

Queensland



# NATURE CONSERVATION ACT 1992

**Reprinted as in force on 9 February 2001  
(includes amendments up to Act No. 64 of 2000)**

**Warning—see last endnote for uncommenced amendments**

**Reprint No. 3 \***

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# Information about this reprint

This Act is reprinted as at 9 February 2001. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- use different spelling consistent with current drafting practice (s 26(2))
- use standard punctuation consistent with current drafting practice (s 27)
- reorder definitions consistent with current drafting practice (s 30)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- correct minor errors (s 44).

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **provisions that have not commenced and are not incorporated in the reprint**
- **editorial changes made in the reprint, including table of corrected minor errors**
- **editorial changes made in earlier reprints.**

# Queensland



## NATURE CONSERVATION ACT 1992

### TABLE OF PROVISIONS

Section		Page
<b>PART 1—PRELIMINARY</b>		
1	Short title . . . . .	11
3	Crown bound . . . . .	11
<b>PART 2—OBJECT OF ACT</b>		
4	Object of Act . . . . .	11
5	How object is to be achieved . . . . .	11
6	Community participation in administration of Act . . . . .	13
<b>PART 3—INTERPRETATION</b>		
<i>Division 1—Dictionary</i>		
7	Definitions . . . . .	13
<i>Division 2—Key definitions</i>		
8	Meaning of “nature” . . . . .	14
9	Meaning of “conservation” . . . . .	14
10	Meaning of “biological diversity” . . . . .	14
11	Meaning of “ecologically sustainable use” . . . . .	15
12	Meaning of “threatening process” . . . . .	15
13	Meaning of “critical habitat” . . . . .	15
<b>PART 4—PROTECTED AREAS</b>		
<i>Division 1—Basic concepts</i>		
14	Classes of protected areas to which Act applies . . . . .	16
15	Management of protected areas . . . . .	16
16	Management principles of national parks (scientific) . . . . .	17
17	Management principles of national parks . . . . .	17
18	Management principles of national parks (Aboriginal land) . . . . .	18

---

19	Management principles of national parks (Torres Strait Islander land) . . . .	18
19A	Management principles of national parks (recovery) . . . . .	18
20	Management principles of conservation parks . . . . .	19
21	Management principles of resources reserves. . . . .	19
22	Management principles of nature refuges . . . . .	19
23	Management principles of coordinated conservation areas. . . . .	20
24	Management principles of wilderness areas . . . . .	20
25	Management principles of World Heritage management areas. . . . .	20
26	Management principles of international agreement areas. . . . .	20
27	Prohibition on mining . . . . .	21
<b><i>Division 2—Protected areas (State land)</i></b>		
<b><i>Subdivision 1—Preliminary</i></b>		
28	Meaning of “protected area” in division . . . . .	21
<b><i>Subdivision 2—Dedication, revocation and amalgamation</i></b>		
29	Dedication of protected areas . . . . .	22
30	Revocation of State forests and timber reserves . . . . .	22
31	Trustees of protected areas . . . . .	22
32	Revocation of protected areas . . . . .	23
33	Amalgamation etc. of protected areas . . . . .	23
<b><i>Subdivision 3—Interests in protected areas</i></b>		
34	Leases etc. over protected areas . . . . .	24
35	Chief executive’s powers about permitted uses in national parks or national parks (recovery) . . . . .	25
36	Authorities for new national park or national park (recovery) . . . . .	25
37	Chief executive’s powers to renew existing authorities for national parks . .	27
38	Leases may be granted under Land Act 1994 . . . . .	28
39	Creation of interests in protected areas . . . . .	28
<b><i>Subdivision 4—Environmental impact statements</i></b>		
39A	Application of sdiv 4 . . . . .	28
39B	Chief executive may require EIS. . . . .	28
39C	EIS must be considered. . . . .	29

