

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

The Clerk of the Parliament.

*Legislative Assembly Chamber,
Brisbane, April 2024*



Queensland

**No.
A BILL for**

An Act to amend the Agricultural Chemicals Distribution Control Act 1966, the Animal Care and Protection Act 2001, the Animal Management (Cats and Dogs) Act 2008, the Biosecurity Act 2014, the Chemical Usage (Agricultural and Veterinary) Control Act 1988, the Drugs Misuse Act 1986, the Exhibited Animals Act 2015, the Farm Business Debt Mediation Act 2017, the Fisheries Act 1994, the Forestry Act 1959, the Nature Conservation Act 1992, the Sugar Industry Act 1999, the Veterinary Surgeons Act 1936 and the legislation mentioned in schedule 1 for particular purposes



Queensland

Agriculture and Fisheries and Other Legislation Amendment Bill 2024

Contents

	Page
Chapter 1	Preliminary
1	Short title 16
2	Commencement 16
Chapter 2	Amendment of Agricultural Chemicals Distribution Control Act 1966
3	Act amended 16
4	Amendment of sch (Dictionary) 17
Chapter 3	Amendment of Animal Care and Protection Act 2001
5	Act amended 17
6	Amendment of s 181 (Conduct of representatives) 17
7	Omission of ss 209 and 209A 18
8	Replacement of ch 9, hdg (Transitional provision for Primary Industries Legislation Amendment Act 2006) 18
9	Insertion of new ch 9, pt 2 18
	Part 2 Transitional provisions for Agriculture and Fisheries and Other Legislation Amendment Act 2024
219	Definitions for part 19
220	Existing proceedings—state of mind 19
221	Proceedings for particular offences—liability of executive officer 19
Chapter 4	Amendment of Animal Management (Cats and Dogs) Act 2008
Part 1	Preliminary
10	Act amended 20
Part 2	Amendments commencing on assent
11	Amendment of s 81 (Obligation to comply with permit conditions) 20
12	Amendment of s 93 (Owner's obligation if proposed declaration notice in force) 21

Contents

13	Amendment of s 97 (Declared dangerous dogs)	21
14	Amendment of s 98 (Declared menacing dogs)	21
15	Amendment of s 134 (Failure to comply with notice)	21
16	Amendment of ch 8, hdg (Reviews)	22
17	Insertion of new ch 8, pt 3	22
	Part 3 Appeals	
	190 Appeal against QCAT decision on external review relating to destruction order only on question of law	22
18	Insertion of new s 209B	22
	209B Chief executive may make guidelines	23
19	Insertion of new ch 10, pt 6	23
	Part 6 Transitional provisions for Agriculture and Fisheries and Other Legislation Amendment Act 2024	
	Division 1 Preliminary	
	230 Definitions for part	23
	Division 2 Provision for amendments commencing on assent	
	231 Appeals against external review decisions relating to destruction orders	24
20	Amendment of sch 2 (Dictionary)	24
Part 3	Amendments commencing on 31 July 2024	
21	Amendment of s 4 (How purposes are to be primarily achieved)	24
22	Omission of s 64 (When a regulated dog is under effective control)	24
23	Amendment of s 89 (Power to make declaration)	25
24	Amendment of s 125 (Seizure powers for dogs)	25
25	Insertion of new ss 191–193	25
	191 Definitions for part	25
	192 What is effective control	26
	193 Relevant person must exercise effective control of dog in public place	29
26	Replacement of ss 194 and 195	31
	194 Relevant person must ensure dog does not attack or cause fear	31
	195 Prohibition on allowing or encouraging dog to attack or cause fear	32
27	Amendment of s 196 (Defences for offence against s 194 or 195)	34
28	Amendment of s 207A (Chief executive (transport) must disclose information)	34
29	Insertion of new ch 10, pt 6, div 3	35

	Division 3	Provisions for amendments commencing on 31 July 2024	
	232	Proceedings for particular offences	35
	233	References to serious dog offence	35
30		Amendment of sch 1 (Permit conditions and conditions applying to declared dangerous and menacing dogs)	36
31		Amendment of sch 2 (Dictionary)	36
Part 4		Amendments commencing on 28 August 2024	
32		Amendment of s 3 (Purposes of Act)	37
33		Amendment of s 4 (How purposes are to be primarily achieved)	37
34		Amendment of s 45 (Dog must bear identification in particular circumstances)	37
35		Amendment of s 47 (What registration form must state)	37
36		Amendment of s 52 (Registration fee must be fixed to give desexing incentive)	38
37		Amendment of s 54 (Amendment of registration)	38
38		Amendment of s 59 (Purpose of ch 4 and its achievement)	38
39		Amendment of s 60 (What is a regulated dog)	39
40		Omission of s 63 (What is a restricted dog)	39
41		Amendment of s 65 (Application of pt 2)	39
42		Omission of s 66 (Prohibition on supply of restricted dog)	40
43		Amendment of s 67 (Prohibition on supply of declared dangerous dog or menacing dog)	40
44		Replacement of ch 4, pt 2, div 3, hdg (Restricted dogs and declared dangerous dogs only)	40
45		Amendment of s 69 (Prohibition on breeding)	41
46		Replacement of s 70 (Compulsory desexing of declared dangerous dog or restricted dog)	41
	70	Compulsory desexing of declared dangerous dog	41
47		Omission of ch 4, pt 2, div 4 (Restricted dogs only)	41
48		Omission of ch 4, pt 3 (Restricted dog permits)	41
49		Amendment of s 89 (Power to make declaration)	42
50		Amendment of s 90 (Notice of proposed declaration)	42
51		Amendment of s 93 (Owner's obligation if proposed declaration notice in force)	42
52		Amendment of s 95 (Notice and taking effect of declaration)	43
53		Replacement of ch 4, pt 5, hdg (Application of particular permit conditions for declared dangerous or menacing dogs)	44
54		Amendment of s 96 (Operation of pt 5)	44

Contents

55	Amendment of s 97 (Declared dangerous dogs)	45
56	Amendment of s 98 (Declared menacing dogs)	45
57	Omission of s 99 (Failure to decide application taken to be refusal)	45
58	Amendment, relocation and renumbering of s 102 (Recovery of seizure or destruction costs)	46
59	Amendment of s 103 (Cost of regulated dog enclosure—dividing fence)	46
60	Insertion of new ch 4A	46
	Chapter 4A Prohibited dogs	
	103A What is a prohibited dog	46
	103B Prohibition on prohibited dogs	47
	103C Prohibition on supply of prohibited dogs	47
	103D Prohibition on breeding with prohibited dogs	47
	103E Surrender of prohibited dogs	48
61	Amendment of s 111 (General power to enter places)	48
62	Amendment of s 112 (Additional entry powers for particular dogs)	49
63	Amendment of s 113 (Approval of inspection program authorising entry)	49
64	Amendment of s 125 (Seizure powers for dogs)	50
65	Insertion of new s 126A	50
	126A What is a destruction order	50
66	Replacement of s 127 (Power to destroy seized regulated dog)	50
	127 Destruction of regulated dog or prohibited dog in particular circumstances	50
	127AA Destruction of regulated dog or prohibited dog under destruction order	51
67	Amendment of s 127A (Concurrent regulated dog declaration and destruction order)	53
68	Amendment of s 130 (Return of particular dog)	54
69	Amendment of s 131 (Return of particular dog to registered owner)	55
70	Amendment of s 172 (Chief executive must keep regulated dog register)	56
71	Amendment of s 174 (Chief executive officer must give information)	56
72	Replacement of s 175 (Chief executive officer must give information about owner)	57
	175 Chief executive officer must give information about owner	57

73	Amendment of s 178 (General register)	57
74	Amendment of s 184 (Stay of operation of original decision) . . .	57
75	Amendment of s 185A (Internal review of concurrent regulated dog declaration and destruction order)	58
76	Amendment of s 189 (Condition on stay granted by QCAT for particular decisions)	58
77	Amendment of s 190 (Appeal against QCAT decision on external review relating to destruction order only on question of law)	58
78	Insertion of new s 196A	59
	196A Application of part to prohibited dogs	59
79	Amendment of s 197 (Muzzling decommissioned greyhounds in public places)	59
80	Amendment of s 203 (Other evidentiary aids)	59
81	Insertion of new ch 10, pt 6, div 4	59
	Division 4 Provisions for amendments commencing on 28 August 2024	
	234 Existing applications about restricted dog permits . .	60
	235 Existing reviews and appeals in relation to decisions about restricted dog permits	60
	236 Existing review and appeal rights in relation to decisions about restricted dog permits	61
	237 Continued application of pre-commencement Act to particular restricted dogs	62
	238 Destruction orders for particular dogs	64
82	Amendment of sch 1 (Permit conditions and conditions applying to declared dangerous and menacing dogs)	65
83	Amendment of sch 2 (Dictionary)	67
Chapter 5	Amendment of Biosecurity Act 2014	
Part 1	Preliminary	
84	Act amended	68
Part 2	Amendments commencing on assent	
85	Amendment of s 42 (Reporting presence of category 1 or 2 restricted matter)	68
86	Amendment of s 43 (Distributing or disposing of category 3 restricted matter)	68
87	Amendment of s 48 (Main function of local government)	69
88	Amendment of s 114 (Matters for inclusion in biosecurity emergency order)	70
89	Amendment of s 115 (Effect and duration of biosecurity emergency order)	70

Contents

90	Amendment of s 125 (Matters for inclusion in movement control order)	71
91	Insertion of new s 127A	71
	127A Additional powers of inspector for place within an area the subject of a movement control order	72
92	Amendment of s 145 (Registrable biosecurity entity must apply for registration)	73
93	Amendment of s 156 (Renewal of registration)	73
94	Insertion of new ss 156A–156C	73
	156A Notice requiring further information about registration	74
	156B Person taken to have applied for deregistration	74
	156C Deregistration by chief executive	75
95	Amendment of s 214 (Applying for permit)	76
96	Amendment of s 223 (Conditions of permit decided by the chief executive)	76
97	Amendment of s 225 (Application for renewal)	77
98	Amendment of s 230 (Transfer of permit)	77
99	Amendment of s 236 (What program authorisation must state)	78
100	Amendment of s 237 (Giving a direction for prevention and control program)	78
101	Amendment of s 238 (Failure to comply with direction)	78
102	Amendment of s 270 (Entry of place under ss 261 and 262)	79
103	Amendment of s 273 (Issue of warrant)	79
104	Replacement of s 283 (Duration of emergency powers)	79
	283 Duration of emergency powers	80
105	Amendment of s 393 (Entering into compliance agreements)	81
Part 3	Amendments commencing by proclamation	
106	Amendment of s 15 (What is biosecurity matter)	81
107	Replacement of s 19 (What is prohibited matter)	81
	19 What is prohibited matter	82
108	Replacement of s 21 (What is restricted matter)	82
	21 What is restricted matter	82
109	Replacement of ch 2, pt 2, div 1, hdg (Establishing what is prohibited matter)	83
110	Omission of ss 29 and 30	83
111	Amendment of s 31 (Chief executive may make emergency prohibited matter declaration)	83
112	Amendment of s 33 (Effect and duration of emergency prohibited matter)	

	declaration)	84
113	Omission of ss 34 and 35	84
114	Replacement of ch 2, pt 3 hdg (Restricted matter)	85
115	Omission of ch 2, pt 3, div 1 (Establishing what is restricted matter)	85
116	Omission of ch 2, pt 3, div 2, hdg (Obligations relating to restricted matter)	85
117	Amendment of s 48 (Main function of local government)	85
117A	Insertion of new ch 19, pt 4	86
	Part 4 Transitional provision for Agriculture and Fisheries and Other Legislation Amendment Act 2024	
	516 Existing prohibited matter	86
118	Omission of schs 1 and 2	87
119	Amendment and renumbering of sch 4 (Dictionary)	87
Chapter 6	Amendment of Chemical Usage (Agricultural and Veterinary) Control Act 1988	
120	Act amended	87
121	Replacement of s 32 (Forfeiture to Crown)	88
	32 Returning seized thing	88
	32A Forfeiture of seized thing to State	89
	32B Dealing with things forfeited or transferred to State	91
	32C Right of appeal to Magistrates Court for decision to forfeit	91
122	Amendment of schedule (Dictionary)	92
Chapter 7	Amendment of Drugs Misuse Act 1986	
123	Act amended	93
124	Amendment of s 50 (What researcher licences authorise)	93
125	Amendment of s 51 (What grower licences authorise)	93
126	Insertion of new pt 5B, div 12B	94
	Division 12B Information sharing	
	110CA Exchanging information with relevant entity	94
Chapter 8	Amendment of Exhibited Animals Act 2015	
127	Act amended	95
128	Amendment of s 33 (Meaning of authorised animal (category A))	95
129	Amendment of s 64 (Content of each exhibited animal authority)	96
Chapter 9	Amendment of Farm Business Debt Mediation Act 2017	
130	Act amended	96
131	Amendment of s 14 (Notice of intention to take enforcement action)	96
	14 Notice inviting request for mediation	97

Contents

132	Amendment of s 90A (Review of Act)	97
133	Amendment of sch 1 (Dictionary)	97
Chapter 10	Amendment of Fisheries Act 1994	
Part 1	Preliminary	
134	Act amended	98
Part 2	Amendments commencing on assent	
135	Amendment of s 3A (How particular purposes are to be primarily achieved)	98
136	Amendment of s 5 (Meaning of fish)	98
137	Amendment of s 14 (Defence for Aborigines and Torres Strait Islanders for particular offences)	98
138	Amendment of s 31 (Exclusion zone)	99
139	Amendment of s 61 (Conditions imposed on issue or renewal—general)	100
140	Insertion of new s 61A	100
	61A Conditions imposed for repeated interactions with protected animals	100
141	Amendment of s 63 (Amendment of authority)	102
142	Insertion of new ss 63A to 63D	102
	63A Application for amendment of authority	102
	63B Consideration of application for amendment of authority	102
	63C Refusal to amend	103
	63D Notice of refusal of application for amendment	103
143	Replacement of s 68AB (Suspension or cancellation for non-payment of fee other than because of dishonoured cheque)	103
	68AB Suspension or cancellation for non-payment of particular fees other than because of dishonoured cheque	103
144	Omission of pt 5, div 3A, sdiv 3 (Fish movement exemption notices)	105
145	Amendment of s 79A (Contravening a condition of an authority)	105
146	Insertion of new s 139B	105
	139B References to thing and seized thing	105
147	Insertion of pt 8, div 2A and sdiv 1 hdgs	106
	Division 2A Seizure	
	Subdivision 1 Powers to seize	
148	Replacement of ss 151–153	106
	151 Seizing evidence consistent with purpose of entry by consent	

	106
152	Seizing evidence for which warrant issued	107
153	Other seizure powers	107
149	Insertion of new s 156A	108
	156A Seizure of thing subject to security	108
150	Amendment of s 157 (Receipt to be given)	109
151	Amendment of s 159 (Inspector may dispose of fisheries resources taken unlawfully)	109
152	Amendment of s 165 (Where and how to start appeal)	110
153	Amendment of s 173B (Additional power of police officer for executing warrant)	110
154	Replacement of s 182 (Obstruction etc. of inspector)	111
	182 Obstructing inspector	111
155	Amendment of s 184 (Evidentiary provisions)	111
156	Insertion of new s 184A	112
	184A Proof of appointment unnecessary	112
157	Amendment of sch 1 (Dictionary)	112
Part 3	Amendments commencing by proclamation	
Division 1	Amendments relating to aquaculture authorities	
158	Amendment of s 49 (Authorities that may be issued)	114
159	Amendment of s 52 (Things authorised by authorities)	114
160	Insertion of new s 52A	115
	52A Resource allocation authority and aquaculture authority do not confer particular rights	115
161	Insertion of new s 55A	115
	55A Additional matter to consider for resource allocation authority or aquaculture authority	116
162	Amendment of s 58 (Consideration of application for renewal of authority (other than permit))	116
163	Amendment of s 59 (Refusal to issue or renew)	117
164	Amendment of s 60 (Notice of refusal of application for issue or renewal etc.)	117
165	Insertion of new s 62A	118
	62A Restriction on condition of aquaculture authority ...	118
166	Amendment of s 63 (Amendment of authority)	119
167	Amendment of s 73 (Registers of authorities and fisheries development approvals)	119
168	Replacement of pt 5, div 3A, hdg and sdiv 1	119

Contents

	76A	Resource allocation authority for prescribed declared fish habitat area development	120
	76B	Aquaculture authority for prescribed aquaculture development	120
	76C	Associated aquaculture activities not authorised by aquaculture development approval	120
169		Replacement of s 88B (Carrying out particular development without resource allocation authority)	121
	88B	Carrying out prescribed declared fish habitat area development without resource allocation authority	121
	88C	Carrying out prescribed aquaculture development without aquaculture authority	122
	88D	Carrying out associated aquaculture activity without aquaculture authority	122
170		Insertion of new pt 12, div 12	122
	Division 12	Transitional provisions for Agriculture and Fisheries and Other Legislation Amendment Act 2024	
	Subdivision 1	Preliminary	
	279	Definitions for division	123
	Subdivision 2	Former resource allocation authorities and undecided applications	
	280	Continuation of former resource allocation authority for prescribed aquaculture development	124
	281	Undecided application for former resource allocation authority for prescribed aquaculture development	124
	Subdivision 3	Existing aquaculture development approvals	
	282	Issue of aquaculture authority if former resource allocation authority for prescribed aquaculture development	125
	283	Issue of aquaculture authority if s 282 does not apply	127
	284	Disapplication of particular development conditions	128
	285	Carrying out associated aquaculture activity for aquaculture development	130
	Subdivision 4	Aquaculture development approvals given for existing development applications	
	286	Application of subdivision	130
	287	Issue of aquaculture authority if prescribed aquaculture development authorised	131
	288	Deemed application for aquaculture authority if s 287 does not apply	132
171		Amendment of sch 1 (Dictionary)	133
Division 2		Amendments relating to monitoring on boats	

172	Amendment of s 61 (Conditions imposed on issue or renewal—general)	135
173	Insertion of new pt 5, divs 3B and 3C	135
	Division 3B Video monitoring condition	
	Subdivision 1 Preliminary	
	76W Definitions for division	136
	76X What is a video monitoring condition	136
	76Y Approval of video monitoring equipment	137
	76Z Imposition of video monitoring condition	137
	Subdivision 2 Installation and use of approved video monitoring equipment	
	76ZA Application of subdivision	138
	76ZB Definitions for subdivision	138
	76ZC Recreational activities not to be recorded	138
	76ZD Installing and using equipment	139
	76ZE Giving recording and related information	139
	76ZF Malfunctioning equipment	140
	76ZG Equipment not to be interfered with	141
	Division 3C Observation condition	
	Subdivision 1 Preliminary	
	76ZH Definitions for division	141
	76ZI What is an observation condition	142
	76ZJ Imposition of observation condition	142
	Subdivision 2 Appointing official observers	
	76ZK Appointment of official observer	143
	76ZL Function and powers of official observer	143
	Subdivision 3 Placement of official observers	
	76ZM Application of subdivision	145
	76ZN Definitions for subdivision	145
	76ZO Observation notice	145
	76ZP Requirement to allow official observer to perform function and exercise powers	146
	76ZQ Requirement to help official observer	146
	76ZR Reasonable help if official observer unable to perform function	147
174	Amendment of s 216A (Immunity from prosecution)	148
175	Amendment of s 217 (Protection from liability)	149

Contents

176	Amendment of s 217B (Confidentiality of information)	149
177	Amendment of s 221 (Inspector not to have interest in authority)	149
178	Amendment of sch 1 (Dictionary)	149
Division 3	Other amendment	
179	Amendment of s 5 (Meaning of fish)	150
Chapter 11	Amendment of Forestry Act 1959	
180	Act amended	151
181	Amendment of s 32B (Particular areas of conservation value to be removed from State plantation forest)	151
Chapter 12	Amendment of Nature Conservation Act 1992	
182	Act amended	151
183	Amendment of s 4 (Object of Act)	152
184	Amendment of s 5 (How object is to be achieved)	152
185	Amendment of s 6 (Community participation in administration of Act)	152
186	Amendment of schedule (Dictionary)	152
Chapter 13	Amendment of Sugar Industry Act 1999	
187	Act amended	153
188	Amendment of s 255A (Allegations of false or misleading matters)	153
Chapter 14	Amendment of Veterinary Surgeons Act 1936	
189	Act amended	154
190	Amendment of s 25F (Criteria for decision)	154
191	Replacement of s 33C (Veterinary surgeon to produce records)	154
	33C Producing documents	154
Chapter 15	Other amendments	
192	Legislation amended	155
Schedule 1	Other amendments	156
Part 1	Amendments commencing on assent	
	Animal Care and Protection Act 2001	156
	Animal Management (Cats and Dogs) Act 2008	157
	Biosecurity Act 2014	158
	Exhibited Animals Act 2015	158
	Farm Business Debt Mediation Act 2017	158
	Fisheries Act 1994	159
	Forestry Regulation 2015	162
	State Penalties Enforcement Regulation 2014	163

Part 2	Amendments commencing on 28 August 2024	
	Animal Management (Cats and Dogs) Act 2008	163
	Guide, Hearing and Assistance Dogs Act 2009	163
Part 3	Amendments commencing by proclamation	
	Animal Care and Protection Act 2001	164
	Biosecurity Act 2014	165
	Chemical Usage (Agricultural and Veterinary) Control Regulation 2017	166
	Exhibited Animals Act 2015	166
	Fisheries Act 1994	167
	Land Act 1994	167
	Mineral and Energy Resources (Common Provisions) Regulation 2016	168
	Mineral Resources Regulation 2013	168
	Nature Conservation Act 1992	168
	Nature Conservation (Macropod) Conservation Plan 2017	172
	Planning Regulation 2017	172
	Public Health Act 2005	173
	Stock Route Management Act 2002	173
	Vegetation Management Act 1999	173
	Veterinary Surgeons Act 1936	174

2024

A Bill

for

An Act to amend the *Agricultural Chemicals Distribution Control Act 1966*, the *Animal Care and Protection Act 2001*, the *Animal Management (Cats and Dogs) Act 2008*, the *Biosecurity Act 2014*, the *Chemical Usage (Agricultural and Veterinary) Control Act 1988*, the *Drugs Misuse Act 1986*, the *Exhibited Animals Act 2015*, the *Farm Business Debt Mediation Act 2017*, the *Fisheries Act 1994*, the *Forestry Act 1959*, the *Nature Conservation Act 1992*, the *Sugar Industry Act 1999*, the *Veterinary Surgeons Act 1936* and the legislation mentioned in schedule 1 for particular purposes

[s 1]

The Parliament of Queensland enacts—

Chapter 1 Preliminary

1 Short title

This Act may be cited as the *Agriculture and Fisheries and Other Legislation Amendment Act 2024*.

