practicable.
- (4) The decision takes effect on—
 - (a) the day the information notice is given to the person; or
 - (b) a later day stated in the information notice.

318YV Immediate suspension of recognition of accreditation program

- (1) This section applies if the chief executive reasonably believes—
 - (a) a ground exists to suspend the recognition of an accreditation program; and

- (b) it is necessary to suspend the recognition of the program immediately because—
 - (i) persons who are carrying out an agricultural ERA in a way that contravenes an agricultural ERA standard have been accredited under the program; or
 - (ii) there is an immediate and serious risk that persons who are carrying out an agricultural ERA in a way that contravenes an agricultural ERA standard will be accredited under the program.
- (2) The chief executive may suspend the recognition of the accreditation program immediately by giving the owner of the accreditation program—
 - (a) an information notice for the decision to immediately suspend the recognition; and
 - (b) a show cause notice for the suspension or cancellation of the recognition under section 318YR.
- (3) The suspension—
 - (a) operates when the notices are given to the owner of the accreditation program; and
 - (b) continues to operate until the earliest of the following—
 - (i) the chief executive cancels the suspension;
 - (ii) the show cause notice is finally dealt with by a notice given under section 318YT or 318YU;
 - (iii) 45 days after the notices are given to the person.

**318YW Required action after amendment,
suspension, cancellation or end of
accreditation program or recognition**

- (1) This section applies to the owner of an accreditation program if—
 - (a) the program is amended; or
 - (b) the recognition of the program is suspended or cancelled under section 318YU or 318YV; or
 - (c) the owner of the program stops providing the program.
- (2) The owner must give written notice about the amendment, suspension, cancellation or ending of the program, to each person who is accredited under the accreditation program within 5 business days after the amendment, suspension, cancellation or ending takes effect.

Maximum penalty—100 penalty units.

- (3) If the recognition of the accreditation program is suspended, the notice under subsection (2) must state the period of the suspension.
- (4) Within 5 business days after giving a notice to the accredited persons under subsection (2), the owner must give the chief executive—
 - (a) a copy of the notice; and
 - (b) the name of each accredited person given the notice.

Maximum penalty—100 penalty units.

11 Insertion of new s 322A

After section 322—

insert—

322A Chief executive may require environmental audit about recognised accreditation program for agricultural ERA

- (1) The chief executive may, by written notice (also an *audit notice*), require the owner of a recognised accreditation program for an agricultural ERA to—
 - (a) commission an audit (also an *environmental audit*) about a stated matter concerning the accreditation program; and
Example of a matter—
whether the conditions of recognition of the accredited program have been complied with
 - (b) give the administering authority an environmental report about the audit.
- (2) However, an audit notice may be given under subsection (1) only if the chief executive is reasonably satisfied the audit is necessary or desirable.

12 Amendment of s 323 (Administering authority may require environmental audit about other matters)

Section 323(1)(a)—

omit, insert—

- (a) a person is, or has been, contravening—
 - (i) a regulation; or
 - (ii) an environmental protection policy; or
 - (iii) an agricultural ERA standard; or
 - (iv) a transitional environmental program;
or
 - (v) an enforceable undertaking; or

13 Amendment of s 324 (Content of audit notice)

(1) Section 324(1)—

insert—

(ba) if the notice is given under section 322A—
the recognised accreditation program and
the agricultural ERA to which the program
relates;

(2) Section 324(1)(ba) to (d)—

renumber as section 324(1)(c) to (e).

14 Amendment of s 326 (Administering authority may conduct environmental audit for resource activities)

(1) Section 326, heading, ‘resource’—

omit, insert—

particular

(2) Section 326(1)(a), after ‘resource activity’—

insert—

or a recognised accreditation program for an
agricultural ERA

(3) Section 326(3) and (4), after ‘holder’—

insert—

or owner of the recognised accreditation program

15 Amendment of s 326A (Administering authority’s costs of environmental audit or report)

(1) Section 326A(2), before ‘must pay’—

insert—

, or owner of the recognised accreditation
program, given an information notice for the audit
decision under section 326(3)

- (2) Section 326A(2)(b), after ‘holder’—

insert—

or owner

- (3) Section 326A—

insert—

- (4) In this section—

audit decision, in relation to costs incurred in conducting or commissioning an environmental audit or preparing an environmental report about the audit, means the decision under section 326(1) to conduct or commission the audit or prepare the report.