---

<b><i>Division 3—Protected areas (Aboriginal land and Torres Strait Islander land)</i></b>		
40	Dedication of national park as national park (Aboriginal land) or national park (Torres Strait Islander land) . . . . .	29
41	Dedication of Aboriginal land as national park (Aboriginal land) or Torres Strait Islander land as national park (Torres Strait Islander land) . . .	30
42	Dedication of leasehold land as national park (Aboriginal land) or national park (Torres Strait Islander land) . . . . .	30
<b><i>Division 3A—Regeneration plans for national parks (recovery)</i></b>		
42A	Obligation to prepare regeneration plan . . . . .	31
42B	Purpose of regeneration plan . . . . .	31
42C	Publication of draft regeneration plan . . . . .	32
42D	Comments to be considered before final plan made . . . . .	32
42E	Final regeneration plan . . . . .	32
42F	Implementation of final regeneration plan . . . . .	33
<b><i>Division 4—Nature refuges, coordinated conservation areas and wilderness areas</i></b>		
43	Meaning of “protected area” in division . . . . .	33
44	Proposal for declaration of protected area . . . . .	33
45	Conservation agreements. . . . .	34
46	Declaration of protected area . . . . .	35
47	Duration and termination of conservation agreements . . . . .	36
48	Variation of conservation agreements . . . . .	36
49	Compulsory declaration of nature refuge . . . . .	37
50	Revocation of protected area . . . . .	38
51	Conservation agreements and covenants binding . . . . .	38
52	Liability of State . . . . .	38
<b><i>Division 5—World Heritage management areas</i></b>		
53	Proposal to declare World Heritage management area . . . . .	38
54	Preparation of management plan . . . . .	39
55	Declaration of World Heritage management area . . . . .	39
56	Revocation of World Heritage management area . . . . .	40
<b><i>Division 6—International agreement areas</i></b>		
57	Proposal to declare international agreement area . . . . .	40

---

58	Preparation of management plan . . . . .	40
59	Declaration of international agreement area . . . . .	40
60	Revocation of international agreement area . . . . .	41
	<i>Division 7—Cultural and natural resources</i>	
61	Property in cultural and natural resources . . . . .	41
62	Restriction on taking etc. of cultural and natural resources of protected areas	41
	<i>Division 8—General</i>	
63	Meaning of “land-holder” in division . . . . .	43
64	Naming of protected areas . . . . .	43
65	Effect of change in class of protected area . . . . .	43
66	Cancellation of licences etc. . . . .	44
67	Compensation when protected area declared . . . . .	44
68	No compensation on termination of conservation agreements or revocation of protected areas . . . . .	46
69	Preservation of land-holders’ interests . . . . .	46
70	Unlawful use of certain words . . . . .	47
	<b>PART 4A—FOREST RESERVES</b>	
	<i>Division 1—Preliminary</i>	
70A	Purpose of pt 4A and its achievement . . . . .	47
70B	Definitions for pt 4A . . . . .	47
	<i>Division 2—Dedication and revocation</i>	
70C	Dedication of forest reserves . . . . .	48
70D	Naming of forest reserves . . . . .	48
70E	Revocation of forest reserves . . . . .	48
	<i>Division 3—Management of forest reserves</i>	
	<i>Subdivision 1—Management principles of forest reserves</i>	
70F	Management principles . . . . .	49
	<i>Subdivision 2—Management</i>	
70G	State forest or timber reserve dedicated as a forest reserve . . . . .	50
70H	Land Act reserve dedicated as a forest reserve . . . . .	51
70I	Management principles prevail . . . . .	51

---

<b><i>Division 4—Progression to protected area</i></b>		
<b><i>Subdivision 1—Review of forest reserves</i></b>		
70J	Review . . . . .	52
<b><i>Subdivision 2—Proposed protected areas</i></b>		
70K	Designation . . . . .	52
70L	Effect of designation . . . . .	53
70M	When designation ends . . . . .	53
70N	Register of proposed protected areas . . . . .	53
70O	Amendment of designation . . . . .	54
<b><i>Division 5—Miscellaneous provisions</i></b>		
70P	References to State forest or timber reserve in other legislation . . . . .	54
70Q	References to Land Act reserves in other legislation . . . . .	55
<b>PART 5—WILDLIFE AND HABITAT CONSERVATION</b>		
<b><i>Division 1—Basic concepts</i></b>		
71	Classes of wildlife to which Act applies . . . . .	55
72	Management of wildlife—general . . . . .	56
73	Management principles of protected wildlife . . . . .	56
74	Management principles of international wildlife . . . . .	57
75	Management principles of prohibited wildlife . . . . .	57
<b><i>Division 2—Classes of wildlife</i></b>		
76	Native wildlife may be prescribed as presumed extinct wildlife . . . . .	57
77	Native wildlife may be prescribed as endangered wildlife . . . . .	58
78	Native wildlife may be prescribed as vulnerable wildlife . . . . .	58
79	Native wildlife may be prescribed as rare wildlife . . . . .	58
80	Native wildlife may be prescribed as common wildlife . . . . .	59
81	Wildlife may be prescribed as international wildlife . . . . .	59
82	Wildlife may be prescribed as prohibited wildlife . . . . .	59
<b><i>Division 3—Ownership of protected wildlife</i></b>		
83	Property in protected animals . . . . .	59
84	Property in protected plants . . . . .	60
85	Property in newly protected animals . . . . .	61
86	Preservation of existing property rights . . . . .	61