2 Commencement

- (1) Chapter 4, part 3 commences on 31 July 2024.
- (2) Chapter 4, part 4 and schedule 1, part 2 commence on 28 August 2024.
- (3) The following provisions commence on a day to be fixed by proclamation—
 - (a) chapter 5, part 3;
 - (b) chapter 10, part 3;
 - (c) chapter 12;
 - (d) schedule 1, part 3.

Chapter 2 Amendment of Agricultural Chemicals Distribution Control Act 1966

3 Act amended

This chapter amends the *Agricultural Chemicals Distribution Control Act 1966*.

4 Amendment of sch (Dictionary)

Schedule, definition *ground equipment*—

omit, insert—

ground equipment—

- (a) means a machine or apparatus used, or intended to be used, or capable of being used, for distributing a herbicide; and
- (b) includes a machine or apparatus prescribed by regulation to be ground equipment under this Act; but
- (c) does not include—
 - (i) an aircraft in flight; or
 - (ii) aerial equipment; or
 - (iii) a machine or apparatus prescribed by regulation not to be ground equipment under this Act.

Chapter 3 Amendment of Animal Care and Protection Act 2001

5 Act amended

This chapter amends the *Animal Care and Protection Act 2001*.

Note—

See also the amendments in schedule 1, parts 1 and 3.

6 Amendment of s 181 (Conduct of representatives)

- (1) Section 181(1), from ‘if’ to ‘conduct’—

omit.

- (2) Section 181(2), ‘It is enough to show’—

[s 7]

omit, insert—

If it is relevant to prove a person's state of mind in relation to particular conduct, it is enough to show

7 Omission of ss 209 and 209A

Sections 209 and 209A—

omit.

8 Replacement of ch 9, hdg (Transitional provision for Primary Industries Legislation Amendment Act 2006)

Chapter 9, heading—

omit, insert—

Chapter 9 Transitional provisions

Part 1 Transitional provision for Primary Industries Legislation Amendment Act 2006

9 Insertion of new ch 9, pt 2

Chapter 9—

insert—

Part 2 Transitional provisions for Agriculture and Fisheries and Other Legislation Amendment Act 2024

219 Definitions for part

In this part—

amendment Act means the *Agriculture and Fisheries and Other Legislation Amendment Act 2024*.

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

220 Existing proceedings—state of mind

- (1) This section applies in relation to a proceeding started before the commencement for an offence against this Act if—
 - (a) immediately before the commencement, the proceeding had not been finally dealt with; and
 - (b) it is relevant to prove a person’s state of mind in relation to particular conduct.
- (2) Former section 181 continues to apply to the proceeding as if the amendment Act, section 6 had not commenced.

221 Proceedings for particular offences—liability of executive officer

- (1) This section applies in relation to—
 - (a) an offence against former section 209 committed by a person before the commencement; or
 - (b) an offence against a deemed executive liability provision committed by a person before the commencement.
- (2) Without limiting the *Acts Interpretation Act 1954*, section 20, a proceeding for the offence may be

[s 10]

continued or started, and the person may be convicted of and punished for the offence, as if the amendment Act, sections 7 and 192 had not commenced.

(3) Subsection (2) applies despite the Criminal Code, section 11.

(4) In this section—

deemed executive liability provision has the meaning given by former section 209A(4).

Chapter 4 **Amendment of Animal Management (Cats and Dogs) Act 2008**

Part 1 **Preliminary**

10 **Act amended**

This chapter amends the *Animal Management (Cats and Dogs) Act 2008*.

Note—

See also the amendments in schedule 1, parts 1 and 2.

Part 2 **Amendments commencing on assent**

11 **Amendment of s 81 (Obligation to comply with permit conditions)**

(1) Section 81(1), penalty, ‘75 penalty units’—

omit, insert—

150 penalty units

- (2) Section 81(2), penalty, ‘75 penalty units’—

omit, insert—

150 penalty units

12 Amendment of s 93 (Owner’s obligation if proposed declaration notice in force)

- (1) Section 93(1), penalty, ‘75 penalty units’—

omit, insert—

150 penalty units

- (2) Section 93(1), note, ‘declared dangerous dog or declared menacing dog’—

omit, insert—

proposed restricted dog, declared dangerous dog,
declared menacing dog or proposed declared dog

13 Amendment of s 97 (Declared dangerous dogs)

Section 97(1), penalty, ‘75 penalty units’—

omit, insert—

150 penalty units

14 Amendment of s 98 (Declared menacing dogs)

Section 98(1), penalty, ‘75 penalty units’—

omit, insert—

150 penalty units

15 Amendment of s 134 (Failure to comply with notice)

- (1) Section 134, heading, before ‘notice’—

[s 16]

insert—

compliance

- (2) Section 134(1), penalty, ‘75 penalty units’—

omit, insert—

150 penalty units

16 Amendment of ch 8, hdg (Reviews)

Chapter 8, heading, after ‘Reviews’—

insert—

and appeals

17 Insertion of new ch 8, pt 3

Chapter 8—

insert—

Part 3

Appeals

190 Appeal against QCAT decision on external review relating to destruction order only on question of law

- (1) This section applies in relation to a decision made by QCAT in a proceeding for the external review of a decision under section 127 or 127A to make a destruction order in relation to a dog.
- (2) An appeal against QCAT’s decision in the proceeding may be made only on a question of law.

18 Insertion of new s 209B

After section 209A—

insert—

209B Chief executive may make guidelines

- (1) The chief executive may make guidelines about matters relating to compliance with this Act.
- (2) Without limiting subsection (1), the guidelines may include information to help authorised persons perform their functions under this Act.
- (3) The chief executive must publish the guidelines on the department's website.

19 Insertion of new ch 10, pt 6

Chapter 10—

insert—

Part 6 Transitional provisions for Agriculture and Fisheries and Other Legislation Amendment Act 2024

Division 1 Preliminary

230 Definitions for part

In this part—

amendment Act means the *Agriculture and Fisheries and Other Legislation Amendment Act 2024*.

former, for a provision of this Act, means the provision as in force from time to time before the commencement of the provision in which the term is used.

new, for a provision of this Act, means the provision as in force from the commencement of

[s 20]

the provision in which the term is used.

Division 2 Provision for amendments commencing on assent

231 Appeals against external review decisions relating to destruction orders

New section 190 applies only to an appeal started
after the commencement.

20 Amendment of sch 2 (Dictionary)

Schedule 2, definition *responsible person*, ‘regulated’—
omit.

Part 3 Amendments commencing on 31 July 2024

21 Amendment of s 4 (How purposes are to be primarily achieved)

Section 4(1), after ‘persons to’—
insert—

exercise effective control of dogs in particular
circumstances and

22 Omission of s 64 (When a regulated dog is under effective control)

Section 64—
omit.

23 Amendment of s 89 (Power to make declaration)

Section 89(7)—

omit, insert—

(7) In this section—

animal has the meaning given by section 191.

seriously attack means—

- (a) in relation to a person—attack the person in a way that causes the death of, or grievous bodily harm or bodily harm to, the person; or
- (b) in relation to an animal—attack the animal in a way that causes the death of the animal, or maims or wounds the animal.

24 Amendment of s 125 (Seizure powers for dogs)

Section 125(2), from ‘if it’—

omit, insert—

if no person is exercising effective control of the dog.

25 Insertion of new ss 191–193

Before section 194—

insert—

191 Definitions for part

In this part—

animal does not include vermin that are not the property of anyone.

Examples of vermin that are someone’s property—

- a pet mouse or guinea pig
- vermin that are protected animals under the *Nature Conservation Act 1992*, part 5, division 3

[s 25]

dog patrol category see the *Security Providers Act 1993*, schedule 2.

effective control, of a dog, see section 192.

relevant person, for a dog, means—

- (a) the owner of the dog; or
- (b) a responsible person for the dog.

security officer has the meaning given by the *Security Providers Act 1993*, section 7.

security patrol dog means a dog used in the dog patrol category of functions of a security officer.

serious dog offence means an offence against any of the following provisions—

- (a) section 193, if the circumstances mentioned in paragraph (a), (b), (c) or (d) of the penalty apply;
- (b) section 194, if the circumstances mentioned in paragraph (a), (b), (c) or (d) of the penalty apply;
- (c) section 195(1), if the circumstances mentioned in paragraph (a), (b), (c) or (d) of the penalty apply.

192 What is *effective control*

- (1) A relevant person for a dog that is a regulated dog exercises ***effective control*** of the dog if—
 - (a) all of the following apply—
 - (i) the person is physically able to control the dog;
 - (ii) the person is in control of only that dog;
 - (iii) either—

- (A) the person is restraining the dog by holding the dog by a leash, lead or other restraining device that is appropriate to restrain the dog in a way that ensures the dog is not a risk to a person or an animal; or
 - (B) the dog is securely tethered to a fixed object in a way that ensures the dog is not a risk to a person or an animal and is under the continuous supervision of the person; or
 - (b) the dog is being kept in an enclosed part of a vehicle and is enclosed or restrained in a way that prevents the dog, or any part of the dog, moving outside the enclosed part of the vehicle; or
 - (c) the dog is participating in, or being exhibited or trained at, an exhibition, race meeting, race trial or obedience trial supervised by a body that is—
 - (i) recognised by the State as an appropriate body to supervise the exhibition, meeting or trial and published on the department’s website; or
 - (ii) recognised by the local government in whose local government area the exhibition, meeting or trial is held as an appropriate body to supervise the exhibition, meeting or trial and published on the local government’s website.
- (2) A relevant person for a dog, other than a regulated dog, exercises *effective control* of the dog if—

[s 25]

- (a) for a dog in a public place that is an off-leash area—the person is able to supervise the dog and control the dog by using voice command; or
- (b) for a dog in another public place—
 - (i) the person is physically able to control the dog; and
 - (ii) 1 of the following applies—
 - (A) the person is restraining the dog by holding the dog by a leash, lead or other restraining device;
 - (B) the dog is securely tethered to a fixed object and is under the continuous supervision of the person;
 - (C) the dog is kept in an appropriate temporary enclosure that contains the dog's movement and is under the continuous supervision of the person; or
- (c) the dog is being confined or tethered in, or on, a vehicle in a way that prevents the dog moving any part of its body beyond the vehicle; or
- (d) the dog is participating in, or being exhibited or trained at, an exhibition, race meeting, race trial or obedience trial supervised by a body that is—
 - (i) recognised by the State as an appropriate body to supervise the exhibition, meeting or trial and published on the department's website; or
 - (ii) recognised by the local government in whose local government area the

exhibition, meeting or trial is held as an appropriate body to supervise the exhibition, meeting or trial and published on the local government's website; or

- (e) the dog is a government entity dog or security patrol dog performing the functions of that class of dog authorised under this Act or another Act; or
- (f) the dog is a working dog and is performing a function of being a working dog.

(3) In this section—

off-leash area means an area within a local government area where, under a local law, a responsible person for a dog is not required to be in control of the dog by using a leash, lead or other restraining device.

193 Relevant person must exercise effective control of dog in public place

A relevant person for a dog must, unless the person has a reasonable excuse, exercise effective control of the dog if the dog is in a public place.

Maximum penalty—

- (a) if the dog attacks a person and the attack causes the death of, or grievous bodily harm to, the person—
 - (i) if the dog is a regulated dog—600 penalty units or 2 years imprisonment; or
 - (ii) if the relevant person has been convicted of a serious dog offence within the preceding 5 years—600 penalty units or 2 years imprisonment; or

[s 25]

- (iii) otherwise—600 penalty units or 1 year's imprisonment; or
- (b) if the dog attacks an animal and the attack causes the death of the animal or maims the animal—
 - (i) if the dog is a regulated dog—500 penalty units; or
 - (ii) if the relevant person has been convicted of a serious dog offence within the preceding 5 years—500 penalty units; or
 - (iii) otherwise—400 penalty units; or
- (c) if the dog attacks a person and the attack causes bodily harm to the person—
 - (i) if the dog is a regulated dog—300 penalty units or 6 months imprisonment; or
 - (ii) if the relevant person has been convicted of a serious dog offence within the preceding 5 years—300 penalty units or 6 months imprisonment; or
 - (iii) otherwise—300 penalty units; or
- (d) if the dog attacks an animal and the attack wounds the animal—
 - (i) if the dog is a regulated dog—200 penalty units; or
 - (ii) if the relevant person has been convicted of a serious dog offence within the preceding 5 years—200 penalty units; or
 - (iii) otherwise—150 penalty units; or
- (e) if paragraphs (a) to (d) do not apply—

- (i) if the dog is a regulated dog—100 penalty units; or
- (ii) otherwise—50 penalty units.

26 Replacement of ss 194 and 195

Section 194 and 195—

omit, insert—

194 Relevant person must ensure dog does not attack or cause fear

A relevant person for a dog must take reasonable steps to ensure the dog does not attack, or act in a way that causes fear to, a person or an animal.

Maximum penalty—

- (a) if the attack causes the death of a person or grievous bodily harm to a person—
 - (i) if the dog is a regulated dog—600 penalty units or 2 years imprisonment; or
 - (ii) if the relevant person has been convicted of a serious dog offence within the preceding 5 years—600 penalty units or 2 years imprisonment; or
 - (iii) otherwise—600 penalty units or 1 year's imprisonment; or
- (b) if the attack causes the death of an animal or maims an animal—
 - (i) if the dog is a regulated dog—500 penalty units; or
 - (ii) if the relevant person has been convicted of a serious dog offence within the preceding 5 years—500 penalty units; or

[s 26]

- (iii) otherwise—400 penalty units; or
- (c) if the attack causes bodily harm to a person—
 - (i) if the dog is a regulated dog—300 penalty units or 6 months imprisonment; or
 - (ii) if the relevant person has been convicted of a serious dog offence within the preceding 5 years—300 penalty units or 6 months imprisonment; or
 - (iii) otherwise—300 penalty units; or
- (d) if the attack wounds an animal—
 - (i) if the dog is a regulated dog—200 penalty units; or
 - (ii) if the relevant person has been convicted of a serious dog offence within the preceding 5 years—200 penalty units; or
 - (iii) otherwise—150 penalty units; or
- (e) if paragraphs (a) to (d) do not apply—
 - (i) if the dog is a regulated dog—100 penalty units; or
 - (ii) otherwise—50 penalty units.

195 Prohibition on allowing or encouraging dog to attack or cause fear

- (1) A person must not allow or encourage a dog to attack, or act in a way that causes fear to, a person or an animal.

Maximum penalty—

- (a) if the attack causes the death of a person or grievous bodily harm to a person—

- (i) if the dog is a regulated dog—700 penalty units or 3 years imprisonment; or
- (ii) if the person has been convicted of a serious dog offence within the preceding 5 years—700 penalty units or 3 years imprisonment; or
- (iii) otherwise—700 penalty units or 2 years imprisonment; or
- (b) if the attack causes the death of an animal or maims an animal—
 - (i) if the dog is a regulated dog—600 penalty units; or
 - (ii) if the person has been convicted of a serious dog offence within the preceding 5 years—600 penalty units; or
 - (iii) otherwise—500 penalty units; or
- (c) if the attack causes bodily harm to a person—
 - (i) if the dog is a regulated dog—400 penalty units or 2 years imprisonment; or
 - (ii) if the person has been convicted of a serious dog offence within the preceding 5 years—400 penalty units or 2 years imprisonment; or
 - (iii) otherwise—400 penalty units; or
- (d) if the attack wounds an animal—
 - (i) if the dog is a regulated dog—300 penalty units; or
 - (ii) if the person has been convicted of a serious dog offence within the

[s 27]

preceding 5 years—300 penalty units;
or

(iii) otherwise—200 penalty units; or

(e) if paragraphs (a) to (d) do not apply—

(i) if the dog is a regulated dog—150
penalty units; or

(ii) otherwise—75 penalty units.

(2) In this section—

encourage, without limiting the Criminal Code,
sections 7 and 8, includes cause to encourage.

27 Amendment of s 196 (Defences for offence against s 194 or 195)

(1) Section 196, heading, ‘s 194’—

omit, insert—

s 193, 194

(2) Section 196(1), ‘section 194’—

omit, insert—

section 193, 194

(3) Section 196(2)—

omit.

28 Amendment of s 207A (Chief executive (transport) must disclose information)

Section 207A(3), definition *prescribed offence*—

omit, insert—

prescribed offence means an offence against
section 193, 194 or 195 involving an attack by a
dog, if the attack—

- (a) causes the death of, or grievous bodily harm or bodily harm to, a person; or
- (b) causes the death of an animal, or maims or wounds an animal.

29 Insertion of new ch 10, pt 6, div 3

Chapter 10, part 6—

insert—

Division 3 Provisions for amendments commencing on 31 July 2024

232 Proceedings for particular offences

- (1) This section applies in relation to an offence against former section 194 or 195 committed by a person before the commencement.
- (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 convicted of and punished for the offence, as if the amendment Act, section 26 had not commenced.
- (3) Subsection (2) applies despite the Criminal Code, section 11.

233 References to serious dog offence

For chapter 9, part 1, a reference to a serious dog offence includes a reference to—

- (a) an offence against former section 194, if the circumstances mentioned in paragraph (a),
- (b) or (c) of the penalty apply; and

[s 30]

- (b) an offence against former section 195, if the circumstances mentioned in paragraph (a), (b) or (c) of the penalty apply.

30 Amendment of sch 1 (Permit conditions and conditions applying to declared dangerous and menacing dogs)

- (1) Schedule 1, section 3, heading, ‘and effective control’—
omit.
- (2) Schedule 1, section 3(1), from ‘unless’—
omit, insert—
unless it is muzzled.