16 Amendment of s 330 (What is a transitional environmental program)

Section 330(1)(c)—

insert—

- (iv) an agricultural ERA standard that applies to an agricultural ERA.

17 Amendment of s 363A (Prescribed provisions)

- (1) Section 363A(1)(b)—

omit, insert—

- (b) a provision of an agricultural ERA standard for an agricultural ERA.

- (2) Section 363A(2)—

omit, insert—

- (2) However, a provision of the agricultural ERA standard is a prescribed provision only if the person contravening the provision is the person carrying out an agricultural ERA for which the

standard is in effect.

Note—

If there is a transitional environmental program for the agricultural ERA, see section 346 for the effect of complying with that program.

18 Amendment of s 426 (Environmental authority required for particular environmentally relevant activities)

Section 426(2)(a), after ‘ERA’—

insert—

that is not a prescribed ERA

19 Amendment of s 452 (Entry of place—general)

(1) Section 452(1)—

insert—

(ea) it is a place to which a recognised accreditation program for an agricultural ERA relates and entry is made when—

(i) the place is open for conduct of business; or

(ii) the place is otherwise open for entry; or

(2) Section 452(1)(ea) to (k)—

renumber as section 452(1)(f) to (l).

20 Amendment of s 466 (Power to require production of documents)

Section 466(1), from ‘under this Act’—

omit, insert—

under—

(a) this Act; or

- (b) a development condition of a development approval; or
- (c) an agricultural ERA standard that applies to an agricultural ERA; or
- (d) a recognised accreditation program for an agricultural ERA.

21 Amendment of s 520 (Dissatisfied person)

- (1) Section 520(1)(b)—

omit.

- (2) Section 520(1)—

insert—

(fb) if the decision is to refuse an application to recognise an accreditation program for an agricultural ERA—the applicant; or

(fc) if the decision is about a recognised accreditation program for an agricultural ERA—the owner of the program; or

- (3) Section 520(1)(g), after ‘322’—

insert—

, 322A

- (4) Section 520(1)(i), ‘ERMP direction,’—

omit.

- (5) Section 520(1)(c) to (l)—

renumber as section 520(1)(b) to (o).

22 Amendment of s 538 (Appeals may be heard with planning appeals)

- (1) Section 538(1)(a), from ‘decision)’—

omit, insert—

decision) about an application for an
environmental authority for a prescribed ERA;
and

- (2) Section 538(1)(b), ‘the ERMP or’—
omit.

23 Amendment of s 540A (Registers to be kept by chief executive)

- (1) Section 540A(1)(b)—
omit.

- (2) Section 540A(1)(c)—
insert—

(vi) recognised accreditation programs for
agricultural ERAs;

(vii) suspended or cancelled recognition of
accreditation programs for agricultural
ERAs;

- (3) Section 540A(1)(c) to (g)—
renumber as section 540A(1)(b) to (f).

24 Insertion of new ch 13, pt 28

Chapter 13—
insert—

Part 28

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

767 Definitions for part

In this part—

amendment Act means the *Environmental Protection (Great Barrier Reef Protection Measures) and Other Legislation Amendment Act 2019*.

previous, for a provision of this Act, means as in force from time to time before the commencement.

768 Initial agricultural ERA standards

- (1) This section applies to a document if—
 - (a) on or before the commencement, the chief executive makes the document as though it was an ERA standard made under section 318; and
 - (b) the document states it is an agricultural ERA standard for section 81; and
 - (c) sections 318A and 318B were not complied with in relation to the standard before it was made.
- (2) A regulation under section 318D may approve the document as an ERA standard even though sections 318A and 318B were not complied with before the standard was made.