31 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definition *effective control*—
omit.
- (2) Schedule 2—
insert—

animal, for chapter 9, part 1, see section 191.

dog patrol category, for chapter 9, part 1, see section 191.

effective control, of a dog, see section 192.

relevant person, for a dog, for chapter 9, part 1, see section 191.

security officer, for chapter 9, part 1, see section 191.

security patrol dog, for chapter 9, part 1, see section 191.

serious dog offence, for chapter 9, part 1, see section 191.

Part 4 Amendments commencing on 28 August 2024

32 **Amendment of s 3 (Purposes of Act)**

Section 3—

insert—

- (f) prohibit the ownership of and particular dealings with dogs of particular breeds.

33 **Amendment of s 4 (How purposes are to be primarily achieved)**

(1) Section 4—

insert—

- (ha) prohibiting ownership of dogs of particular breeds;

(2) Section 4(ha) to (m)—

renumber as section 4(i) to (n).

34 **Amendment of s 45 (Dog must bear identification in particular circumstances)**

Section 45(2), note—

omit, insert—

Note—

See chapter 4, part 5 for conditions applying in relation to regulated dogs.

35 **Amendment of s 47 (What registration form must state)**

(1) Section 47(1)(c)(ix), ‘, a declared menacing dog or a restricted dog’—

omit, insert—

[s 36]

or a declared menacing dog

- (2) Section 47(2), definition *address*—

omit, insert—

address, for a dog, means the address of the place where the dog is usually kept or is proposed to be kept.

36 Amendment of s 52 (Registration fee must be fixed to give desexing incentive)

- (1) Section 52(3), definition *dog*—

omit, insert—

dog means a dog other than a declared dangerous dog.

- (2) Section 52, note—

omit, insert—

Note—

See section 70 in relation to the compulsory desexing of declared dangerous dogs.

37 Amendment of s 54 (Amendment of registration)

Section 54(2), ‘a relevant person’—

omit, insert—

an owner of a regulated dog

38 Amendment of s 59 (Purpose of ch 4 and its achievement)

- (1) Section 59(1)(a), ‘particular types of dogs called ‘regulated dogs’;’—

omit, insert—

regulated dogs;

- (2) Section 59(1)(b), ‘the dogs’—

omit, insert—

regulated dogs

- (3) Section 59(2)(a), ‘, menacing dogs or restricted dogs’—

omit, insert—

or menacing dogs

- (4) Section 59(2)(b), ‘and restricted dogs’—

omit.

- (5) Section 59(2)(d)—

omit.

- (6) Section 59(2)(g), ‘(f)’—

omit, insert—

(e)

- (7) Section 59(2)(e) to (g)—

renumber as section 59(2)(d) to (f).

39 Amendment of s 60 (What is a *regulated dog*)

Section 60(c)—

omit.

40 Omission of s 63 (What is a *restricted dog*)

Section 63—

omit.

41 Amendment of s 65 (Application of pt 2)

Section 65(2)—

omit.

[s 42]

42 Omission of s 66 (Prohibition on supply of restricted dog)

Section 66—

omit.

43 Amendment of s 67 (Prohibition on supply of declared dangerous dog or menacing dog)

- (1) Section 67, heading, ‘declared dangerous dog or menacing dog’—

omit, insert—

regulated dog or proposed declared dog

- (2) Section 67(1), from ‘declared dangerous dog’ to ‘someone else’—

omit, insert—

regulated dog or a proposed declared dog to
another person

- (3) Section 67(1)(a), ‘designated dog’—

omit, insert—

regulated dog or a proposed declared dog, as the
case may be

- (4) Section 67(2), definition *proposed declared dog*, paragraph (b), ‘or 190’—

omit, insert—

or the QCAT Act, section 22(3)

44 Replacement of ch 4, pt 2, div 3, hdg (Restricted dogs and declared dangerous dogs only)

Chapter 4, part 2, division 3, heading—

omit, insert—

Division 3 Declared dangerous dogs

45 Amendment of s 69 (Prohibition on breeding)

Section 69(1) and (2), ‘or restricted dog’—
omit.

46 Replacement of s 70 (Compulsory desexing of declared dangerous dog or restricted dog)

Section 70—
omit, insert—

70 Compulsory desexing of declared dangerous dog

- (1) The owner of a declared dangerous dog must ensure the dog is desexed within 3 months after the dog is declared to be a dangerous dog unless desexing is likely to be a serious risk to the dog’s health.

Maximum penalty—150 penalty units.

- (2) However, subsection (3) applies if a declared dangerous dog is not desexed within the period mentioned in subsection (1) because desexing is likely to temporarily be a serious risk to the dog’s health (a *temporary risk*).

- (3) The owner of the declared dangerous dog must ensure the dog is desexed within 3 months after the temporary risk ends.

Maximum penalty—150 units.

47 Omission of ch 4, pt 2, div 4 (Restricted dogs only)

Chapter 4, part 2, division 4—
omit.

48 Omission of ch 4, pt 3 (Restricted dog permits)

Chapter 4, part 3—

[s 49]

omit.

49 Amendment of s 89 (Power to make declaration)

- (1) Section 89(1)(c)—

omit.

- (2) Section 89(4)—

omit.

- (3) Section 89(5) to (7)—

renumber as section 89(4) to (6).

50 Amendment of s 90 (Notice of proposed declaration)

- (1) Section 90(1)(c), ‘, other than for a restricted dog’—

omit.

- (2) Section 90(1)(d)—

omit, insert—

(d) the reasons for the proposed declaration;
and

- (3) Section 90(1)(f)—

omit.

51 Amendment of s 93 (Owner’s obligation if proposed declaration notice in force)

- (1) Section 93, before subsection (1)—

insert—

(1AA) This section applies if the proposed declaration notice is for a dangerous dog declaration.

- (2) Section 93(1), ‘permit condition’—

omit, insert—

condition

- (3) Section 93(1), note—

omit, insert—

Note—

See also section 67 for the prohibition on supplying a regulated dog or a proposed declared dog.

- (4) Section 93(2), ‘Subsection (1)’—

omit, insert—

Subsection (2)

- (5) Section 93(1AA) to (2)—

renumber as section 93(1) to (3).

52 Amendment of s 95 (Notice and taking effect of declaration)

- (1) Section 95, heading—

omit, insert—

95 Giving information notice about decision to make regulated dog declaration

- (2) Section 95(1), ‘a notice under subsection (3) or (4)’—

omit, insert—

an information notice about the decision

- (3) Section 95(2)—

omit, insert—

- (2) However, the local government must not give an information notice under subsection (1) if an authorised person has made a destruction order under section 127A in relation to the dog.

Note—

See section 127A in relation to the requirement to give a single information notice about the decisions to make the regulated dog declaration and the destruction order.

- (4) Section 95(3) and (4)—

[s 53]

omit.

- (5) Section 95(5)(a) and (b), before ‘notice’—

insert—

information

- (6) Section 95(6), from ‘If’ to ‘must include’—

omit, insert—

The information notice must state

- (7) Section 95(6)(e)—

omit, insert—

- (e) that the dog must be kept only at the place
stated in the registration notice as the
address for the dog; and

- (8) Section 95(5) and (6)—

renumber as section 95(3) and (4).

53 Replacement of ch 4, pt 5, hdg (Application of particular permit conditions for declared dangerous or menacing dogs)

Chapter 4, part 5, heading—

omit, insert—

Part 5 Conditions for regulated dogs

54 Amendment of s 96 (Operation of pt 5)

- (1) Section 96(1) and (2), ‘declared dangerous dog or declared menacing dog’—

omit, insert—

regulated dog

- (2) Section 96(3)—

omit.

- (3) Section 96(4), ‘section 95(6)’—

omit, insert—

section 95(4)

- (4) Section 96(5), ‘issued’—

omit, insert—

given

- (5) Section 96(4) and (5)—

renumber as section 96(3) and (4).

55 Amendment of s 97 (Declared dangerous dogs)

Section 97(1), ‘permit condition’—

omit, insert—

condition

56 Amendment of s 98 (Declared menacing dogs)

- (1) Section 98(1), ‘permit condition’—

omit, insert—

condition

- (2) Section 98(1), ‘3(1)(b) and (2),’—

omit.

57 Omission of s 99 (Failure to decide application taken to be refusal)

Section 99—

omit.

[s 58]

**58 Amendment, relocation and renumbering of s 102
(Recovery of seizure or destruction costs)**

- (1) Section 102(1)(a), after ‘regulated dog’—

insert—

or prohibited dog

- (2) Section 102(1)(e), after ‘section 127’—

insert—

, 127AA or 127A

- (3) Section 102—

relocate to chapter 9, part 5 and *renumber* as section 207D.

**59 Amendment of s 103 (Cost of regulated dog
enclosure—dividing fence)**

Section 103(5), definition *relevant place*—

omit, insert—

relevant place, for a regulated dog, means the place stated in the registration notice for the dog as the address for the dog.

60 Insertion of new ch 4A

After chapter 4—

insert—

Chapter 4A Prohibited dogs

103A What is a *prohibited dog*

- (1) A ***prohibited dog*** is a dog of a breed prohibited from importation into Australia under the *Customs Act 1901* (Cwlth).

Note—

See the *Customs (Prohibited Imports) Regulations 1956* (Cwlth), section 3 and schedule 1 for the breeds of dogs that are prohibited from being imported.

- (2) For subsection (1), a **breed** does not include a crossbreed.

103B Prohibition on prohibited dogs

- (1) A person must not own, or be a responsible person for, a prohibited dog unless the person has a reasonable excuse.

Maximum penalty—150 penalty units.

- (2) It is a reasonable excuse for a person to own or be a responsible person for a prohibited dog if the dog is an assistance animal.
- (3) In this section—

assistance animal see the *Disability Discrimination Act 1992* (Cwlth), section 9(2).

Note—

See also section 196A in relation to the application of chapter 9, part 1 to a prohibited dog.

103C Prohibition on supply of prohibited dogs

A person must not supply a prohibited dog to another person.

Maximum penalty—150 penalty units.

Note—

See also section 196A in relation to the application of chapter 9, part 1 to a prohibited dog.

103D Prohibition on breeding with prohibited dogs

A person must not give or take possession of a prohibited dog for the purpose of allowing it to

[s 61]

breed with another dog.

Maximum penalty—150 penalty units.

Note—

See also section 196A in relation to the application of chapter 9, part 1 to a prohibited dog.

103E Surrender of prohibited dogs

- (1) An owner of a prohibited dog may surrender the dog to the relevant local government.
- (2) On the surrender, the dog becomes the local government's property.
- (3) The local government must destroy the dog as soon as practicable after the surrender.

61 Amendment of s 111 (General power to enter places)

- (1) Section 111(1)(e) to (h)—

omit, insert—

- (e) the entry is made, during the daytime, to inspect whether a prohibited dog is at the place; or
- (f) the entry is made, during the daytime, to inspect work carried out under a condition of a dangerous dog declaration, menacing dog declaration, or compliance notice; or
- (g) the entry is made, at a reasonable time of the day or night, under an approved inspection program.

- (2) Section 111(2), ‘, (f) or (g)’—

omit, insert—

or (f)

- (3) Section 111(3), ‘to (h)’—

omit, insert—

to (g)

62 Amendment of s 112 (Additional entry powers for particular dogs)

(1) Section 112(1)(a)—

omit, insert—

(a) the authorised person reasonably suspects—

(i) a dog is at the place; and

(ii) any delay in entering the place will result in a risk to community health or safety, or in the dog being concealed or moved to avoid a requirement under chapter 4; or

(2) Section 112(1)—

insert—

(c) the authorised person reasonably suspects a prohibited dog is at the place.

(3) Section 112(3), ‘subsection (1)(a)(ii)’—

omit, insert—

subsection (1)(a) and (c)

63 Amendment of s 113 (Approval of inspection program authorising entry)

Section 113(1), example—

omit, insert—

Example of a matter that may be monitored under an approved inspection program—

compliance with the conditions imposed under chapter 4, part 5

[s 64]

64 Amendment of s 125 (Seizure powers for dogs)

Section 125(1)(b)—

omit, insert—

- (b) the person reasonably believes the dog is a prohibited dog; or

65 Insertion of new s 126A

After section 126—

insert—

126A What is a *destruction order*

A *destruction order*, in relation to a dog, is an order made by an authorised person stating that the authorised person proposes to destroy the dog not earlier than 14 days after the notice is served under this part.

66 Replacement of s 127 (Power to destroy seized regulated dog)

Section 127—

omit, insert—

127 Destruction of regulated dog or prohibited dog in particular circumstances

- (1) This section applies if the dog is a regulated dog or a prohibited dog.
- (2) The authorised person may, without notice given to an owner of or responsible person for the dog, immediately destroy the dog if—
 - (a) the authorised person reasonably believes the dog is dangerous and the authorised person can not control the dog; or
 - (b) an owner of the dog has asked the authorised person to destroy the dog.

- (3) Also, the authorised person may destroy the dog not earlier than 3 days after seizing the dog if—
 - (a) the dog—
 - (i) has no registered owner, or apparently has no registered owner; and
 - (ii) is not the subject of a regulated dog declaration made by the relevant local government; and
 - (b) neither the authorised person nor the relevant local government knows who is an owner of, or a responsible person for, the dog.

127AA Destruction of regulated dog or prohibited dog under destruction order

- (1) This section applies if—
 - (a) the dog is a regulated dog or a prohibited dog; and
 - (b) section 127 does not authorise the destruction of the dog.
- (2) If the dog has seriously attacked a person or an animal, the authorised person must make a destruction order in relation to the dog.
- (3) If the dog has not seriously attacked a person or an animal, the authorised person may make a destruction order in relation to the dog.
- (4) The destruction order must—
 - (a) be served on—
 - (i) the registered owner of the dog; or
 - (ii) if there is no registered owner of the dog—any person who is an owner of, or a responsible person for, the dog; and

[s 66]

- (b) include or be accompanied by an information notice about the decision to make the destruction order.
- (5) If a destruction order is made in relation to the dog, the authorised person may destroy the dog, not earlier than 14 days after the order is served under subsection (4) if an application has not been made under chapter 8, part 1 for an internal review of the decision to make the destruction order (the ***destruction order decision***).
- (6) If an application for internal review has been made under chapter 8, part 1 for an internal review of the destruction order decision, the authorised person may destroy the dog if—
 - (a) the application has been decided and both of the following apply—
 - (i) the decision on the application confirms the destruction order decision;
 - (ii) an application for an external review of the destruction order decision has not been made within the period allowed under the QCAT Act; or
 - (b) the application has been withdrawn or has otherwise ended.
- (7) If an application has been made for an external review of the destruction order decision, the authorised person may destroy the dog if—
 - (a) the application has been decided and both of the following apply—
 - (i) the decision on the application (the ***external review decision***) confirms the destruction order decision;

- (ii) an appeal against the external review decision has not been started within the period allowed under the QCAT Act; or
 - (b) the application has been withdrawn or has otherwise ended.
- (8) If an appeal against the external review decision has been started, the authorised person may destroy the dog if—
 - (a) the appeal has been decided and the effect of the decision is to confirm the external review decision; or
 - (b) the appeal has been withdrawn or has otherwise ended.
- (9) In this section—
 - animal* has the meaning given by section 191.
 - seriously attack* means—
 - (a) in relation to a person—attack the person in a way that causes the death of, or grievous bodily harm or bodily harm to, the person; or
 - (b) in relation to an animal—attack the animal in a way that causes the death of the animal, or maims or wounds the animal.

67 Amendment of s 127A (Concurrent regulated dog declaration and destruction order)

- (1) Section 127A(1)(a) and (b)—

omit, insert—

- (a) has made a regulated dog declaration under section 94 for the dog; but
- (b) has not given the owner of the dog an information notice under section 95 about the decision to make the declaration.

[s 68]

(2) Section 127A(2) to (4)—

omit, insert—

- (2) Even though the regulated dog declaration has not taken effect under section 95(3), an authorised officer may make a destruction order for the dog.
- (3) As soon as practicable after deciding to make the destruction order for the dog, the authorised person must serve the destruction order on—
 - (a) the registered owner of the dog; or
 - (b) if there is no registered owner of the dog—a person who is an owner of, or a responsible person for, the dog.
- (4) The destruction order must include or be accompanied by a single information notice about—
 - (a) the decision to make the regulated dog declaration under section 94(2); and
 - (b) the decision to make the destruction order.

(3) Section 127A(5), ‘Section 127(6)’—

omit, insert—

Section 127AA(5)

(4) Section 127A(6)—

omit.

68 Amendment of s 130 (Return of particular dog)

Section 130(1)(a)(i) and (ii)—

omit, insert—

- (i) reasonably suspected the dog was a regulated dog; or
- (ii) reasonably suspected the dog was a prohibited dog; or

- (iii) considered a proposed declaration notice should be given for the dog; and

69 Amendment of s 131 (Return of particular dog to registered owner)

- (1) Section 131(1)—

omit, insert—

- (1) This section applies if the dog has, or appears to have, a registered owner and the dog—

- (a) is a regulated dog; or
- (b) is a dog for which a proposed declaration notice has been given; or
- (c) was seized because an authorised person reasonably suspected the dog was a prohibited dog.

- (2) Section 131(2)(b), ‘for’—

omit, insert—

in relation to

- (3) Section 131(2)(d), ‘permit condition for the dog’—

omit, insert—

condition imposed under chapter 4, part 5 in relation to the dog

- (4) Section 131(2)(d), note—

omit.

- (5) Section 131(2)(e), ‘is being made’—

omit, insert—

has been given

- (6) Section 131(3)(c), ‘permit conditions’—

omit, insert—

conditions imposed under chapter 4, part 5 in

[s 70]

relation to the dog

70 Amendment of s 172 (Chief executive must keep regulated dog register)

Section 172(1), ‘declared dangerous dogs, declared menacing dogs, and restricted dogs’—

omit, insert—

regulated dogs

71 Amendment of s 174 (Chief executive officer must give information)

(1) Section 174(1)—

omit, insert—

(1) This section applies if a local government makes a regulated dog declaration for a dog in the local government’s area.

(1A) The chief executive officer of the local government must give the chief executive notice of the regulated dog declaration.

(2) Section 174(2)(a), from ‘dog’ to ‘subsection (1)’—

omit, insert—

regulated dog declaration is made for the dog

(3) Section 174(2)(b)(ii), after ‘section 95’—

insert—

about the decision to make the regulated dog declaration

(4) Section 174(1A) and (2)—

renumber as section 174(2) and (3).

72 Replacement of s 175 (Chief executive officer must give information about owner)

Section 175—

omit, insert—

175 Chief executive officer must give information about owner

- (1) This section applies if an owner of a regulated dog gives the chief executive officer of the relevant local government for the dog notice under section 54 of changed information in relation to the dog.
- (2) The chief executive officer must, within 7 days after being given notice of the changed information, give the chief executive notice of the changed information.

73 Amendment of s 178 (General register)

- (1) Section 178(b) to (d)—

omit, insert—

- (b) if the dog is a regulated dog—

- (i) the information required to be stated in an information notice under section 95(4) in relation to the dog; and
- (ii) the number recorded on its collar, identification tag, registration tag or tattoo for desexing;

- (2) Section 178(e)—

renumber as section 178(c).

74 Amendment of s 184 (Stay of operation of original decision)

- (1) Section 184(5), ‘regulated dog declaration’—

omit, insert—

[s 75]

dangerous dog declaration,

(2) Section 184(5), note—

omit, insert—

Note—

See also section 67 for the prohibition on supplying a regulated dog or a proposed declared dog.

75 Amendment of s 185A (Internal review of concurrent regulated dog declaration and destruction order)

Section 185A(1)(a), ‘a combined information notice under section 127A(4)(b)’—

omit, insert—

an information notice under section 127A(4)

76 Amendment of s 189 (Condition on stay granted by QCAT for particular decisions)

(1) Section 189(1), ‘regulated dog declaration’—

omit, insert—

dangerous dog declaration

(2) Section 189(2), note—

omit, insert—

Note—

See also section 67 for the prohibition on supplying a regulated dog or a proposed declared dog.

77 Amendment of s 190 (Appeal against QCAT decision on external review relating to destruction order only on question of law)

Section 190(1), after ‘section 127’—

insert—

, 127AA

78 Insertion of new s 196A

After section 196—

insert—

196A Application of part to prohibited dogs

This part applies in relation to a prohibited dog as if a reference in this part to a regulated dog included a reference to a prohibited dog.

Note—

See also chapter 4A for other offences in relation to prohibited dogs.

79 Amendment of s 197 (Muzzling decommissioned greyhounds in public places)

Section 197(3), definition *decommissioned greyhound*, paragraph (a), ‘declared dangerous dog or declared menacing dog’—

omit, insert—

regulated dog

80 Amendment of s 203 (Other evidentiary aids)

(1) Section 203(1)(a)(iii)—

omit.

(2) Section 203(1)(a)(iv) to (vii)—

renumber as section 203(1)(a)(iii) to (vi).

(3) Section 203(1)(d)—

omit.

81 Insertion of new ch 10, pt 6, div 4

Chapter 10, part 6—

insert—

Division 4 Provisions for amendments commencing on 28 August 2024

234 Existing applications about restricted dog permits

- (1) This section applies if an application for, or in relation to, a restricted dog permit was made under former chapter 4, part 3, but not decided, before the commencement.
- (2) This Act as in force immediately before the commencement continues to apply to the application as if the amendment Act had not been enacted.

235 Existing reviews and appeals in relation to decisions about restricted dog permits

- (1) This section applies if—
 - (a) before the commencement—
 - (i) an original decision was made under former chapter 4, part 3 refusing an application for a restricted dog permit or the renewal of a restricted dog permit; and
 - (ii) the applicant applied for an internal review or an external review of the original decision, or started an appeal against a decision made on an external review of the original decision; and
 - (b) immediately before the commencement, the application or appeal had not been decided or withdrawn.
- (2) Despite the repeal of former chapter 4, part 3—

- (a) the application or appeal may continue to be heard and decided as if the amendment Act had not been enacted; and
- (b) this Act as in force immediately before the commencement continues to apply for the purpose of issuing a restricted dog permit under former chapter 4, part 3 in accordance with a decision made on the internal review, external review or appeal.

236 Existing review and appeal rights in relation to decisions about restricted dog permits

- (1) This section applies if—
 - (a) before the commencement, an original decision was made under former chapter 4, part 3 refusing an application for a restricted dog permit or the renewal of a restricted dog permit; and
 - (b) immediately before the commencement—
 - (i) the applicant had not applied for an internal review or an external review of the original decision, or started an appeal against a decision made on an external review of the original decision; but
 - (ii) the period within which the applicant could apply, or start an appeal, had not ended.
- (2) Despite the repeal of former chapter 4, part 3—
 - (a) the applicant may make the application or start the appeal, and the application or appeal may be heard and decided, as if the amendment Act had not been enacted; and
 - (b) this Act as in force immediately before the commencement continues to apply for the

[s 81]

purpose of issuing a restricted dog permit under former chapter 4, part 3 in accordance with a decision made on the internal review, external review or appeal.

237 Continued application of pre-commencement Act to particular restricted dogs

- (1) This section applies if—
 - (a) immediately before the commencement—
 - (i) a restricted dog permit was in effect under former chapter 4, part 3 for a restricted dog; and
 - (ii) the restricted dog was registered; or
 - (b) after the commencement, a restricted dog permit is issued or renewed under former chapter 4, part 3, as applied under section 234, 235 or 236, for a dog that—
 - (i) was a restricted dog immediately before the commencement; and
 - (ii) is registered.
- (2) The dog is taken not to be a prohibited dog for the purposes of this Act.
- (3) Also, this Act as in force immediately before the commencement continues to apply in relation to the dog as if—
 - (a) the amendment Act had not been enacted; and
 - (b) the dog continued to be a restricted dog.
- (4) However, subsections (2) and (3) cease to apply in relation to the dog on the earliest of the following to happen—

- (a) the restricted dog permit for the dog expires and the permit holder has not applied to renew the permit under former section 82;
 - (b) the relevant local government for the dog makes an original decision under former chapter 4, part 3, division 3 to refuse an application to renew the restricted dog permit and the circumstances mentioned in subsection (5)(a), (b), (c) or (d) apply;
 - (c) the dog ceases to be registered;
 - (d) the dog is surrendered to the relevant local government under section 100;
 - (e) the dog is destroyed under this Act or otherwise dies.
- (5) For subsection (4)(b), the circumstances are—
- (a) the period within which the applicant may apply for an internal review of the original decision ends and the applicant has not, within that period, applied for an internal review of the original decision; or
 - (b) if the applicant applies for an internal review of the original decision—
 - (i) the application is decided and both of the following apply—
 - (A) the decision on the application confirms the original decision;
 - (B) the period within which the applicant may apply for an external review of the original decision ends and the applicant has not, within that period, applied for an external review; or
 - (ii) the application is withdrawn or otherwise ends without a decision being made; or

[s 81]

- (c) if the applicant applies for an external review of the original decision—
 - (i) the application is decided and both of the following apply—
 - (A) the decision on the application (the *external review decision*) confirms the original decision;
 - (B) the period within which the applicant may start an appeal against the external review decision ends and the applicant has not, within that period, started an appeal against the decision; or
 - (ii) the application is withdrawn or otherwise ends without a decision being made; or
- (d) if the applicant starts an appeal against the external review decision—
 - (i) the appeal is decided and the effect of the decision is to confirm the external review decision; or
 - (ii) the appeal is withdrawn or otherwise ends without a decision being made.

238 Destruction orders for particular dogs

- (1) New section 127AA applies only in relation to a dog seized, under section 125 or a warrant, after the commencement.
- (2) Former section 127 continues to apply in relation to a dog seized, under section 125 or a warrant, before the commencement as if the amendment Act had not been enacted.

82 Amendment of sch 1 (Permit conditions and conditions applying to declared dangerous and menacing dogs)

- (1) Schedule 1, heading—

omit, insert—

Schedule 1 Conditions for regulated dogs

- (2) Schedule 1, authorising provision, ‘81,’—

omit.

- (3) Schedule 1, section 1—

omit, insert—

1 Definition for schedule

In this schedule—

relevant place, for a regulated dog, means the place stated in the registration notice for the dog as the address for the dog.

- (4) Schedule 1, section 2, ‘relevant dog’—

omit, insert—

regulated dog

- (5) Schedule 1, section 2A(1), ‘relevant dog’—

omit, insert—

regulated dog

- (6) Schedule 1, section 3—

omit, insert—

3 Muzzling in or at place other than relevant place

- (1) This section applies to the following dogs—

- (a) a regulated dog that is a declared dangerous dog;

[s 82]

- (b) a dog the subject of a proposed declaration notice for a dangerous dog declaration.
- (2) The dog must not be in or at a place other than the relevant place for the dog unless it is muzzled.
- (3) However, subsection (2) does not apply if the dog is in a vehicle in or at a place and the dog—
 - (a) is in an enclosed part of the vehicle; and
 - (b) is enclosed or restrained in a way that prevents the dog or any part of it from moving outside the enclosed part of the vehicle.
- (7) Schedule 1, section 4(1), ‘relevant dog’—
omit, insert—
regulated dog
- (8) Schedule 1, section 4(2) and (3)(b), ‘dog’—
omit, insert—
regulated dog
- (9) Schedule 1, section 5(1), ‘relevant dog’—
omit, insert—
regulated dog
- (10) Schedule 1, section 6, ‘relevant dog’—
omit, insert—
regulated dog
- (11) Schedule 1, section 7—
omit.
- (12) Schedule 1, section 8(1)—
omit, insert—
 - (1) If an owner of a regulated dog changes residential address, the owner must give the relevant local government notice of the owner’s new residential

address within 7 days after making the change.

- (13) Schedule 1, section 8(2), ‘person’—

omit, insert—

owner

- (14) Schedule 1, section 8(3)—

omit.

83 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *destruction order*, *permit application*, *permit condition*, *permit holder*, *relevant dog*, *renewal application*, *renewed permit*, *restricted dog*, *restricted dog declaration*, *restricted dog permit* and *restricted dog register*—

omit.

- (2) Schedule 2—

insert—

destruction order, in relation to a dog, see section 126A.

prohibited dog see section 103A.

- (3) Schedule 2, definition *destroy*, ‘regulated’—

omit.

- (4) Schedule 2, definition *regulated dog declaration*, ‘section 89(6)’—

omit, insert—

section 89(5)

- (5) Schedule 2, definition *relevant place*, before ‘for’—

insert—

for a regulated dog,

[s 84]

Chapter 5 Amendment of Biosecurity Act 2014

Part 1 Preliminary

84 Act amended

This chapter amends the *Biosecurity Act 2014*.

Note—

See also the amendments in schedule 1, parts 1 and 3.

Part 2 Amendments commencing on assent

85 Amendment of s 42 (Reporting presence of category 1 or 2 restricted matter)

- (1) Section 42(1), ‘relevant restricted matter’—

omit, insert—

category 1 or category 2 restricted matter

- (2) Section 42(4), example, ‘relevant restricted matter’—

omit, insert—

category 1 or category 2 restricted matter

- (3) Section 42(6), definition *relevant restricted matter*—

omit.

86 Amendment of s 43 (Distributing or disposing of category 3 restricted matter)

- (1) Section 43—

insert—

(1A) However, subsection (1) does not apply if—

- (a) the category 3 restricted matter is an invasive plant; and
- (b) an owner of the land on which the invasive plant is located disposes of the plant on the land by moving or disturbing the plant only to the extent reasonably necessary for the disposal.

(2) Section 43—

insert—

(2A) However, subsection (3) does not apply if—

- (a) a thing is infested with category 3 restricted matter that is an invasive plant; and
- (b) an owner of the land on which the thing is located disposes of the thing on the land by moving or disturbing the thing only to the extent reasonably necessary for the disposal.

(3) Section 43(1A) to (3)—

renumber as section 43(2) to (5).

87 Amendment of s 48 (Main function of local government)

(1) Section 48(1)—

insert—

- (e) an invasive animal or invasive plant, other than an animal or plant that is prohibited matter under paragraph (a) or (b) or restricted matter under paragraph (c) or (d), that—
 - (i) is provided for under a local law of the local government under subsection (4); and

[s 88]

- (ii) in the opinion of the chief executive, satisfies the local invasive biosecurity matter criteria.

(2) Section 48—

insert—

- (1A) For subsection (1)(e)(ii), the local invasive biosecurity matter criteria for an invasive animal or invasive plant are—
 - (a) the animal or plant is currently present in the local government's local government area; and
 - (b) there are reasonable grounds to believe that, if restrictions under this Act are not imposed on the invasive animal or invasive plant to reduce, control or contain it, the animal or plant may have an adverse effect on a biosecurity consideration.

(3) Section 48(1A) to (3)—

renumber as section 48(2) to (4).

88 Amendment of s 114 (Matters for inclusion in biosecurity emergency order)

Section 114(2)(g)—

insert—

- (iii) to make a record about the movement of biosecurity matter or a carrier and keep the record for the period stated in the order;

89 Amendment of s 115 (Effect and duration of biosecurity emergency order)

(1) Section 115—

insert—

- (1A) The chief executive must revoke a biosecurity emergency order if satisfied the biosecurity event to which the order relates is no longer having, or will not have, a significant adverse effect on a biosecurity consideration.
- (2) Section 115(2), ‘Unless it is sooner revoked, a biosecurity emergency’—
omit, insert—
Unless a biosecurity emergency order is sooner revoked under subsection (2), the
- (3) Section 115(2)(a), ‘21 days’—
omit, insert—
42 days
- (4) Section 115(5), example, ‘subsection (5)’—
omit, insert—
subsection (6)
- (5) Section 115(1A) to (5)—
renumber as section 115(2) to (6).

90 Amendment of s 125 (Matters for inclusion in movement control order)

Section 125(3)(d)—
insert—

- (vi) to make a record about the movement of biosecurity matter or a carrier to which the movement control order relates and keep the record for the period stated in the order.

91 Insertion of new s 127A

After section 127—
insert—

127A Additional powers of inspector for place within an area the subject of a movement control order

- (1) Without limiting the powers of an inspector otherwise provided for in this Act, an inspector, or an authorised person acting under the direction of an inspector, may, in relation to a place to which a movement control order relates, and to the extent reasonably necessary for managing, reducing or eradicating controlled biosecurity matter, do any of the following—
 - (a) enter and re-enter the place—
 - (i) with consent; or
 - (ii) without consent, other than at night;
 - (b) give a direction restricting the movement of controlled biosecurity matter;
 - (c) direct a person to move controlled biosecurity matter to a stated area within the place;
 - (d) remove controlled biosecurity matter from the place;
 - (e) direct a person to inspect or test controlled biosecurity matter at the place;
 - (f) direct a person to clean or disinfect the place or any structure or thing at the place;
 - (g) direct a person to treat, destroy, dispose of, decontaminate, disinfect or vaccinate controlled biosecurity matter at the place;
 - (h) take any other action reasonably necessary for managing, reducing or eradicating the controlled biosecurity matter.
- (2) Subsection (1) does not authorise the entry of a residence.
- (3) An inspector or authorised person may exercise a

power under subsection (1) only to the extent reasonably necessary for, and only for the purposes of, fulfilling the purpose and ensuring the effectiveness of the movement control order.

- (4) Subject to subsection (3), an inspector or authorised person may exercise a power under subsection (1) with the help, and using the force, that is necessary and reasonable in the circumstances.
- (5) A person to whom a direction is given under subsection (1) must comply with the direction unless the person has a reasonable excuse.

Maximum penalty—1,000 penalty units or 1 year's imprisonment.

92 Amendment of s 145 (Registrable biosecurity entity must apply for registration)

Section 145(2), after 'immediately'—

insert—

after

93 Amendment of s 156 (Renewal of registration)

Section 156—

insert—

- (5) Subsection (1) applies subject to sections 156B and 156C.

94 Insertion of new ss 156A–156C

After section 156—

insert—

[s 94]

156A Notice requiring further information about registration

- (1) This section applies in relation to a person who is a registered biosecurity entity for a biosecurity circumstance if—
 - (a) the chief executive renews the person's registration under section 156(1) and makes a requirement of the person under section 156(2); and
 - (b) the person fails to comply with the requirement.
- (2) The chief executive may give the person a notice stating—
 - (a) that the person must, within the stated notice period, advise the chief executive whether or not the person is a registrable biosecurity entity for the biosecurity circumstance; and
 - (b) that if the person does not comply with the requirement under paragraph (a), the chief executive may deregister the person as a registered biosecurity entity for the biosecurity circumstance under section 156C.
- (3) The notice may require the person to give the chief executive information in an approved form.
- (4) In this section—

notice period means a period of at least 90 days after the notice is given.

156B Person taken to have applied for deregistration

- (1) This section applies in relation to a person who is a registered biosecurity entity for a biosecurity circumstance if—

- (a) the chief executive gives the person a notice under section 156A(2); and
 - (b) the person advises the chief executive within the notice period under section 156A that the person has ceased to be a registrable biosecurity entity for the biosecurity circumstance.
- (2) The person is taken to have made an application under section 152(1) for the person's deregistration as a registered biosecurity entity for the biosecurity circumstance.

156C Deregistration by chief executive

- (1) This section applies in relation to a person who is a registered biosecurity entity for a biosecurity circumstance if—
 - (a) the chief executive gives the person a notice under section 156A(2); and
 - (b) the person does not comply with the notice.
- (2) The chief executive may deregister the person as a registered biosecurity entity for the biosecurity circumstance by removing the person from the biosecurity register in relation to the biosecurity circumstance.
- (3) If the chief executive deregisters the person under subsection (2), the chief executive must give the person a notice confirming the deregistration.
- (4) To remove any doubt, it is declared that the deregistration of a person in relation to a biosecurity circumstance under subsection (2) does not limit—
 - (a) the application of section 141 to the person; or

[s 95]

- (b) the application of section 145 to the person for applying for registration for the biosecurity circumstance or a similar biosecurity circumstance.

95 Amendment of s 214 (Applying for permit)

Section 214(6)—

omit, insert—

- (6) However, the chief executive may waive payment of the application fee if—
 - (a) the chief executive is satisfied—
 - (i) the proposed dealings with prohibited or restricted matter are aimed at controlling or eradicating the matter; and
 - (ii) the applicant will not derive any financial benefit from the dealings; and
 - (iii) the chief executive will be advised of the progress and outcomes of the dealings; or
 - (b) the chief executive is satisfied there are exceptional circumstances for waiving payment of the fee.

Example of an exceptional circumstance—

Payment of the fee would cause, or would be likely to cause, the applicant financial hardship.

96 Amendment of s 223 (Conditions of permit decided by the chief executive)

Section 223(1), after ‘the permit’—

insert—

or renew the permit

97 Amendment of s 225 (Application for renewal)

- (1) Section 225(3), ‘section 214(6)(a) to (c)’—
omit, insert—
section 214(6)(a) or (b)
- (2) Section 225(4), ‘renew, or refuse to renew,’—
omit, insert—
renew, renew with conditions, or refuse to renew,
- (3) Section 225(6), ‘, or to impose conditions on the permit under section 223,’—
omit, insert—
, or to renew the permit with conditions other than those applied for,

98 Amendment of s 230 (Transfer of permit)

- (1) Section 230—
insert—
(3A) The chief executive must consider an application made under subsection (1) or (3) and decide to transfer, or refuse to transfer, the permit.
- (2) Section 230(4), ‘transfer a permit on an application’—
omit, insert—
approve an application
- (3) Section 230(7), ‘transfer the permit’—
omit, insert—
approve an application
- (4) Section 230(8)—
omit, insert—
(8) If the chief executive refuses to approve an application, or the application is taken to have

[s 99]

been refused under subsection (8), the chief executive must give the applicant an information notice for the decision.

- (5) Section 230(3A) to (9)—
renumber as section 230(4) to (10).

99 Amendment of s 236 (What program authorisation must state)

Section 236(1)(h), before ‘occupier’—

insert—

owner or

100 Amendment of s 237 (Giving a direction for prevention and control program)

- (1) Section 237(1)(a), before ‘occupier’—

insert—

owner or

- (2) Section 237(2), ‘an occupier’—

omit, insert—

a person

- (3) Section 237(3), ‘occupier’—

omit, insert—

person

101 Amendment of s 238 (Failure to comply with direction)

Section 238(1)—

omit, insert—

- (1) A person who is given a direction under section 237(1)(a) must comply with the direction unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

102 Amendment of s 270 (Entry of place under ss 261 and 262)

- (1) Section 270(2) and (3)—

omit, insert—

- (2) The authorised officer must, before entering the place, make a reasonable attempt to locate an occupier and advise the occupier of the officer's intention to enter the place.
- (3) The authorised officer may enter the place if the officer is unable to locate an occupier after making a reasonable attempt to do so.

- (2) Section 270(4), from 'If, after' to attempts to'—

omit, insert—

If the authorised officer finds an occupier present at the place, whether before or after entering the place, the officer must make reasonable attempts to

103 Amendment of s 273 (Issue of warrant)

- (1) Section 273(3)(b), 'inspector'—

omit, insert—

authorised officer

- (2) Section 273(3)(b), example, 'inspector'—

omit, insert—

authorised officer

104 Replacement of s 283 (Duration of emergency powers)

Section 283—

omit, insert—

[s 104]

283 Duration of emergency powers

- (1) An inspector exercising powers under this part at a place may exercise the powers until the first of the following happens—
 - (a) the imminent and significant biosecurity risk from the activity being carried out, or from the biosecurity matter, at the place is avoided;
 - (b) the end of the following period after the inspector first exercises the powers—
 - (i) 96 hours;
 - (ii) a longer period, of not more than 168 hours, if approved by the chief executive under subsection (2).
- (2) The chief executive may approve the longer period for the exercise of the powers at the place if—
 - (a) an inspector exercising the powers makes a written request to the chief executive to approve the longer period and gives reasons for the request; and
 - (b) the chief executive, having regard to the request, is satisfied the longer period is necessary for exercising the powers.
- (3) If the chief executive approves a longer period for the exercise of the powers at the place, the chief executive must—
 - (a) give the inspector the approval in writing, including reasons for the approval; and
 - (b) if an entitled person asks for a copy of the approval—give the person a copy of the approval.
- (4) In this section—

entitled person means—

- (a) an occupier of the place; or
- (b) a person who is directed or authorised to take reasonable steps at the place under section 280(1)(a) or (c).