769 Recognition of existing accreditation programs

- (1) An accreditation program for an agricultural ERA prescribed by regulation for this section within 6 months after the commencement is taken to have been recognised for the agricultural ERA by the chief executive under chapter 5A, part 5A.
- (2) The following are conditions of the recognition of

an accredited program for an agricultural ERA under subsection (1)—

- (a) within 6 months after the regulation mentioned in subsection (1) commences, the owner of the program must—
 - (i) ensure the program is consistent with each agricultural ERA standard that applies to the agricultural ERA; and
 - (ii) if the owner amends the program so it is consistent with an agricultural ERA standard—give the chief executive a copy of the amended program; and
 - (iii) ensure each person mentioned in section 770 is carrying out the agricultural ERA in a way that does not contravene an agricultural ERA standard that applies to the agricultural ERA;
 - (b) another condition imposed by the chief executive within 3 months after the regulation commences.
- (3) If the chief executive decides to impose a condition under subsection (2)(b)—
- (a) the chief executive must give the owner of the accreditation program an information notice for the decision; and
 - (b) the decision is taken to be an original decision for chapter 11, part 3.
- (4) The recognition of an accreditation program under subsection (1), or the imposition of a condition under subsection (2)(b), does not affect a power of the chief executive to decide an application or take other action in relation to the program or condition under chapter 5A, part 5A.

770 Persons accredited under existing accreditation programs

- (1) This section applies to a person who is accredited under an accreditation program for an agricultural ERA immediately before the program became a recognised program for the agricultural ERA under section 769(1).
- (2) Section 82 does not apply to the person for the period that starts on the commencement and ends 6 months after the commencement.

771 Record keeping obligation for existing agricultural ERA continues

- (1) This section applies in relation to—
 - (a) a record that was made, or required to be made, under previous section 83; and
 - (b) the relevant primary documents for the record required to be kept under previous section 84.
- (2) Chapter 4A, part 2, division 2, as in force immediately before the commencement, continues to apply in relation to the record and relevant primary documents—
 - (a) from the commencement until the day that is 5 years after the record was made or required to be made; and
 - (b) as if this Act had not been amended by the amendment Act.

772 Proceedings for offences against previous provisions

- (1) This section applies if a person is alleged to have committed an offence against previous section 78, 83, 84 or 86.

- (2) Without limiting the *Acts Interpretation Act 1954*, section 20, a proceeding for the offence may be continued or started, and the person may be punished for the offence, as if this Act had not been amended by the amendment Act.
- (3) Subsection (2) applies despite the Criminal Code, section 11.

773 Amnesty for environmental risk management plan offences

- (1) This section applies to a person who carries out an agricultural ERA if—
 - (a) before the commencement—
 - (i) the person carried out an agricultural ERA for which there was an accredited ERMP; and
 - (ii) the period for which the accredited ERMP applied ended; and
 - (b) during the amnesty period, the person was required to have an accredited ERMP for the agricultural ERA under previous section 88.
- (2) An ERMP direction given to the person under previous chapter 4A, part 3, division 1 during the amnesty period has no effect.
- (3) Previous sections 92 and 105 are taken not to have applied to the person during the amnesty period.
- (4) In this section—

amnesty period, for an agricultural ERA carried out under an accredited ERMP, means the period that—

 - (a) starts at the end of the period for which the accredited ERMP for the agricultural ERA applied; and
 - (b) ends on the commencement.

774 Review of impact of ch 4A on contaminant levels

- (1) The Minister must review the extent to which chapter 4A has been effective in reducing the load of the following contaminants in the water in river basins in the Great Barrier Reef catchment—
 - (a) dissolved inorganic nitrogen in the water;
 - (b) sediment suspended in the water.
- (2) The review must be—
 - (a) started no earlier than 3 years, and no later than 3 years and 3 months, after the commencement of chapter 4A; and
 - (b) completed within 1 year.
- (3) The Minister must, as soon as practicable after finishing the review, table a report about the outcome of the review in the Legislative Assembly.
- (4) In this section—
load, of a contaminant that enters water, see section 77(5).

25 Amendment of sch 2 (Original decisions)

- (1) Schedule 2, part 1, division 2—
omit.
- (2) Schedule 2, part 2, division 3—
insert—

318YN(1)(b) imposition of a condition on recognition of an accreditation program for an agricultural ERA

318YN(1)(c) refusal of application to recognise an accreditation program for an agricultural ERA

318YU(2) amendment, suspension or cancellation of
recognition of an accreditation program for an
agricultural ERA

(3) Schedule 2, part 2, division 4—
insert—

322A(1) decision to give audit notice for a recognised
accreditation program for an agricultural ERA

26 Amendment of sch 4 (Dictionary)

(1) Schedule 4, definitions *accredited*, *agricultural chemicals*, *agricultural ERA*, *agricultural ERA record*, *agricultural property*, *carries out*, *cattle*, *ERMP*, *ERMP content requirements*, *ERMP direction*, *optimum amount*, *over-fertilisation*, *priority catchment*, *production requirement*, *reef*, *relevant agricultural property*, *relevant primary documents* and *sugar cane growing—*

omit.

(2) Schedule 4—
insert—

accreditation program, for an agricultural ERA,
for chapter 5A, part 5A, see section 318YB.

accredited, under a recognised accreditation
program for an agricultural ERA, for chapter 5A,
part 5A, see section 318YA.

adviser, for chapter 4A, part 4, see section 83.

agricultural chemical product means an
agricultural chemical product under the Agvet
Code of Queensland as applying under the
Agricultural and Veterinary Chemicals
(Queensland) Act 1994.

agricultural ERA see section 79.

agricultural ERA standard see section 81(1).

carries out, an agricultural ERA, see section 80.

give advice, for chapter 4A, part 4, see section 83.

Great Barrier Reef catchment see section 75(1).

Great Barrier Reef water quality offset condition
see section 87(3).

owner, of an accreditation program, see section 318YA.

recognised accreditation program, for an agricultural ERA, see section 318YA.

river basin, for chapter 4A, see section 75(2).

show cause period, for chapter 5A, part 5A, division 6, see section 318YR(2)(e).

tailored advice, for chapter 4A, part 4, see section 84.

- (3) Schedule 4, definition *audit notice*, after ‘322(1)’—
insert—

, 322A(1)

- (4) Schedule 4, definition *environmental audit*, after ‘322(1)(a)’—
insert—

, 322A(1)(a)

- (5) Schedule 4, definition *proposed action*—
insert—

(ba) for chapter 5A, part 5A, division 6—see section 318YR(1);

- (6) Schedule 4, definition *proposed action*, paragraphs (ba) and (c)—
renumber as paragraphs (c) and (d).

- (7) Schedule 4, definition *recipient*, paragraph (c)—
omit.

- (8) Schedule 4, definition *recipient*, paragraphs (d) and (f)—
renumber as paragraphs (c) and (d).
- (9) Schedule 4, definition *show cause notice*, before paragraph (a)—
insert—
 - (aa) for chapter 5A, part 5A, division 6—see section 318YR(1); or
- (10) Schedule 4, definition *show cause notice*, paragraphs (aa) to (c)—
renumber as paragraphs (a) to (d).
- (11) Schedule 4, definition *standard conditions*—
insert—
 - (c) for a person carrying out an agricultural ERA—means a standard condition stated in an agricultural ERA standard that applies to the agricultural ERA.

Part 5 Amendment of Fisheries Act 1994

27 Act amended

This part amends the *Fisheries Act 1994*.

28 Amendment of s 5 (Meaning of *fish*)

Section 5(3)(b), after ‘1992’—

insert—

for which a wildlife authority or a protected area authority under that Act is required to take, keep, use, move or deal with the animal

Part 6

Amendment of Nature Conservation Act 1992

29 Act amended

This part amends the *Nature Conservation Act 1992*.

30 Amendment of s 71 (Classes of wildlife to which Act applies)

Section 71(a)(i) to (v)—

omit, insert—

- (i) extinct wildlife; and
- (ii) extinct in the wild wildlife; and
- (iii) critically endangered wildlife; and
- (iv) endangered wildlife; and
- (v) vulnerable wildlife; and
- (vi) near threatened wildlife; and
- (vii) least concern wildlife; and

31 Replacement of ss 76–78

Sections 76 to 78—

omit, insert—

76 Native wildlife may be prescribed as extinct wildlife

A regulation may prescribe native wildlife as extinct wildlife if there is no reasonable doubt the last member of the species has died.