105 Amendment of s 393 (Entering into compliance agreements)

Section 393(6)—

omit, insert—

- (6) Also, a compliance agreement is of no effect in relation to a person to the extent that it purports to authorise an act or omission that is contrary to any of the following applying to the person—
 - (a) a biosecurity emergency order;
 - (b) a biosecurity zone regulatory provision;
 - (c) a movement control order.

Part 3 Amendments commencing by proclamation

106 Amendment of s 15 (What is *biosecurity matter*)

Section 15(3), ‘If schedule 1 or 2, a prohibited matter regulation, a restricted matter regulation,’—

omit, insert—

If a regulation, an emergency prohibited matter declaration,

107 Replacement of s 19 (What is *prohibited matter*)

Section 19—

omit, insert—

[s 108]

19 What is *prohibited matter*

- (1) Biosecurity matter is *prohibited matter* if it is—
 - (a) prescribed by regulation to be prohibited matter; or
 - (b) declared to be prohibited matter under section 31(1).
- (2) However, a regulation may be made under subsection (1)(a) only if the Minister is satisfied the biosecurity matter satisfies the prohibited matter criteria under section 20.
- (3) A regulation under subsection (1)(a) may prescribe particular prohibited matter to be invasive biosecurity matter.

108 Replacement of s 21 (What is *restricted matter*)

Section 21—

omit, insert—

21 What is *restricted matter*

- (1) Biosecurity matter is *restricted matter* if it is prescribed by regulation to be restricted matter.
- (2) However, a regulation may be made under subsection (1) only if the Minister is satisfied that—
 - (a) the biosecurity matter poses or is likely to pose a biosecurity risk; and
 - (b) the biosecurity matter satisfies the restricted matter criteria under section 22.
- (3) A regulation under subsection (1) may prescribe particular restricted matter to be invasive biosecurity matter.
- (4) A regulation under subsection (1) must classify restricted matter by assigning 1 or more category numbers to the restricted matter.

- (5) A reference in this Act to restricted matter of a particular category number is a reference to the restricted matter assigned that category number under a regulation.

109 Replacement of ch 2, pt 2, div 1, hdg (Establishing what is prohibited matter)

Chapter 2, part 2, division 1, heading—

omit, insert—

**Division 1 Emergency prohibited
matter declaration**

110 Omission of ss 29 and 30

Sections 29 and 30—

omit.

111 Amendment of s 31 (Chief executive may make emergency prohibited matter declaration)

- (1) Section 31(1)—

omit, insert—

- (1) The chief executive may, by notice signed by the chief executive (an ***emergency prohibited matter declaration***), declare particular biosecurity matter to be prohibited matter.

- (2) Section 31(2), ‘subsection (1)(a)’—

omit, insert—

subsection (1)

- (3) Section 31(2)(a), ‘as provided for in’—

omit, insert—

under

[s 112]

(4) Section 31(3) and (4)—

omit, insert—

(3) The chief executive may declare particular prohibited matter to be invasive biosecurity matter under an emergency prohibited matter declaration.

(5) Section 31(5), before paragraph (a)—

insert—

(aa) publish on the department's website the emergency prohibited matter declaration;
and

(6) Section 31(5)(aa) to (b)—

renumber as section 31(5)(a) to (c).

(7) Section 31(6), 'or (5)'—

omit.

(8) Section 31(5) and (6)—

renumber as section 31(4) and (5).

112 Amendment of s 33 (Effect and duration of emergency prohibited matter declaration)

Section 33(2)—

omit, insert—

(2) An emergency prohibited matter declaration remains in force until the day that is 3 months after the day it was made, unless it is sooner revoked.

113 Omission of ss 34 and 35

Sections 34 and 35—

omit.

114 Replacement of ch 2, pt 3 hdg (Restricted matter)

Chapter 2, part 3, heading—

omit, insert—

**Part 3 Obligations relating to
restricted matter**

115 Omission of ch 2, pt 3, div 1 (Establishing what is restricted matter)

Chapter 2, part 3, division 1—

omit.

116 Omission of ch 2, pt 3, div 2, hdg (Obligations relating to restricted matter)

Chapter 2, part 3, division 2 heading—

omit.

117 Amendment of s 48 (Main function of local government)

(1) Section 48(1)(a) to (e), as amended by this Act—

omit, insert—

- (a) prohibited matter prescribed by regulation as invasive biosecurity matter;
- (b) prohibited matter declared as invasive biosecurity matter under an emergency prohibited matter declaration;
- (c) restricted matter prescribed by regulation as invasive biosecurity matter;
- (d) an invasive animal or invasive plant, other than an animal or plant that is prohibited matter under paragraph (a) or (b) or restricted matter under paragraph (c), that—

[s 117A]

- (i) is provided for under a local law of the local government under subsection (4); and
 - (ii) in the opinion of the chief executive, satisfies the local invasive biosecurity matter criteria.
- (2) Section 48(2), as inserted and renumbered by this Act, ‘subsection (1)(e)(ii)’—
omit, insert—
subsection (1)(d)(ii)

117A Insertion of new ch 19, pt 4

Chapter 19—

insert—

Part 4

Transitional provision for Agriculture and Fisheries and Other Legislation Amendment Act 2024

516 Existing prohibited matter

- (1) This section applies if—
 - (a) biosecurity matter was mentioned in schedule 1, as in force immediately before the commencement; and
 - (b) on the commencement, the biosecurity matter is prescribed by a regulation to be prohibited matter.
- (2) Section 19(2) does not apply, and is taken to never have applied, in relation to the making of the regulation.

118 Omission of schs 1 and 2

Schedules 1 and 2—

omit.

119 Amendment and renumbering of sch 4 (Dictionary)

- (1) Schedule 4, definitions *prohibited matter*, *prohibited matter regulation*, *restricted matter* and *restricted matter regulation*—

omit.

- (2) Schedule 4—

insert—

prohibited matter see section 19(1).

restricted matter see section 21(1).

- (3) Schedule 4, definition *repealed Act*, paragraph 1, ‘schedule 3’—

omit, insert—

schedule 1

- (4) Schedule 4—

renumber as schedule 2.

Chapter 6 Amendment of Chemical Usage (Agricultural and Veterinary) Control Act 1988

120 Act amended

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

[s 121]

121 Replacement of s 32 (Forfeiture to Crown)

Section 32—

omit, insert—

32 Returning seized thing

- (1) This section applies if an inspector has seized a thing under section 20(1)(g).
- (2) If the thing was seized as evidence, the chief executive must return the thing to its owner if the chief executive is satisfied—
 - (a) it is no longer necessary to keep the thing as evidence; and
 - (b) it is no longer necessary to keep the thing to prevent the thing from being possessed or used to commit the offence for which the thing was seized; and
 - (c) it is lawful for the owner to possess the thing.
- (3) Subject to subsection (2), the chief executive must return the thing to its owner unless the chief executive is satisfied there are reasonable grounds to keep the thing.
- (4) Without limiting subsection (3), there are reasonable grounds to keep the thing if—
 - (a) it is unlawful for the owner to possess the thing; or
 - (b) the thing is likely to be dealt with in contravention of a notice given under section 16, if it is returned to the owner; or
 - (c) the thing is likely to be dealt with contrary to an approval given under section 17, if it is returned to the owner; or

- (d) the thing is likely to be used, stored, disposed of or otherwise dealt with contrary to this Act; or
 - (e) the thing is needed, or may be needed, for—
 - (i) a proceeding for an offence against this Act that is likely to be started or that has been started but not completed; or
 - (ii) an appeal from a decision in a proceeding for an offence against this Act.
- (5) Nothing in this section affects a lien or other security over the seized thing.

32A Forfeiture of seized thing to State

- (1) This section applies if—
 - (a) an inspector has seized a thing under section 20(1)(g); and
 - (b) either of the following applies—
 - (i) no appeal against the decision to seize the thing has been made under section 22;
 - (ii) an appeal against the decision to seize the thing under section 22 has been withdrawn or dismissed; and
 - (c) the thing has not been returned to its owner under section 32.
- (2) The chief executive may decide a seized thing is forfeited to the State if an inspector—
 - (a) after making reasonable inquiries—can not find the owner of the thing; or
 - (b) after making reasonable efforts—can not return the thing to its owner; or

[s 121]

- (c) reasonably believes it is necessary to keep the thing—
 - (i) to prevent it being used, stored, disposed of or otherwise dealt with contrary to this Act; or
 - (ii) to prevent it from being used to commit the offence for which it was seized.
- (3) However, the inspector is not required to—
 - (a) make inquiries if it would be unreasonable to make inquiries to find an owner; or
 - (b) make efforts if it would be unreasonable to make efforts to return the thing to an owner.

Example for paragraph (b)—

the owner of the thing has migrated to another country
- (4) The inspector must consider the thing's condition, nature and value when deciding—
 - (a) whether it is reasonable to make inquiries or efforts; and
 - (b) if inquiries or efforts are made—what inquiries or efforts, including the period over which they are made, are reasonable.
- (5) If the chief executive decides the seized thing is forfeited to the State, the chief executive must give an information notice for the decision to a person (the **former owner**) who owned the thing immediately before the thing was forfeited.
- (6) If the decision was made under subsection (2)(a) or (b), the decision notice may be given by leaving the notice at the place where the thing was seized, in a conspicuous position and in a reasonably secure way.
- (7) The decision notice must state that the former owner may apply for a stay of the decision if the

former owner appeals against the decision.

- (8) However, subsections (5) to (7) do not apply if—
- (a) the decision was made under subsection (2)(a) or (b); and
 - (b) the place where the thing was seized is—
 - (i) a public place; or
 - (ii) a place where the notice is unlikely to be read by the former owner.

32B Dealing with things forfeited or transferred to State

- (1) A thing becomes the property of the State if—
 - (a) the thing is forfeited to the State under section 32A(2); or
 - (b) the owner of the thing and the State agree, in writing, to the transfer of the ownership of the thing to the State.
- (2) The chief executive may deal with the thing as the chief executive considers appropriate (for example, by destroying the thing or giving it away).
- (3) However, the chief executive must not deal with the thing in a way that could prejudice the outcome of an appeal against the seizure of the thing.
- (4) If the chief executive sells the thing, the chief executive may, after deducting the costs of the sale, return the proceeds of the sale to the owner of the thing.

32C Right of appeal to Magistrates Court for decision to forfeit

- (1) This section applies in relation to a decision by the

[s 122]

chief executive to forfeit a thing to the State under section 32A(2).

- (2) A person who is dissatisfied with the decision may appeal to a Magistrates Court against the decision.
- (3) Each of sections 22A, 22B, 22C, 22D and 22E apply in relation to the appeal as if—
 - (a) a reference in the section to an appeal were a reference to an appeal under subsection (2); and
 - (b) a reference in the section to the appellant were a reference to the person appealing under subsection (2); and
 - (c) a reference in the section to the decision appealed against were a reference to the decision under section 32A(2); and
 - (d) a reference in the section to the decision maker were a reference to the chief executive.

122 Amendment of schedule (Dictionary)

Schedule—

insert—

owner, of a thing that has been seized under this Act, includes a person who would be entitled to possession of the thing had it not been seized.

Chapter 7 Amendment of Drugs Misuse Act 1986

123 Act amended

This chapter amends the *Drugs Misuse Act 1986*.

124 Amendment of s 50 (What researcher licences authorise)

(1) Section 50(1)(d)(iii)—

omit.

(2) Section 50(1)(d)(iv)—

renumber as section 50(1)(d)(iii).

(3) Section 50(1)—

insert—

(h) to supply industrial cannabis seed to a seed handler.

125 Amendment of s 51 (What grower licences authorise)

(1) Section 51(c)(iii)—

omit, insert—

(iii) a seed handler; or

(iv) a person authorised under a regulation under section 48 to possess industrial cannabis seed; and

(2) Section 51—

insert—

(j) to supply industrial cannabis plants to a person authorised under a regulation under section 48 to possess industrial cannabis plants.

[s 126]

126 Insertion of new pt 5B, div 12B

After part 5B, division 12A—

insert—

Division 12B Information sharing

110CA Exchanging information with relevant entity

- (1) The chief executive may enter into an arrangement (an ***information-sharing arrangement***) with a relevant entity for the purposes of sharing or exchanging the following information—
 - (a) information held by the chief executive or the relevant entity;
 - (b) information to which the chief executive or the relevant entity has access.
- (2) An information-sharing arrangement under subsection (1) may relate only to—
 - (a) information held by the chief executive under part 5B; or
 - (b) information that helps—
 - (i) the chief executive to perform the chief executive's functions under part 5B; or
 - (ii) the relevant entity perform the entity's functions under a law of the State, another State or the Commonwealth.
- (3) Under an information-sharing arrangement, the chief executive and the relevant entity are, despite another Act or law, authorised to—
 - (a) ask for and receive information held by the other party to the arrangement or to which the other party has access; and
 - (b) disclose information to the other party.

- (4) Despite subsections (1) to (3)—
- (a) the chief executive must not share or exchange, under an information-sharing arrangement, information contained in a report about a person's criminal history; and
 - (b) the chief executive or the relevant entity may use information received under an information-sharing arrangement only for the purpose for which the information was given under the arrangement.
- (5) In this section—
- relevant entity*** means—
- (a) the commissioner of the police service; or
 - (b) the chief executive of a department; or
 - (c) an entity of, or representing, the Commonwealth or another State.

Chapter 8 **Amendment of Exhibited Animals Act 2015**

127 Act amended

This chapter amends the *Exhibited Animals Act 2015*.

Note—

See also the amendments in schedule 1, parts 1 and 3.

128 Amendment of s 33 (Meaning of *authorised animal* (*category A*))

- (1) Section 33(b)—
- omit, insert—*

[s 129]

(b) any of the following under the Nature Conservation Act—

(i) a class 1 animal;

(ii) a class 2 animal;

(iii) a dangerous animal.

(2) Section 33, note—

omit.

129 Amendment of s 64 (Content of each exhibited animal authority)

Section 64(1)(c), example—

omit.

Chapter 9 Amendment of Farm Business Debt Mediation Act 2017

130 Act amended

This chapter amends the *Farm Business Debt Mediation Act 2017*.

Note—

See also the amendments in schedule 1, part 1.

131 Amendment of s 14 (Notice of intention to take enforcement action)

(1) Section 14, heading—

omit, insert—

14 Notice inviting request for mediation

- (2) Section 14(1)(a), ‘an enforcement action notice’—

omit, insert—

a notice inviting a request for mediation

- (3) Section 14(2), ‘An *enforcement action notice*’—

omit, insert—

A notice inviting a request for mediation

- (4) Section 14(4), ‘enforcement action notice’—

omit, insert—

notice inviting a request for mediation

132 Amendment of s 90A (Review of Act)

Section 90A(1), ‘5 years after 1 July 2017’—

omit, insert—

10 years after 20 June 2022

133 Amendment of sch 1 (Dictionary)

- (1) Schedule 1, definition *enforcement action notice*—

omit.

- (2) Schedule 1—

insert—

notice inviting a request for mediation see section 14(2).

[s 134]

Chapter 10 Amendment of Fisheries Act 1994

Part 1 Preliminary

134 Act amended

This chapter amends the *Fisheries Act 1994*.

Note—

See also the amendments in schedule 1, parts 1 and 3.

Part 2 Amendments commencing on assent

135 Amendment of s 3A (How particular purposes are to be primarily achieved)

Section 3A(1)(b) and (2)(a), ‘indigenous fishing’—

omit, insert—

Indigenous fishing

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

Section 5(2)(c), ‘, bêche-de-mer and other’—

omit, insert—

and

137 Amendment of s 14 (Defence for Aborigines and Torres Strait Islanders for particular offences)

- (1) Section 14, heading, ‘Aborigines and Torres Strait Islanders’—

omit, insert—

Aboriginal peoples and Torres Strait Islander peoples

- (2) Section 14(1)(a) and (b), ‘Aborigine’—

omit, insert—

Aboriginal person

- (3) Section 14(1)(a) and (b), after ‘Torres Strait Islander’—

insert—

person

- (4) Section 14, ‘Island Custom’—

omit, insert—

Ailan Kastom

138 Amendment of s 31 (Exclusion zone)

- (1) Section 31(1) to (3), ‘apparatus’—

omit, insert—

equipment

- (2) Section 31(3), ‘on a boat’—

omit, insert—

in a boat

- (2A) Section 31(4), definition *exclusion zone*, ‘apparatus’—

omit, insert—

equipment

- (3) Section 31(4), definition *shark control apparatus*—

omit, insert—

shark control equipment means—

[s 139]

- (a) any equipment, such as a net or line, that is connected to a buoy marked with the words ‘shark control program’; and
- (b) any buoy or other thing that is connected to the equipment.

Examples of other things for paragraph (b)—

anchor, float, hook, sinker

139 Amendment of s 61 (Conditions imposed on issue or renewal—general)

Section 61(1)(b), ‘payment of a bond’—

omit, insert—

the holder of the authority to give a bank guarantee

140 Insertion of new s 61A

After section 61—

insert—

61A Conditions imposed for repeated interactions with protected animals

- (1) This section applies if an authority holder has more than 1 interaction with a protected animal within a 12 month period.
- (2) The chief executive may amend the authority to impose reasonable conditions to reduce the risk of future interactions with a protected animal during a stated reasonable period, including, for example—
 - (a) a condition requiring the holder to develop an individual mitigation plan; and
 - (b) a condition imposing additional information requirements on the holder; and

- (c) a condition imposing a restriction on—
 - (i) how long nets may be placed in the water; or
 - (ii) the types of fishing apparatus that may be used; or
 - (iii) the carrying out of particular fishing activities.
- (3) If the chief executive imposes a condition on an authority under this section, the chief executive must—
 - (a) state in the condition a period within which the condition must be reviewed; and
 - (b) review the condition within the stated period and decide whether or not the authority should be amended to remove the condition.
- (4) If the chief executive imposes a condition on an authority under this section, the chief executive must give the holder of the authority an information notice for the decision to impose the condition.
- (5) Section 61(8) to (10) apply in relation to the imposition of a condition on an authority under this section.
- (6) Section 63 does not apply to an amendment of an authority under this section.
- (7) A condition imposed on an authority under this section may also be imposed on the authority on the renewal of the authority if the period for which the condition applies has not ended.
- (8) In this section—

interaction, with a protected animal, means physical contact between a boat, person or fishing apparatus involved in a fishing operation and the animal.

[s 141]

141 Amendment of s 63 (Amendment of authority)

Section 63(4)(d), after ‘request’—

insert—

under section 63A

142 Insertion of new ss 63A to 63D

After section 63—

insert—

63A Application for amendment of authority

- (1) The holder of an authority may apply to the chief executive to amend the authority.
- (2) An application under this section must be—
 - (a) made in the approved form; and
 - (b) accompanied by the fees prescribed by regulation.
- (3) If asked by the chief executive, the applicant must give the further relevant information or evidence the chief executive requires to decide the application.

63B Consideration of application for amendment of authority

- (1) The chief executive must consider an application to amend an authority and may amend the authority in the way requested or refuse the application.
- (2) In considering an application to amend an authority, the chief executive must comply with any relevant regulation or declaration.

63C Refusal to amend

- (1) The chief executive may refuse an application to amend an authority if the chief executive is satisfied the refusal is necessary or desirable for the best management, use, development or protection of fisheries resources or fish habitats.
- (2) Compensation is not payable if the chief executive refuses an application to amend an authority.
- (3) However, subsection (2) does not prevent a regulation providing for payment of compensation.

63D Notice of refusal of application for amendment

If the chief executive refuses an application to amend an authority, the chief executive must promptly—

- (a) give the applicant an information notice for the refusal; and
- (b) refund the fees paid by the applicant, other than fees for assessing the application.