77 Native wildlife may be prescribed as extinct in the wild wildlife

A regulation may prescribe native wildlife as

extinct in the wild wildlife if—

- (a) the wildlife is known only to survive in cultivation, in captivity or as a naturalised population well outside its past range; or
- (b) the wildlife is not known to survive in its known or expected habitat, in its past range, over a period appropriate to the life cycle or form of the wildlife.

78 Native wildlife may be prescribed as critically endangered wildlife

A regulation may prescribe native wildlife as critically endangered wildlife if—

- (a) the wildlife has undergone or is suspected to have undergone a very large reduction in numbers; or
- (b) it is likely that a very large reduction in the wildlife's numbers is imminent; or
- (c) the wildlife's geographic distribution is—
 - (i) precarious for the survival of the wildlife; and
 - (ii) very restricted; or
- (d) the estimated total number of mature individuals is very low and it is likely the number will—
 - (i) continue to decline at a very high rate; or
 - (ii) continue to decline and its geographic distribution is precarious for the survival of the wildlife; or
- (e) the estimated total number of mature individuals is extremely low; or

- (f) the probability of the wildlife's extinction in the wild is at least 50% in the immediate future.

78A Native wildlife may be prescribed as endangered wildlife

- (1) A regulation may prescribe native wildlife as endangered wildlife if the wildlife is not critically endangered and any of the following apply—
 - (a) the wildlife has undergone or is suspected to have undergone a large reduction in numbers;
 - (b) it is likely that a large reduction in the wildlife's numbers is imminent;
 - (c) the wildlife's geographical distribution is—
 - (i) precarious for the survival of the wildlife; and
 - (ii) restricted;
 - (d) the estimated total number of mature individuals is low and it is likely the number will—
 - (i) continue to decline at a high rate; or
 - (ii) continue to decline and its geographical distribution is precarious for the survival of the wildlife;
 - (e) the estimated total number of mature individuals is very low;
 - (f) the probability of the wildlife's extinction in the wild is at least 20% in the near future.
- (2) In this section—

critically endangered, in relation to wildlife, means the wildlife falls within a description mentioned in section 78.

78B Native wildlife may be prescribed as vulnerable wildlife

- (1) A regulation may prescribe native wildlife as vulnerable wildlife if the wildlife is not critically endangered or endangered and any of the following apply—
- (a) the wildlife has undergone or is suspected to have undergone a moderate reduction in numbers;
 - (b) it is likely a moderate reduction in the wildlife's numbers is imminent;
 - (c) the wildlife's geographical distribution is—
 - (i) precarious for the survival of the wildlife; and
 - (ii) limited;
 - (d) the estimated total number of mature individuals is limited and it is likely the number will—
 - (i) continue to decline at a substantial rate; or
 - (ii) continue to decline and its geographical distribution is precarious for the survival of the wildlife;
 - (e) the estimated total number of mature individuals is low;
 - (f) the probability of the wildlife's extinction in the wild is at least 10% in the medium-term future.
- (2) In this section—
- critically endangered***, in relation to wildlife, means the wildlife falls within a description mentioned in section 78.
- endangered***, in relation to wildlife, means the

[s 32]

wildlife falls within a description mentioned in
section 78A(1).

32 Amendment of s 79 (Native wildlife may be prescribed as near threatened wildlife)

Section 79(3), definition *vulnerable*, ‘78(1)’—

omit, insert—

78B(1)

33 Amendment of s 88 (Restrictions on taking protected animal and keeping or use of unlawfully taken protected animal)

Section 88(6), definition *class 1 offence*, paragraph (a),
‘extinct in the wild’—

omit, insert—

extinct, extinct in the wild, critically endangered

34 Amendment of s 89 (Restriction on taking etc. particular protected plants)

Section 89(5), definition *class 1 offence*, paragraph (a),
‘extinct in the wild’—

omit, insert—

extinct, extinct in the wild, critically endangered

35 Insertion of new s 143B

After section 143A—

insert—

143B Chief executive may approve use of information system

- (1) The chief executive may approve a system (an *information system*) for generating, receiving,

sending, or otherwise processing electronic communications between an authorised person and another person.