143 Replacement of s 68AB (Suspension or cancellation for non-payment of fee other than because of dishonoured cheque)

Section 68AB—

omit, insert—

68AB Suspension or cancellation for non-payment of particular fees other than because of dishonoured cheque

- (1) This section applies if—
 - (a) a fee payable under this Act for or relating to an authority is not paid by the due date for

[s 143]

- the fee stated in a fee notice for the fee given to the holder of the authority; and
- (b) the fee is not for an application to transfer or amend the authority; and
 - (c) section 68A does not apply in relation to the non-payment of the fee.
- (2) The authority is suspended—
- (a) if the holder of the authority was given the fee notice at least 30 days before the due date—from the due date until the fee is paid or a repayment agreement for the fee is made; or
 - (b) if the holder of the authority was given the fee notice fewer than 30 days before the due date—from 30 days after the notice is given until the fee is paid or a repayment agreement for the fee is made.
- (3) If the authority is a charter fishing licence or commercial fisher licence, and the authority is still suspended under subsection (2) 90 days after the fee notice for the fee was given to the holder of the authority, the authority is cancelled.
- (4) In this section—

charter fishing licence means an authority that, under a regulation, is described as a charter fishing licence.

commercial fisher licence means an authority that, under a regulation, is described as a commercial fisher licence.

due date, for a fee payable under this Act, means the date on which the fee is due to be paid under this Act.

fee notice, for a fee payable under this Act, means a notice given to the holder of an authority that states—

- (a) the due date for the fee; and
- (b) that the authority may be cancelled or suspended if the fee is not paid or a repayment agreement for the fee is not made by the due date.

repayment agreement, for a fee payable under this Act, means a written agreement between the holder of the authority and the chief executive for the payment of the fee.

144 Omission of pt 5, div 3A, sdiv 3 (Fish movement exemption notices)

Part 5, division 3A, subdivision 3—
omit.

145 Amendment of s 79A (Contravening a condition of an authority)

Section 79A, penalty—
omit, insert—

Maximum penalty—

- (a) for a contravention of a condition imposed under section 61 or 62—100 penalty units; or
- (b) for a contravention of a condition imposed under section 61A—1,000 penalty units.

146 Insertion of new s 139B

After section 139A—
insert—

139B References to thing and seized thing

- (1) Generally, in this part, a reference to a thing is a reference to any thing, including, for example—

[s 147]

- (a) a chemical; and
 - (b) a computer; and
 - (c) a container; and
 - (d) the contents of a container; and
 - (e) a document; and
 - (f) fisheries resources; and
 - (g) fishing apparatus; and
 - (h) a GPS plotter; and
 - (i) a mobile telephone.
- (2) Also, a reference in this part to a thing that may be, or is, seized includes—
- (a) a reference to a boat that may be, or is, seized under this part; and
 - (b) a reference to a vehicle that may be, or is, seized under this part.

147 Insertion of pt 8, div 2A and sdiv 1 hdgs

After section 150C—

insert—

Division 2A Seizure

Subdivision 1 Powers to seize

148 Replacement of ss 151–153

Sections 151 to 153—

omit, insert—

151 Seizing evidence consistent with purpose of entry by consent

- (1) This section applies if an inspector—

- (a) is authorised to board a boat or enter a vehicle or a place with the consent of the person in charge of the boat or vehicle or the occupier of the place; and
 - (b) boards the boat or enters the vehicle or place after obtaining the consent.
- (2) The inspector may seize the boat or vehicle or a thing in the boat, vehicle or place if—
 - (a) the inspector believes, on reasonable grounds, that the boat, vehicle or thing is evidence of an offence against this Act; and
 - (b) the seizure is consistent with the purpose of entry as explained to the person in charge or occupier when asking for the consent.

152 Seizing evidence for which warrant issued

- (1) This section applies if an inspector—
 - (a) is authorised to board a boat or enter a vehicle or place under a warrant; and
 - (b) boards the boat or enters the vehicle or place under the warrant.
- (2) The inspector may seize the evidence for which the warrant was issued.

153 Other seizure powers

- (1) This section applies if an inspector—
 - (a) is authorised to board a boat or enter a vehicle or place under this part, whether by consent, under a warrant or otherwise; and
 - (b) boards the boat or enters the vehicle or place.
- (2) The inspector may seize the boat or vehicle or a thing in the boat, vehicle or place if the inspector

[s 149]

believes on reasonable grounds—

- (a) the boat, vehicle or thing is evidence of an offence against this Act; and
- (b) the seizure is necessary to prevent the boat, vehicle or thing being—
 - (i) hidden, lost or destroyed; or
 - (ii) used to continue or repeat the offence.
- (3) The inspector may seize the boat or vehicle or a thing in the boat, vehicle or place if the inspector believes on reasonable grounds the boat, vehicle or thing has been used in committing an offence against this Act.
- (4) The inspector may seize a container in the boat, vehicle or place, including its contents, if the inspector believes on reasonable grounds—
 - (a) the container contains 1 or more things; and
 - (b) any 1 or more of the things is evidence of an offence against this Act.

149 Insertion of new s 156A

After section 156—

insert—

156A Seizure of thing subject to security

- (1) An inspector may seize a thing under this division, and exercise powers relating to the thing, despite a lien or other security over the thing claimed by another person.
- (2) However, the seizure does not affect the other person's claim to the lien or other security against a person other than the inspector or a person acting for the inspector.

150 Amendment of s 157 (Receipt to be given)

- (1) Section 157(1), ‘(including a boat or vehicle)’—
omit.
- (2) Section 157(3)(a), ‘at the place’—
omit, insert—
in the place
- (3) Section 157—
insert—
 - (5) Also, this section does not apply in relation to fisheries resources that are—
 - (a) returned to the wild or the place from which they were taken under section 159(2); or
 - (b) disposed of under section 159(3).

151 Amendment of s 159 (Inspector may dispose of fisheries resources taken unlawfully)

Section 159—

insert—

- (4) Before the inspector returns fisheries resources under subsection (2) or disposes of fisheries resources under subsection (3), the inspector must make a record identifying the species, quantity, and form of the fisheries resources.

Example of a record for subsection (4)—

taking a digital photograph of the fisheries resources

- (5) If the person from whom the fisheries resources are seized asks the inspector for a copy of a record made under subsection (4), the inspector must give the person a copy of the record.

[s 152]

152 Amendment of s 165 (Where and how to start appeal)

- (1) Section 165(1)—

insert—

Note—

See also section 179 in relation to claiming compensation for loss or expense incurred because of the exercise or purported exercise of a power under this part.

- (2) Section 165(3)—

omit, insert—

- (3) Also, the person may not appeal if the fisheries resources are—

- (a) returned to the wild or the place from which they were taken under section 159(2); or
- (b) disposed of under section 159(3).

153 Amendment of s 173B (Additional power of police officer for executing warrant)

- (1) Section 173B(2)(a), ‘at the place or on the boat or in the vehicle’—

omit, insert—

in the place, boat or vehicle

- (2) Section 173B—

insert—

- (6) This section does not limit the powers of the police officer under the *Police Powers and Responsibilities Act 2000*.

Note—

See, for example, the *Police Powers and Responsibilities Act 2000*, chapter 1, part 3, division 2 for particular powers that a police officer helping an inspector may exercise under that Act.

154 Replacement of s 182 (Obstruction etc. of inspector)

Section 182—

omit, insert—

182 Obstructing inspector

- (1) A person must not obstruct an inspector in a way that prevents the inspector from exercising a power unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) If a person has obstructed an inspector in the way mentioned in subsection (1) and the inspector decides to proceed with the exercise of the power, the inspector must, if practicable, warn the person that—

- (a) it is an offence to cause an obstruction unless the person has a reasonable excuse; and

- (b) the inspector considers the person's conduct an obstruction.

- (3) In this section—

obstruct includes—

- (a) to assault, hinder, resist, abuse or intimidate; and

- (b) to attempt or threaten to obstruct.

155 Amendment of s 184 (Evidentiary provisions)

Section 184(2)—

omit, insert—

- (2) The power of an inspector to do anything under this Act must be presumed unless a party, by reasonable notice, requires proof of the inspector's power.

[s 156]

156 Insertion of new s 184A

After section 184—

insert—

184A Proof of appointment unnecessary

For a proceeding for an offence against this Act, the appointment of the following persons must be presumed unless the contrary is proved—

- (a) the chief executive;
- (b) an inspector;
- (c) an officer, or the holder of an office, to whom a function of the chief executive to give a notice or approve a form is delegated.

157 Amendment of sch 1 (Dictionary)

- (1) Schedule 1, definitions *fisheries offence*, *fish movement exemption notice*, *indigenous fishing*, *offence against this Act* and *waterway barrier works*—

omit.

- (2) Schedule 1—

insert—

fisheries offence means an offence against—

- (a) fisheries legislation; or
- (b) the *Biosecurity Act 2014*, if the offence relates to fisheries resources or fish habitats; or
- (c) the *Economic Development Act 2012*, the *Planning Act* or the *State Development and Public Works Organisation Act 1971*, if the offence relates to fisheries development.

in, a boat, vehicle or place, includes—

- (a) for a boat or vehicle—on the boat or vehicle; and
- (b) for a place—on or at the place.

Indigenous fishing means fishing conducted by Aboriginal peoples or Torres Strait Islander peoples.

offence against this Act, other than for sections 220 to 220B, includes—

- (a) an offence against the *Biosecurity Act 2014*, if the offence relates to fisheries resources or fish habitats; or
- (b) an offence against the *Economic Development Act 2012*, the *Planning Act* or the *State Development and Public Works Organisation Act 1971*, if the offence relates to fisheries development.

protected animal means—

- (a) a protected animal under the *Nature Conservation Act 1992*; or
- (b) an animal of a listed threatened species, listed migratory species or listed marine species under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth).

waterway barrier works means a dam, weir, crossing, fill or other complete or partial barrier within a waterway if the barrier limits fish access to, or movement within, a waterway.

- (3) Schedule 1, definition *aquaculture fisheries resources*, ‘live’—

omit.

- (4) Schedule 1, definition *fishing sector*, paragraph (d)—

omit, insert—

[s 158]

(d) Indigenous fishing.

- (5) Schedule 1, definition *serious fisheries offence*, paragraph (a)—

insert—

(viiia) section 87(1);

- (6) Schedule 1, definition *serious fisheries offence*, paragraph (a)(viiia) to (xii)—

renumber as paragraph (a)(viii) to (xiii).

Part 3 Amendments commencing by proclamation

Division 1 Amendments relating to aquaculture authorities

158 Amendment of s 49 (Authorities that may be issued)

- (1) Section 49(1)—

insert—

(da) an aquaculture authority;

- (2) Section 49(1)(da) and (e)—

renumber as section 49(1)(e) and (f).

159 Amendment of s 52 (Things authorised by authorities)

- (1) Section 52, heading, after ‘authorities’—

insert—

generally

- (2) Section 52(4)—

omit.

160 Insertion of new s 52A

After section 52—

insert—

52A Resource allocation authority and aquaculture authority do not confer particular rights

- (1) This section applies despite section 52.
- (2) A resource allocation authority does not confer on the holder—
 - (a) any right of ownership or tenure over the land, waters or resources mentioned in the authority; or
 - (b) the right to carry out the development mentioned in the authority, unless the development is approved under the Planning Act.
- (3) An aquaculture authority relating to aquaculture development does not confer on the holder of the authority—
 - (a) any right of ownership or tenure over the land, waters or resources to which the development relates; or
 - (b) the right to carry out the development, unless the development is approved under the *Economic Development Act 2012*, the Planning Act or the *State Development and Public Works Organisation Act 1971*.

Note for subsections (2) and (3)—

See also section 76T(2)(a) and (b) and the Planning Act, section 163.

161 Insertion of new s 55A

After section 55—

[s 162]

insert—

55A Additional matter to consider for resource allocation authority or aquaculture authority

- (1) In deciding an application for a resource allocation authority or aquaculture authority, the chief executive must have regard to the impact of the relevant development on—
 - (a) coastal management under the *Coastal Protection and Management Act 1995*; and
 - (b) the protection of Queensland waters as required under the *Environmental Protection Act 1994*; and
 - (c) the management of marine parks under the *Marine Parks Act 2004*.
- (2) In this section—

relevant development means—

 - (a) for an application for a resource allocation authority—the development proposed to be mentioned in the authority; or
 - (b) for an application for an aquaculture authority—the aquaculture development to which the authority is proposed to relate.

162 Amendment of s 58 (Consideration of application for renewal of authority (other than permit))

- (1) Section 58—

insert—

- (2A) If the application is for renewal of a resource allocation authority or aquaculture authority, section 55A applies for deciding the application.
- (2) Section 58(2A) and (3)—

renumber as section 58(3) and (4).

163 Amendment of s 59 (Refusal to issue or renew)

(1) Section 59(1), examples 3 and 4—

omit, insert—

- 3 The applicant has had a licence, permit, concession or other authority issued under fisheries legislation (each a **fisheries authority**) cancelled or suspended.
- 4 The applicant has not complied with a condition of a fisheries authority or fisheries development approval.

(2) Section 59—

insert—

- (1A) The chief executive must refuse to issue an authority to a person if the chief executive can not issue the authority to the person because of a restriction on the issue prescribed by regulation.

(3) Section 59(3), ‘subsection (2)’—

omit, insert—

subsection (3)

(4) Section 59(1A) to (3)—

renumber as section 59(2) to (4).

164 Amendment of s 60 (Notice of refusal of application for issue or renewal etc.)

Section 60(a)—

omit, insert—

- (a) give the applicant—
 - (i) for a refusal other than a refusal mentioned in section 59(2)—an information notice for the refusal; or
 - (ii) for a refusal mentioned in section 59(2)—written notice of the refusal stating the reason for the refusal; and

[s 165]

165 Insertion of new s 62A

After section 62—

insert—

62A Restriction on condition of aquaculture authority

- (1) This section applies to a condition (an *authority condition*) that is—
 - (a) imposed on an aquaculture authority under section 61; or
 - (b) prescribed by regulation for the authority under section 62.
- (2) The authority condition must not be inconsistent with a development condition of the aquaculture development approval mentioned in the aquaculture authority.
- (3) If, despite subsection (2), the authority condition is inconsistent with a development condition of the aquaculture development approval, the authority condition does not apply to the extent necessary to avoid the inconsistency.
- (4) In this section—

development condition, of an aquaculture development approval, means—

 - (a) for an aquaculture development approval that is a development approval under the Planning Act—a development condition under that Act; or
 - (b) for an aquaculture development approval that is a PDA development approval under the *Economic Development Act 2012*—a PDA development condition under that Act; or
 - (c) for an aquaculture development approval that is an SDA approval under the *State*

Development and Public Works Organisation Act 1971—a condition imposed on the approval under section 84E(1)(a)(i) of that Act.

166 Amendment of s 63 (Amendment of authority)

Section 63(6)—

omit, insert—

- (6) To remove any doubt, it is declared that—
- (a) a condition that may be imposed on an authority under section 61 when the authority is issued or renewed may be imposed on the authority by amendment; and
 - (b) any requirements for imposing the condition under subdivision 3 apply for imposing the condition on the authority by amendment.

167 Amendment of s 73 (Registers of authorities and fisheries development approvals)

Section 73, heading and subsection (1)—

omit, insert—

73 Register of authorities

- (1) The chief executive must keep a register of authorities issued by the chief executive.

168 Replacement of pt 5, div 3A, hdg and sdiv 1

Part 5, division 3A, heading and subdivision 1—

omit, insert—

Division 3A Fisheries development

Subdivision 1 Authorities needed for particular development or activities

76A Resource allocation authority for prescribed declared fish habitat area development

- (1) A fisheries development approval for prescribed declared fish habitat area development authorises a person to carry out the development only if the person holds a resource allocation authority for interfering with a declared fish habitat area to which the development relates.

Note—

See also section 88B.

- (2) Also, despite the Planning Act, section 73, the fisheries development approval attaches to the area mentioned in the resource allocation authority.

76B Aquaculture authority for prescribed aquaculture development

An aquaculture development approval for prescribed aquaculture development authorises a person to carry out the development only if the person holds an aquaculture authority for interfering with fish habitat in the Queensland waters or on the unallocated tidal land mentioned in the approval.

Note—

See also section 88C.

76C Associated aquaculture activities not authorised by aquaculture development approval

An aquaculture development approval for

aquaculture development does not authorise a person to carry out associated aquaculture activities for the development.

Note—

See also section 88D.

169 Replacement of s 88B (Carrying out particular development without resource allocation authority)

Section 88B—

omit, insert—

88B Carrying out prescribed declared fish habitat area development without resource allocation authority

- (1) A person must not carry out prescribed declared fish habitat area development unless the person holds a resource allocation authority for interfering with the declared fish habitat area to which the development relates.

Maximum penalty—3,000 penalty units.

- (2) Subsection (1) does not apply to a person for carrying out prescribed declared fish habitat area development if—
- (a) the person starts the development because of an emergency endangering—
 - (i) the life or health of a person; or
 - (ii) the structural safety of a building; and
 - (b) as soon as practicable after starting the development, the person gives written notice of the development to each relevant person for the development; and
 - (c) the person is not required to stop carrying out the development by an enforcement notice or enforcement order under the Planning Act.

[s 170]

(3) In this section—

relevant person, for prescribed declared fish habitat area development, means each of the following—

- (a) the chief executive;
- (b) the person who would be the assessment manager if a development application were made for the development.

88C Carrying out prescribed aquaculture development without aquaculture authority

A person must not carry out prescribed aquaculture development unless the person holds an aquaculture authority for—

- (a) carrying out associated aquaculture activities for the development; and
- (b) interfering with fish habitat in the Queensland waters or on the unallocated tidal land mentioned in the aquaculture development approval for the development.

Maximum penalty—1,665 penalty units.

88D Carrying out associated aquaculture activity without aquaculture authority

A person must not carry out an associated aquaculture activity for aquaculture development unless the person holds an aquaculture authority authorising the carrying out of the activity.

Maximum penalty—1,665 penalty units.

170 Insertion of new pt 12, div 12

Part 12—

insert—

Division 12 Transitional provisions for Agriculture and Fisheries and Other Legislation Amendment Act 2024

Subdivision 1 Preliminary

279 Definitions for division

In this division—

change application means a change application under the Planning Act.

entitled person, for an aquaculture authority relating to aquaculture development approved under an aquaculture development approval, means the person in whom the benefit of the development approval vests.

existing aquaculture development approval means an aquaculture development approval that was in effect immediately before the commencement.

former resource allocation authority, for prescribed aquaculture development, means a resource allocation authority for interfering with fish habitat in Queensland waters or on unallocated tidal land for the development.

Subdivision 2 Former resource allocation authorities and undecided applications

[s 170]

280 Continuation of former resource allocation authority for prescribed aquaculture development

- (1) This section applies in relation to a former resource allocation authority for prescribed aquaculture development that was in effect immediately before the commencement.
- (2) From the commencement, the former resource allocation authority continues in effect, subject to subsections (3) to (5).
- (3) The former resource allocation authority continues in effect under subsection (2) until it is—
 - (a) cancelled, whether under section 282(5) or otherwise; or
 - (b) surrendered.
- (4) The holder of the former resource allocation authority may not apply to renew the authority.
- (5) While the former resource allocation authority is in effect under subsection (2), the holder of the authority is taken to hold an aquaculture authority authorising interference with fish habitat in the Queensland waters or on the unallocated tidal land mentioned in the authority.

281 Undecided application for former resource allocation authority for prescribed aquaculture development

- (1) This section applies in relation to an application for the issue of a former resource allocation authority for prescribed aquaculture development made but not decided or withdrawn before the commencement.
- (2) If, immediately before the commencement, a development approval for the prescribed

aquaculture development was in effect, the application lapses on the commencement.

Note—

See section 283 under which the chief executive is required to issue an aquaculture authority.

- (3) If subsection (2) does not apply in relation to the application—
 - (a) on the commencement, the application is taken to be an application for the issue of an aquaculture authority for the prescribed aquaculture development; and
 - (b) the application must be decided under this Act and is subject to any requirements for, or restrictions on, the issue of the aquaculture authority applying under this Act from the commencement.

Subdivision 3 Existing aquaculture development approvals

282 Issue of aquaculture authority if former resource allocation authority for prescribed aquaculture development

- (1) This section applies in relation to an existing aquaculture development approval that authorises prescribed aquaculture development if, immediately before the commencement, a former resource allocation authority is in effect for the development.
- (2) As soon as practicable after the commencement, the chief executive must issue to the holder of the former resource allocation authority an aquaculture authority for the prescribed aquaculture development authorising—

[s 170]

- (a) the carrying out of associated aquaculture activities for the development; and
 - (b) interfering with fish habitat in the Queensland waters or on the unallocated tidal land mentioned in the aquaculture development approval for the development, to the extent the interference was authorised under the former resource allocation authority.
- (3) However, if, immediately before the commencement, a change application for the existing aquaculture development approval was made but not decided or withdrawn, the chief executive must issue the aquaculture authority under subsection (2)—
 - (a) after the change application is decided or withdrawn; and
 - (b) in relation to the aquaculture development approval for the aquaculture development in effect at that time.
- (4) Section 61 applies for the issue of the aquaculture authority.
- (5) When the aquaculture authority is issued under subsection (2), the former resource allocation authority is cancelled.
- (6) Subsection (7) applies if the aquaculture development approval refers to a provision of the former resource allocation authority (the *former provision*).
- (7) The reference is taken to be a reference to the provision in the aquaculture authority corresponding to the former provision.

283 Issue of aquaculture authority if s 282 does not apply

- (1) This section applies in relation to an existing aquaculture development approval other than an existing aquaculture development approval to which section 282 applies.
- (2) As soon as practicable after the commencement, the chief executive must issue to the entitled person an aquaculture authority relating to the aquaculture development approved under the aquaculture development approval authorising—
 - (a) the carrying out of associated aquaculture activities for the development; and
 - (b) if the aquaculture development approval authorises prescribed aquaculture development—interfering with fish habitat in the Queensland waters or on the unallocated tidal land mentioned in the aquaculture development approval.
- (3) However, if, immediately before the commencement, a change application for the existing aquaculture development approval was made but not decided or withdrawn, the chief executive must issue the aquaculture authority under subsection (2)—
 - (a) after the change application is decided or withdrawn; and
 - (b) in relation to the aquaculture development approval for the aquaculture development in effect at that time.
- (4) Section 61 applies for the issue of the aquaculture authority.
- (5) If asked by the chief executive, the entitled person must give the chief executive any relevant information or evidence the chief executive requires to issue the aquaculture authority.

[s 170]

- (6) If the chief executive has asked the entitled person for information or evidence under subsection (5), the chief executive is not required to issue the aquaculture authority under this section until the chief executive is satisfied the person has given the information or evidence.

284 Disapplication of particular development conditions

- (1) This section applies if—
 - (a) the chief executive is required to issue an aquaculture authority under section 282 or 283 in relation to an existing aquaculture development approval; and
 - (b) the chief executive, after consulting the relevant planning chief executive, decides a development condition of the existing aquaculture development approval—
 - (i) relates to associated aquaculture activities for the aquaculture development; and
 - (ii) is inconsistent with the associated aquaculture activities to be authorised under the aquaculture authority or will become obsolete or redundant after the aquaculture authority is issued.
- (2) The chief executive must ensure the aquaculture authority, when issued—
 - (a) identifies the development condition; and
 - (b) includes an explanation of the effect of this section.
- (3) Section 62A does not apply to a condition imposed on the aquaculture authority that is inconsistent with the development condition.
- (4) From when the aquaculture authority is issued

under subsection (2)—

- (a) the development condition does not apply in relation to carrying out associated aquaculture activities for the aquaculture development; and
 - (b) a person does not commit an offence against a development approval offence provision for an act or omission that would, other than for this section, only contravene the development condition.
- (5) Subsection (4) applies despite anything in the Act under which the aquaculture development approval was given.
- (6) In this section—

development approval offence provision
means—

- (a) for an aquaculture development approval under the Planning Act—section 164 of that Act; or
- (b) for an aquaculture development approval under the *Economic Development Act 2012*—section 75 of that Act; or
- (c) for an aquaculture approval under the *State Development and Public Works Organisation Act 1971*—section 84C of that Act.

development condition, of an aquaculture development approval, see section 62A(4).

relevant planning chief executive, in relation to an existing aquaculture development approval, means the chief executive of the department in which the Act under which the development approval is given is administered.

[s 170]

285 Carrying out associated aquaculture activity for aquaculture development

- (1) This section applies in relation to aquaculture development approved under an existing aquaculture development approval mentioned in section 282 or 283.
- (2) Sections 76C and 88D do not apply to a person who carries out an associated aquaculture activity for the aquaculture development under the aquaculture development approval.
- (3) Subsection (2) stops applying when the aquaculture authority relating to the aquaculture development is issued under section 282 or 283.

Subdivision 4 Aquaculture development approvals given for existing development applications

286 Application of subdivision

- (1) This subdivision applies if—
 - (a) immediately before the commencement, a relevant development application for aquaculture development had been made but had not lapsed, been decided or withdrawn; and
 - (b) after the commencement, an aquaculture development approval is given for the aquaculture development.
- (2) In this section—

relevant development application means—

 - (a) a development application under the Planning Act; or

- (b) a PDA development application under the *Economic Development Act 2012*; or
- (c) an SDA application under the *State Development and Public Works Organisation Act 1971*.

287 Issue of aquaculture authority if prescribed aquaculture development authorised

- (1) This section applies if the aquaculture development approval authorises prescribed aquaculture development and, when the aquaculture development approval is given, a former resource allocation authority is in effect for the development.
- (2) The chief executive must issue to the entitled person an aquaculture authority relating to the aquaculture development authorising—
 - (a) the carrying out of associated aquaculture activities for the development; and
 - (b) interfering with fish habitat in the Queensland waters or on the unallocated tidal land mentioned in the aquaculture development approval for the development, to the extent the interference was authorised under the former resource allocation authority.
- (3) Section 61 applies for the issue of the aquaculture authority.
- (4) When the aquaculture authority is issued under subsection (2), the former resource allocation authority is cancelled.
- (5) Subsection (6) applies if the aquaculture development approval refers to a provision of the former resource allocation authority (the *former provision*).

[s 170]

- (6) The reference is taken to be a reference to the provision in the aquaculture authority corresponding to the former provision.

288 Deemed application for aquaculture authority if s 287 does not apply

- (1) This section applies if—
- (a) section 287 does not apply in relation to the aquaculture development approval; and
 - (b) when the aquaculture development approval is given, there is—
 - (i) no aquaculture authority relating to the aquaculture development approved under the approval; and
 - (ii) no application for the issue of an aquaculture authority relating to the aquaculture development approved under the approval that has not been decided or withdrawn.

Note—

See section 281 in relation to applications for the issue of a former resource allocation authority that are taken to be applications for the issue of an aquaculture authority.

- (2) When the aquaculture development approval is given for the aquaculture development, the entitled person is taken to have made an application under section 54 for the issue of an aquaculture authority relating to the aquaculture development.
- (3) Despite section 54(1)—
- (a) the application is not required to be made in the approved form; and
 - (b) no fee is payable for the application.
- (4) The application must be decided under this Act

and is subject to any requirements for, or restrictions on, the issue of the aquaculture authority applying under this Act from the commencement.

171 Amendment of sch 1 (Dictionary)

- (1) Schedule 1, definitions *fisheries development approval*, *prescribed aquaculture development* and *prescribed declared fish habitat area development*—

omit.

- (2) Schedule 1—

insert—

aquaculture authority means an aquaculture authority issued, and in force, under part 5, division 3.

aquaculture development means—

- (a) assessable development under the Planning Act that is making a material change of use of premises for aquaculture; or
- (b) PDA assessable development under the *Economic Development Act 2012* that is making a material change of use of premises for aquaculture; or
- (c) SDA assessable development under the *State Development and Public Works Organisation Act 1971* that is making a material change of use of premises under part 6 of that Act for aquaculture.

aquaculture development approval means any of the following approvals, whether given before or after the commencement—

- (a) a development approval under the Planning Act for aquaculture development mentioned

[s 171]

in definition *aquaculture development*, paragraph (a);

- (b) a PDA development approval under the *Economic Development Act 2012* for aquaculture development mentioned in definition *aquaculture development*, paragraph (b);
- (c) an SDA approval under the *State Development and Public Works Organisation Act 1971* for aquaculture development mentioned in definition *aquaculture development*, paragraph (c).

associated aquaculture activity, for aquaculture development, means an activity relating to aquaculture associated with the development, whether carried out before or after the aquaculture starts.

Examples of activities that may be carried out before aquaculture starts—

- installing aquaculture furniture
- filling an excavation with water to create a pond

fisheries development approval means—

- (a) generally—a development approval for fisheries development if the chief executive, or the chief executive of the department in which the Planning Act is administered, was the assessment manager or a referral agency under that Act for the application for the approval; or
- (b) in relation to aquaculture development—an aquaculture development approval.

prescribed aquaculture development means aquaculture development that is carried out in Queensland waters or on unallocated tidal land.

prescribed declared fish habitat area development means assessable development

under the Planning Act that is either of the following, to the extent the development is carried out in Queensland waters or on land other than freehold land—

- (a) building work in a declared fish habitat area;
- (b) operational work completely or partly within a declared fish habitat area.

- (3) Schedule 1, definition *authority*, after ‘resource allocation authority’—

insert—

, aquaculture authority

- (4) Schedule 1, definition *resource allocation authority*, ‘, subdivision 2A’—

omit.

Division 2 Amendments relating to monitoring on boats

172 Amendment of s 61 (Conditions imposed on issue or renewal—general)

Section 61(1)—

insert—

Note—

See also section 76Z in relation to imposing video monitoring conditions and section 76ZJ in relation to imposing observation conditions.

173 Insertion of new pt 5, divs 3B and 3C

After section 76V—

insert—

Division 3B Video monitoring condition

Subdivision 1 Preliminary

76W Definitions for division

In this division—

approved video monitoring equipment, for a boat or type of boat, means video monitoring equipment of a type approved for the boat or the type of boat under section 76Y.

commercial fishing activity means—

- (a) taking, possessing or using fisheries resources for trade or commerce; or
- (b) possessing or using commercial fishing apparatus.

video monitoring condition see section 76X.

video monitoring equipment means a camera or other equipment used as part of a monitoring and recording system to record an activity in the form of moving or still images.

Example of monitoring and recording system—

closed-circuit television system

76X What is a *video monitoring condition*

A ***video monitoring condition*** is a condition imposed on an authority requiring approved video monitoring equipment to be installed and used in a boat, or a type of boat, used under the authority to monitor and record commercial fishing activities carried out under the authority.

76Y Approval of video monitoring equipment

The chief executive—

- (a) may approve a type of video monitoring equipment for a boat or type of boat used under an authority subject to a video monitoring condition; and
- (b) must publish a description of the type of video monitoring equipment approved under paragraph (a) on the department's website.

76Z Imposition of video monitoring condition

- (1) A video monitoring condition may be imposed —
 - (a) by the chief executive under section 61 on an authority in relation to a boat, or a type of boat, used under the authority; or
 - (b) by regulation under section 62 on authorities of a type in relation to boats of a type used under the authorities.
- (2) The chief executive may impose a video monitoring condition on an authority only if the chief executive is satisfied the imposition of the condition is reasonably necessary to monitor—
 - (a) whether the purposes of this Act are being achieved; or
 - (b) how commercial fishing activities are carried out under the authority.
- (3) The Minister may recommend to the Governor in Council the making of a regulation imposing a video monitoring condition on authorities of a type if the Minister is satisfied the condition is reasonably necessary to monitor—
 - (a) whether the purposes of this Act are being achieved; or

[s 173]

- (b) how commercial fishing activities are carried out under the authorities.

Subdivision 2 Installation and use of approved video monitoring equipment

76ZA Application of subdivision

This subdivision applies in relation to an authority that is subject to a video monitoring condition for 1 or more boats used under the authority (each a *relevant boat*).

76ZB Definitions for subdivision

In this subdivision—

monitoring period means—

- (a) if the video monitoring condition is imposed on the authority by the chief executive under section 61—the monitoring period stated in the authority; or
- (b) if the video monitoring condition is imposed on the authority by a regulation under section 62—the monitoring period prescribed by regulation for the authority.

relevant boat see section 76ZA.

76ZC Recreational activities not to be recorded

- (1) Nothing in this division requires, and no condition imposed or regulation made under this division may require, a recreational activity to be monitored or recorded.
- (2) In this section—

recreational activity means an activity that is not related to a commercial fishing activity, including, for example—

- (a) recreational fishing; and
- (b) activities of a personal or domestic nature.

76ZD Installing and using equipment

The holder of, or another person acting under, the authority must ensure—

- (a) approved video monitoring equipment for a relevant boat is installed in the boat in the position and way prescribed by regulation; and
- (b) during each monitoring period, the approved video monitoring equipment is working properly and records all commercial fishing activities carried out in the relevant boat during the period that—
 - (i) are prescribed by regulation for this section for the authority; and
 - (ii) the equipment is capable of recording having regard to the type of equipment and the position and way the equipment is installed in the boat.

Maximum penalty—1,000 penalty units.

76ZE Giving recording and related information

- (1) This section applies if the approved video monitoring equipment installed on a relevant boat records a commercial fishing activity carried out in the boat as required under section 76ZD.
- (2) The holder of, or another person acting under, the authority must give to the chief executive, in the required way and at the required time—

[s 173]

- (a) the recording; and
- (b) the information prescribed by regulation about the recording.

Maximum penalty—1,000 penalty units.

- (3) In this section—

required time means—

- (a) if the video monitoring condition is imposed on the authority by the chief executive under section 61—the time stated in the authority; or
- (b) if the video monitoring condition is imposed on the authority by a regulation under section 62—the time prescribed by regulation for the authority.

required way means—

- (a) if the video monitoring condition is imposed on the authority by the chief executive under section 61—the way stated in the authority; or
- (b) if the video monitoring condition is imposed on the authority by a regulation under section 62—the way prescribed by regulation for the authority.

76ZF Malfunctioning equipment

- (1) This section applies if the approved video monitoring equipment installed on a relevant boat malfunctions during a monitoring period.
- (2) The holder of, or another person acting under, the authority must—
 - (a) immediately notify the chief executive of the malfunction in the way prescribed by regulation; and

- (b) comply with the procedures prescribed by regulation to rectify the malfunction.

Maximum penalty—1,000 penalty units.

- (3) The procedures prescribed for subsection (2)(b) may require—

- (a) the repair of the approved video monitoring equipment to rectify the malfunction; or

- (b) the replacement of the approved video monitoring equipment if the malfunction can not be rectified by repairing the equipment.

- (4) In this section—

malfunctions, in relation to approved video monitoring equipment, means the equipment fails to work entirely or fails to work properly.

76ZG Equipment not to be interfered with

A person must not interfere with the operation of approved video monitoring equipment installed on a relevant boat being used under the authority.

Maximum penalty—1,000 penalty units.

Division 3C Observation condition

Subdivision 1 Preliminary

76ZH Definitions for division

In this division—

commercial fishing activity means—

- (a) taking, possessing or using fisheries resources for trade or commerce; or

[s 173]

- (b) possessing or using commercial fishing apparatus.

observation condition see section 76ZI.

76ZI What is an observation condition

An *observation condition* is a condition imposed on an authority requiring an official observer to be placed in a boat, or a type of boat, used under the authority to monitor commercial fishing activities carried out under the authority.

76ZJ Imposition of observation condition

- (1) An observation condition may be imposed —
 - (a) by the chief executive under section 61 on an authority in relation to a boat, or a type of boat, used under the authority; or
 - (b) by regulation under section 62 on authorities of a type in relation to boats of a type used under the authorities.
- (2) The chief executive may impose an observation condition on an authority only if the chief executive is satisfied the imposition of the condition is reasonably necessary to monitor—
 - (a) whether the purposes of this Act are being achieved; or
 - (b) how commercial fishing activities are carried out under the authority.
- (3) The Minister may recommend to the Governor in Council the making of a regulation imposing an observation condition on authorities of a type if the Minister is satisfied the condition is reasonably necessary to monitor—
 - (a) whether the purposes of this Act are being achieved; or

- (b) how commercial fishing activities are carried out under the authorities.

Subdivision 2 Appointing official observers

76ZK Appointment of official observer

- (1) The chief executive may, by instrument in writing, appoint an appropriately qualified person as an official observer.
- (2) An official observer holds office on any conditions stated in—
 - (a) the official observer's instrument of appointment; or
 - (b) a signed notice given to the official observer; or
 - (c) a regulation.
- (3) The instrument of appointment, a signed notice given to the official observer or a regulation may limit the official observer's powers.
- (4) In this section—
signed notice means a notice signed by the chief executive.

76ZL Function and powers of official observer

- (1) An official observer has the function of monitoring, for the administration and enforcement of this Act, commercial fishing activities carried out in a boat under an authority that is subject to an observation condition.
- (2) An official observer may exercise powers under this division for the purpose of the function mentioned in subsection (1).

[s 173]

- (3) An official observer may do anything necessary to perform the observer's function mentioned in subsection (1), including, for example—
 - (a) obtain, record and give the chief executive information about the commercial fishing activities; and
 - (b) have access to any part of the boat or any thing in the boat as may be necessary to exercise the observer's powers; and
 - (c) make a requirement of the holder of, or another person acting under, the authority to give the observer reasonable help to exercise a power, including, for example, to produce a document or give information.
- (4) The powers of an official observer may be limited—
 - (a) under a regulation; or
 - (b) under a condition of appointment; or
 - (c) by written notice of the chief executive given to the observer.
- (5) An official observer must, when performing the function or exercising a power of an official observer in a boat, have regard to the nature of the commercial fishing activities being carried out in the boat.
- (6) If a person who is an official observer is also an inspector, this division applies in relation to the person in addition to part 8 and does not limit or otherwise affect the person's performance of the functions or exercise of the powers of an inspector under this Act.

Subdivision 3 Placement of official observers

76ZM Application of subdivision

This subdivision applies in relation to an authority that is subject to an observation condition for 1 or more boats used under the authority (each a *relevant boat*).

76ZN Definitions for subdivision

In this subdivision—

observation notice see section 76ZO(1).

observation period see section 76ZO(2)(a)(ii).

relevant boat see section 76ZM.

76ZO Observation notice

- (1) The chief executive may give the holder of the authority written notice (an *observation notice*) of the chief executive's intention to place an official observer on a relevant boat.
- (2) The observation notice must—
 - (a) state—
 - (i) the name of the official observer; and
 - (ii) the reasonable period (the *observation period*) during which the official observer is required to be on the relevant boat; and
 - (b) be given within a reasonable period before the observation period starts.
- (3) In deciding what is a reasonable period for subsection (2)(a)(ii) or (b), the chief executive must have regard to—
 - (a) the nature of the commercial fishing activities to be carried out on the relevant

[s 173]

- boat during the proposed observation period; and
- (b) any submission the holder of the authority has made to the chief executive in relation to the observation condition; and
- (c) any other matter prescribed by regulation.

76ZP Requirement to allow official observer to perform function and exercise powers

- (1) This section applies if the holder of the authority has been given an observation notice under section 76ZO in relation to a relevant boat.
- (2) The holder, or another person acting under the authority, must allow the official observer stated in the observation notice to—
 - (a) board the relevant boat; and
 - (b) perform the observer's function and exercise the observer's powers in the relevant boat during the observation period.

Maximum penalty—1,000 penalty units.

- (3) The holder, or another person acting under the authority, may use the relevant boat for a commercial fishing activity during the observation period only if subsection (2) is being complied with.

Maximum penalty—1,000 penalty units.

76ZQ Requirement to help official observer

- (1) This section applies if an official observer on board a relevant boat under section 76ZP—
 - (a) makes a requirement of the holder of, or another person acting under, the authority under section 76ZL(3)(c) to give the

observer reasonable help to exercise a power; and

- (b) warns the holder or other person that, without a reasonable excuse, it is an offence for the holder or other person not to comply with the requirement.
- (2) The holder of, or other person acting under, the authority must comply with the requirement unless the holder or other person has a reasonable excuse.

Maximum penalty—1,000 penalty units.

- (3) It is a reasonable excuse for an individual not to comply with the requirement if complying with the requirement might tend to incriminate the individual or expose the individual to a penalty.
- (4) However, subsection (3) does not apply in relation to a requirement to give a document or information if the document or information is required to be held or kept by the individual under this Act.