- (2) Communications received by the information system are taken to be documents given to the authorised person.
- (3) A decision generated by the information system is taken to be a decision made by the authorised person.

36 Amendment of schedule (Dictionary)

- (1) Schedule—

insert—

critically endangered wildlife means native wildlife prescribed under this Act as critically endangered wildlife.

extinct wildlife means native wildlife prescribed under this Act as extinct wildlife.

- (2) Schedule, definition *protected wildlife*, paragraphs (a) to (e)—

omit, insert—

- (a) extinct wildlife; or
- (b) extinct in the wild wildlife; or
- (c) critically endangered wildlife; or
- (d) endangered wildlife; or
- (e) vulnerable wildlife; or
- (f) near threatened wildlife; or
- (g) least concern wildlife.

- (3) Schedule, definition *threatened wildlife*, paragraphs (a) to (c)—

omit, insert—

- (a) extinct wildlife; or

- (b) extinct in the wild wildlife; or
- (c) critically endangered wildlife; or
- (d) endangered wildlife; or
- (e) vulnerable wildlife.

Part 7 Amendment of Vegetation Management Act 1999

37 Act amended

This part amends the *Vegetation Management Act 1999*.

38 Amendment of schedule (Dictionary)

Schedule, definition *protected wildlife*, before ‘endangered’—
insert—

critically endangered wildlife,

Part 8 Acts amended

39 Acts amended

Schedule 1 amends the Acts it mentions.

Schedule 1 Acts amended

section 39

Chemical Usage (Agricultural and Veterinary) Control Act 1988

1 Section 12W, definition *agricultural ERA*, ‘section 75’—

omit, insert—

section 79

2 Section 13C(2), editor’s note—

omit.

3 Section 13D(1), from ‘only if’—

omit, insert—

only if the use, preparation, storage or possession
of the product complies with—

- (a) the condition; or
- (b) an agricultural ERA standard that applies to
the agricultural ERA; or
- (c) if the person is accredited under a
recognised accreditation program for the
agricultural ERA—the recognised
accreditation program.

4 Section 13D(2)—

omit, insert—

(2) In this section—

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

recognised accreditation program see the
Environmental Protection Act 1994, section
318YA.

5 Part 4, heading, from ‘provision’—

omit, insert—

provisions

6 Part 4, before section 39—

insert—

Division 1

**Transitional provision for
Agricultural and Veterinary
Chemicals Legislation
Amendment Act 2002**

7 Schedule, definition *agricultural ERA*, ‘section 75’—

omit, insert—

section 79

Environmental Protection Act 1994

1 Section 18, paragraph (a), ‘section 75’—

omit, insert—

section 79

2 Section 38(2)(k)(vi), ‘under the *Transport Infrastructure Act 1994*’—

omit.

3 Section 320A(4)(i)—

omit, insert—

(i) an agricultural ERA standard.

4 Section 346(2)(f) and (3)(f)—

omit, insert—

(f) an agricultural ERA standard.

5 Section 348, after ‘of ceasing’—

insert—

to carry out

6 Section 358(d)(xii)—

omit, insert—

(xii) an agricultural ERA standard; or

7 Section 440O(2), ‘*Local Government Act 1993*’—

omit, insert—

Local Government Act 2009

8 Section 440ZO, definition *ASTM*, ‘American Society for Testing and Materials’—

omit, insert—

ASTM International

- 9 Section 458(1)(a)(iii)(A), ‘accredited ERMP’—**
omit, insert—
agricultural ERA standard
- 10 Section 490(5)(c), ‘accredited ERMP,’—**
omit.
- 11 Section 493A(4)(a) and (5)(c), ‘accredited ERMP’—**
omit, insert—
agricultural ERA standard
- 12 Section 493A(4)(b), ‘ERMP’—**
omit, insert—
standard
- 13 Section 579(6), definition *owner*, paragraph (e)(vi), ‘under the *Transport Infrastructure Act 1994*’—**
omit.
- 14 Schedule 1, part 1, section 1(a), ‘1990’—**
omit, insert—
2009
- 15 Schedule 4, definitions *commencement, conversion application, UDA development approval, UDA development condition, ULDA Act* and *unamended Act*—**
omit.