76ZR Reasonable help if official observer unable to perform function

- (1) This section applies if an official observer on board a relevant boat under section 76ZP is or becomes unable to perform the observer's function or exercise the observer's powers under this division.

Example—

the official observer is injured or becomes ill

- (2) The official observer—
 - (a) must notify the chief executive of the matter mentioned in subsection (1); and

[s 174]

- (b) may ask the holder of, or another person acting under, the authority to allow the observer to leave the relevant boat.
- (3) If the official observer makes a request under subsection (2)(b), the holder of, or other person acting under, the authority must take all reasonable steps to help the official observer to leave the relevant boat.

Maximum penalty—1,000 penalty units.

- (4) The chief executive may give the holder of, or another person acting under, the authority a written notice stating that the official observer (the *original observer*) is to be replaced with another official observer (the *replacement observer*) for the remainder of the observation period.
- (5) If the chief executive gives a notice under subsection (4), the holder of, or other person acting under, the authority must take all reasonable steps to help with the replacement of the original observer with the replacement observer.

Maximum penalty—1,000 penalty units.

- (6) Subsections (4) and (5) apply even if the original observer leaves the relevant boat before the notice is given under subsection (4) or the replacement of the original observer is required to happen under subsection (5).

174 Amendment of s 216A (Immunity from prosecution)

- (1) Section 216A(1), after ‘inspector’—

insert—

or official observer

- (2) Section 216A(2), ‘or an inspector’—

omit, insert—

, an inspector or an official observer

175 Amendment of s 217 (Protection from liability)

Section 217(1), definition *official*—

insert—

(e) an official observer; or

(f) a person helping an official observer at the observer's direction.

176 Amendment of s 217B (Confidentiality of information)

Section 217B(1)(a)(ii), after 'inspector'—

insert—

or official observer

177 Amendment of s 221 (Inspector not to have interest in authority)

(1) Section 221, heading, after 'Inspector'—

insert—

or official observer

(2) Section 221(1), after 'inspector'—

insert—

or official observer

178 Amendment of sch 1 (Dictionary)

Schedule 1—

insert—

approved video monitoring equipment, for a boat or type of boat, for part 5, division 3B, see section

[s 179]

76W.

commercial fishing activity—

- (a) for part 5, division 3B—see section 76W; or
- (b) for part 5, division 3C—see section 76ZH.

monitoring period, for part 5, division 3B, subdivision 2, see section 76ZB.

observation condition, for part 5, division 3C, see section 76ZI.

observation notice, for part 5, division 3C, subdivision 3, see section 76ZO(1).

observation period, for part 5, division 3C, subdivision 3, see section 76ZO(2)(a)(ii).

official observer means a person appointed as an official observer under section 76ZK.

relevant boat—

- (a) for part 5, division 3B, subdivision 2—see section 76ZA; or
- (b) for part 5, division 3C, subdivision 3—see section 76ZM.

video monitoring condition, for part 5, division 3B, see section 76X.

video monitoring equipment, for part 5, division 3B, see section 76W.

Division 3

Other amendment

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

- (1) Section 5(3)(a) and (b)—
omit.
- (2) Section 5(3)(c) and (d)—

renumber as section 5(3)(a) and (b).

Chapter 11 Amendment of Forestry Act 1959

180 Act amended

This chapter amends the *Forestry Act 1959*.

181 Amendment of s 32B (Particular areas of conservation value to be removed from State plantation forest)

- (1) Section 32B, table, entries for Yurol, Brooweena, Bulburin and Goodnight Scrub—

omit.

- (2) Section 32B, table, entry for Wongabel, column 2, ‘Lots A, B, C & D on PLP0191’—

omit, insert—

Lot D on PLP0191

Chapter 12 Amendment of Nature Conservation Act 1992

182 Act amended

This chapter amends the *Nature Conservation Act 1992*.

Note—

See also the amendments in schedule 1, part 3.

[s 183]

183 Amendment of s 4 (Object of Act)

- (1) Section 4, ‘indigenous people’—

omit, insert—

Aboriginal peoples and Torres Strait Islander peoples

- (2) Section 4, ‘Island custom’—

omit, insert—

Ailan Kastom

184 Amendment of s 5 (How object is to be achieved)

Section 5(f), ‘Aborigines and Torres Strait Islanders’—

omit, insert—

Aboriginal peoples and Torres Strait Islander peoples

185 Amendment of s 6 (Community participation in administration of Act)

Section 6, ‘Aborigines and Torres Strait Islanders’—

omit, insert—

Aboriginal peoples and Torres Strait Islander peoples

186 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *indigenous joint management area*, *indigenous landholder*, *indigenous land use agreement* and *indigenous management agreement*—

omit.

- (2) Schedule—

insert—

Indigenous joint management area means an

area declared under this Act as an Indigenous joint management area.

Indigenous landholder, for a protected area or land, means the entity that, under the *Aboriginal Land Act 1991* or the *Torres Strait Islander Land Act 1991*, is the trustee for the protected area or land.

Indigenous land use agreement means an indigenous land use agreement registered on the Register of Indigenous Land Use Agreements under the *Native Title Act 1993* (Cwlth).

Indigenous management agreement, in relation to land, means an indigenous management agreement under the *Aboriginal Land Act 1991* about the management of the land.

Chapter 13 Amendment of Sugar Industry Act 1999

187 Act amended

This chapter amends the *Sugar Industry Act 1999*.

188 Amendment of s 255A (Allegations of false or misleading matters)

Section 255A(3)—

omit.

[s 189]

Chapter 14 Amendment of Veterinary Surgeons Act 1936

189 Act amended

This chapter amends the *Veterinary Surgeons Act 1936*.

Note—

See also the amendments in schedule 1, part 3.

190 Amendment of s 25F (Criteria for decision)

Section 25F(a), editor's note—

omit, insert—

Note—

A copy of the standards is available on the board's website.

191 Replacement of s 33C (Veterinary surgeon to produce records)

Section 33C—

omit, insert—

33C Producing documents

- (1) The board may, by written notice given to a veterinary surgeon, require the person to produce to the board, within a stated reasonable period, a document required to be kept by the person under this Act in relation to the person's practice of veterinary science.
- (2) The board may, by written notice given to a person who holds an approval to use premises as veterinary premises, require the person to produce to the board, within a stated reasonable period, a document required to be kept under the approval in relation to the practice of veterinary science at

the premises.

- (3) A person of whom a requirement is made under subsection (1) or (2) must comply with the requirement.

Maximum penalty—10 penalty units.

- (4) If a person produces a document to the board under subsection (1) or (2), the board may—
- (a) inspect, copy, or take an extract from, the document; or
 - (b) keep the document for the period that the board considers necessary.
- (5) If the board copies or takes an extract from, a document under subsection (4)(a), the board must return the document to the person who produced it.
- (6) If the board keeps a document under subsection (4)(b), the board must allow the person who produced the document to inspect, make copies of, or take extracts from, the document at any reasonable time.

Chapter 15 Other amendments

192 Legislation amended

Schedule 1 amends the legislation it mentions.

Schedule 1 Other amendments

section 192

Part 1 Amendments commencing on assent

Animal Care and Protection Act 2001

1 Omission of notes

The notes in the following provisions are omitted—

- section 15(3)
- section 18(1)
- section 19(1) and (2)
- section 21(1)
- section 30
- section 31
- section 32(1)
- section 35
- section 36(1) and (3)
- section 37(1)
- section 51(1)
- section 91
- section 92
- section 161
- section 187.

2 Section 17(2), notes—

omit, insert—

Note—

See also section 9.

3 Schedule, definition *animal welfare offence*, paragraph (a), ‘, 209’—

omit.

Animal Management (Cats and Dogs) Act 2008

1 Section 121(2)(a), ‘himself or herself’—

omit, insert—

themselves

2 Section 133, heading, ‘notice’—

omit, insert—

compliance notice

3 Section 181(2), ‘appointed to’—

omit, insert—

appointed by

4 Schedule 2, definition *original decider*, paragraph (b), ‘appointed to’—

omit, insert—

appointed by

Biosecurity Act 2014

- 1 **Section 479(3), ‘section 214(6)(a) to (c)’—**
 omit, insert—
 section 214(6)(a) or (b)

Exhibited Animals Act 2015

- 1 **Section 38(4), definition *prohibited wildlife*, note—**
 omit.
- 2 **Schedule 2, definition *international wildlife*, note—**
 omit.

Farm Business Debt Mediation Act 2017

- 1 **Section 15(1)(a), ‘an enforcement action notice’—**
 omit, insert—
 a notice inviting a request for mediation
- 2 **Section 16(2), ‘enforcement action notice’—**
 omit, insert—
 notice inviting a request for mediation
- 3 **Section 16(5), ‘an enforcement action notice’—**
 omit, insert—

a notice inviting a request for mediation

4 Section 49(1)(c)(ii), ‘an enforcement action notice’—

omit, insert—

a notice inviting a request for mediation

5 Section 52(3), ‘an enforcement action notice’—

omit, insert—

a notice inviting a request for mediation

6 Section 53(1), ‘an enforcement action notice’—

omit, insert—

a notice inviting a request for mediation

7 Section 56(3)(e), ‘an enforcement action notice’—

omit, insert—

a notice inviting a request for mediation

Fisheries Act 1994

1 Section 77A(2), ‘on a boat’—

omit, insert—

in a boat

2 Section 88(3), ‘on a boat’—

omit, insert—

in a boat

- 3 Section 89A(1)(m), ‘rocklobster’—**
omit, insert—
rock lobster
- 4 Section 118(6), definition *protected animal*—**
omit.
- 5 Part 8, division 2, heading, ‘Powers’—**
omit, insert—
General powers
- 6 Section 146(5)(b), ‘or on’—**
omit.
- 7 Section 148(4)(b), ‘at the place, on the boat or in the vehicle’—**
omit, insert—
in the place, boat or vehicle
- 8 Section 148A(1)(a), ‘at the place’—**
omit, insert—
in the place
- 9 Section 150(1)(b), (c), (e), (f) and (i) ‘or on’—**
omit.
- 10 Section 150(1)(g), ‘at the place, on the boat, or in the vehicle’—**
omit, insert—
in the place, boat or vehicle

- 11 **Section 150(1)(j)(ii), ‘at the place’—**
 omit, insert—
 in the place
- 12 **Section 154(2)(b), examples, item 1, ‘on a boat’—**
 omit, insert—
 in a boat
- 13 **Section 155(1)(a), ‘on a boat,’—**
 omit, insert—
 in a boat or on
- 14 **Section 156(2)(b), ‘at the place’—**
 omit, insert—
 in the place
- 15 **Part 8, division 3, heading and part 8, division 3, subdivision 1, heading—**
 omit, insert—
 Subdivision 2 Procedures after seizure
- 16 **Part 8, division 3, subdivision 2, heading—**
 omit, insert—
 Subdivision 3 Appeal against seizure of fisheries resources
- 17 **Part 8, division 2A, as inserted by this Act—**
 renumber as part 8, division 3.

Schedule 1

18 Section 173E(1)(a), ‘at a place’—

omit, insert—

in a place

19 Section 173E(5), ‘at the place’—

omit, insert—

in the place

20 Section 178(1), ‘fisheries resources or’—

omit.

21 Section 180(2)(a), ‘on a boat’—

omit, insert—

in a boat

22 Section 180(3)(a), ‘at the place’—

omit, insert—

in the place

Forestry Regulation 2015

1 Schedule 2, entries for Lot A on PLP0391 and Lot I on PLP0952—

omit.

State Penalties Enforcement Regulation 2014

- 1** **Schedule 1, entry for *Biosecurity Act 2014*, entry for section 43(2)—**

omit, insert—

s 43(3)

5

25

Part 2 **Amendments commencing on 28 August 2024**

Animal Management (Cats and Dogs) Act 2008

- 1** **Section 94, heading, after ‘Making’—**

insert—

regulated dog

- 2** **Section 138(1), ‘section 111(1)(h)’—**

omit, insert—

section 111(1)(g)

Guide, Hearing and Assistance Dogs Act 2009

- 1** **Section 36(c)—**

omit, insert—

- (c) is not a dog of a breed prohibited from importation into Australia under the *Customs Act 1901* (Cwlth); and

2 Section 37(c)—

omit, insert—

- (c) is not a dog of a breed prohibited from importation into Australia under the *Customs Act 1901* (Cwlth); and

3 Section 38(c)—

omit, insert—

- (c) is not a dog of a breed prohibited from importation into Australia under the *Customs Act 1901* (Cwlth); and

Part 3 Amendments commencing by proclamation

Animal Care and Protection Act 2001

1 Section 42(3), definition *pest animal*, paragraph (b), notes—

omit.

Biosecurity Act 2014

- 1 **Section 13, ‘schedule 4’—**
 omit, insert—
 schedule 2
- 2 **Section 506, heading, ‘sch 3’—**
 omit, insert—
 sch 1
- 3 **Section 506, ‘and schedule 3’—**
 omit, insert—
 and schedule 1
- 4 **Section 506, definition *amended Act*, ‘schedule 3’—**
 omit, insert—
 schedule 1
- 5 **Section 507(3), note, ‘Schedule 3’—**
 omit, insert—
 Schedule 1
- 6 **Section 513, ‘schedule 3’—**
 omit, insert—
 schedule 1
- 7 **Section 514(1), heading, ‘sch 3’—**
 omit, insert—
 sch 1

Schedule 1

8 Section 514(1), ‘schedule 3’—

omit, insert—

schedule 1

9 Section 514(2) and (3), ‘Schedule 3’—

omit, insert—

Schedule 1

10 Schedule 3—

renumber as schedule 1.

Chemical Usage (Agricultural and Veterinary) Control Regulation 2017

1 Section 11(2), definition *natural resource management body*, ‘schedule 4’—

omit, insert—

schedule 2

Exhibited Animals Act 2015

1 Schedule 2, definition *prohibited matter*—

omit, insert—

prohibited matter see the *Biosecurity Act*, section 19(1).

2 Schedule 2, definition *restricted matter*—

omit, insert—

restricted matter see the *Biosecurity Act*, section 21(1).

Fisheries Act 1994

1 Section 8(2)(a), notes—

omit.

2 Part 5, division 3, subdivision 2A—

omit.

3 Section 150(1), ‘this part’—

omit, insert—

this Act

Land Act 1994

1 Schedule 6, definition *declared pest*, paragraph (a)—

omit, insert—

- (a) prohibited matter or restricted matter that is prescribed or declared as invasive biosecurity matter under the *Biosecurity Act 2014*; or

Mineral and Energy Resources (Common Provisions) Regulation 2016

1 Schedule 1, section 7(7), definition *declared pest*, paragraph (a)—

omit, insert—

- (a) prohibited matter or restricted matter that is prescribed or declared as invasive biosecurity matter under the *Biosecurity Act 2014*; or

Mineral Resources Regulation 2013

1 Schedule 6, definition *declared plant*, paragraph (a)—

omit, insert—

- (a) prohibited matter or restricted matter that is prescribed or declared as invasive biosecurity matter under the *Biosecurity Act 2014*; or

Nature Conservation Act 1992

1 Amendment of various provisions

Each provision mentioned in column 1 is amended by omitting the words in column 2 and inserting the words in column 3—

Column 1	Column 2	Column 3
Provision	Words omitted	Words inserted
section 15(1)(b)(ii)	indigenous	Indigenous
section 16(3)	indigenous	Indigenous
section 17(3)	indigenous	Indigenous
section 19(2)	Island custom	Ailan Kastom
section 21(2)	indigenous	Indigenous
section 21A(3)	indigenous	Indigenous
section 32(3), including note	indigenous	Indigenous
section 33(3), including note	indigenous	Indigenous
section 34(3), including note	indigenous	Indigenous
section 35(3), including note	indigenous	Indigenous
section 35A(3)	indigenous	Indigenous
section 36(5A), including note	indigenous	Indigenous
part 4, division 3, heading	indigenous	Indigenous
section 40(3)	indigenous	Indigenous
section 41(2) and (4)	indigenous	Indigenous
section 42AA(1)(b) and (3)	indigenous	Indigenous
section 42AB(1)(a) and (b)	indigenous	Indigenous
section 42AC(1)(a)	indigenous	Indigenous
section 42AD(1) and (2)	indigenous	Indigenous
section 42AE(1)	indigenous	Indigenous

Schedule 1

Column 1	Column 2	Column 3
Provision	Words omitted	Words inserted
section 42AEA(1)	indigenous	Indigenous
section 42AG	indigenous	Indigenous
section 42AH	indigenous	Indigenous
section 42AI	indigenous	Indigenous
section 42AJ	indigenous	Indigenous
section 42AK	indigenous	Indigenous
section 42AL	indigenous	Indigenous
section 42AM	indigenous	Indigenous
section 42AN	indigenous	Indigenous
section 42AO	indigenous	Indigenous
section 42AOA	indigenous	Indigenous
section 42AP	indigenous	Indigenous
section 42AQ(1)(a)(iv) and (b)	indigenous	Indigenous
section 42A(1A)	indigenous	Indigenous
section 43B(3)(b)	indigenous	Indigenous
section 62(1)(b)	indigenous	Indigenous
section 73(b)(iii)	by Aboriginal people under Aboriginal tradition or Torres Strait Islanders under Island custom	by Aboriginal peoples under Aboriginal tradition or Torres Strait Islander peoples under Ailan Kastom
section 88C(5)	Aborigine or Torres Strait Islander	Aboriginal or Torres Strait Islander person

Column 1	Column 2	Column 3
Provision	Words omitted	Words inserted
section 93, heading	Aborigines' and Torres Strait Islanders'	Aboriginal peoples' and Torres Strait Islander peoples'
section 93(1) and (3)	Aborigine or Torres Strait Islander	Aboriginal or Torres Strait Islander person
section 93(1) to (3)	Island custom	Ailan Kastom
section 98(b)	Aborigine or Torres Strait Islander	Aboriginal or Torres Strait Islander person
section 111(1)(b)(iii) and (7)	indigenous	Indigenous
section 112(4)	indigenous	Indigenous
section 113C(b)	indigenous	Indigenous
section 115A(3)(c)	indigenous people	Aboriginal peoples and Torres Strait Islander peoples
section 120	indigenous	Indigenous
section 120AB(1) to (3)	indigenous	Indigenous
section 132A(2) and (3)	indigenous people	Aboriginal peoples or Torres Strait Islander peoples
section 132A(4)(b)	indigenous regional organisations	regional organisations representing Aboriginal peoples or Torres Strait Islander peoples
section 142(7), definition <i>official</i> , paragraph (c)	indigenous	Indigenous
schedule, definition <i>cultural resources</i>	Island custom	Ailan Kastom

Schedule 1

Column 1	Column 2	Column 3
Provision	Words omitted	Words inserted
schedule, definition <i>existing service facility</i> , paragraph (c)	indigenous	Indigenous
schedule, definition <i>landholder</i> , paragraph (c)	indigenous	Indigenous

2 Section 35A(3)—

insert—

Note—

For an Indigenous joint management area, see section 42AOA.

Nature Conservation (Macropod) Conservation Plan 2017

1 Section 8(4), definition *restricted invasive animal*—

omit, insert—

restricted invasive animal means an animal that is restricted matter and is prescribed as invasive biosecurity matter under the *Biosecurity Act 2014*.

Planning Regulation 2017

1 Schedule 24, definition *declared pest*, paragraph (a)—

omit, insert—

- (a) prohibited matter or restricted matter that is prescribed or declared as invasive biosecurity matter under the *Biosecurity Act 2014*;

Public Health Act 2005

1 Section 22(1)(a), notes—

omit.

2 Section 36(3)(a), notes—

omit.

Stock Route Management Act 2002

1 Section 118(5), definition *invasive biosecurity matter*—

omit, insert—

invasive biosecurity matter means prohibited matter or restricted matter that is prescribed or declared as invasive biosecurity matter under the *Biosecurity Act 2014*.

Vegetation Management Act 1999

1 Schedule, definition *declared pest*, paragraph (a)—

omit, insert—

- (a) prohibited matter or restricted matter that is prescribed or declared as invasive biosecurity matter under the *Biosecurity Act 2014*; or

Veterinary Surgeons Act 1936

1 Section 29C(1)(a), notes—

omit.

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