---

87	Liability of State . . . . .	61
	<i>Division 4—Restrictions on activities relating to protected wildlife</i>	
88	Restriction on taking etc. protected animals . . . . .	62
89	Restriction on taking etc. protected plants . . . . .	62
90	Restriction on using threatened or rare plants . . . . .	63
91	Prohibition on release etc. of international and prohibited wildlife . . . . .	64
92	Prohibition on breeding etc. hybrids of protected animals . . . . .	64
93	Aborigines' and Torres Strait Islanders' rights to take etc. protected wildlife	65
94	Conservation officers prohibited in dealing with protected wildlife . . . . .	65
	<i>Division 5—Conservation value for protected wildlife</i>	
95	Payment of conservation value . . . . .	66
96	Recovery of unpaid conservation value. . . . .	67
	<i>Division 6—Specific restriction on activities relating to native wildlife</i>	
97	Restriction on taking etc. of native wildlife in areas of major interest and critical habitats . . . . .	67
	<i>Division 7—General</i>	
98	No right to enter land. . . . .	68
99	Offence to trespass—general. . . . .	68
100	Offence to trespass—land-holders' rights . . . . .	69
	<b>PART 6—INTERIM CONSERVATION ORDERS</b>	
101	Definitions . . . . .	70
102	Issue of order . . . . .	70
103	Effect of order . . . . .	70
104	Notice of order. . . . .	70
105	Duration of order. . . . .	71
106	Orders prevail over planning schemes. . . . .	71
107	Suspension of licences etc. . . . .	71
108	Compensation . . . . .	72
109	Compliance with order . . . . .	72
	<b>PART 7—MANAGEMENT AND CONSERVATION PLANS</b>	
110	Meaning of "land-holder" in part . . . . .	72
111	Management plans. . . . .	73
112	Conservation plans . . . . .	74

113	Notice of proposal to prepare draft plan . . . . .	75
114	Preparation of draft plan . . . . .	76
115	Notice of preparation of draft plan . . . . .	76
116	Submissions to be considered when preparing final plans . . . . .	76
117	Final management plans . . . . .	76
118	Final conservation plans . . . . .	77
119	Approval of final plan . . . . .	77
120	Implementation of approved plan . . . . .	77
121	Plan replaces interim or declared management intent. . . . .	78
122	Conservation plans and regulations prevail over planning schemes . . . . .	78
123	Local governments' decisions to be consistent with plans . . . . .	78
124	Amendment of plans . . . . .	78
125	Review of plans . . . . .	79
126	Compensation . . . . .	79

#### **PART 8—ADMINISTRATION**

127	Appointment of conservation officers . . . . .	80
128	Appointment of honorary protectors . . . . .	81
129	Minister may inquire into suitability of proposed appointees. . . . .	81
130	Identity cards . . . . .	82
131	Proof of authority . . . . .	82
132	Advisory committees. . . . .	82
133	Chief executive to keep register . . . . .	83
134	Records to be maintained by registrar. . . . .	84
135	Chief executive may inquire into applications . . . . .	85
136	Confidentiality of information. . . . .	86
137	Licences to be consistent with management principles, and management intent or plan . . . . .	87
138	Compensation not payable . . . . .	87
139	Annual report. . . . .	88
140	Delegation by Minister . . . . .	88
141	Delegation by chief executive . . . . .	88
142	Protection from liability . . . . .	88
143	Immunity from prosecution. . . . .	89

**PART 9—INVESTIGATION AND ENFORCEMENT**

144	Power to stop and search vehicles etc. . . . .	89
145	Entry and search—monitoring compliance . . . . .	91
146	Entry and search—evidence of offences . . . . .	91
147	General powers of conservation officer in relation to places . . . . .	93
148	Monitoring warrants . . . . .	94
149	Offence related warrants . . . . .	94
150	Warrants may be granted by telephone, facsimile, radio etc. . . . .	95
151	Conservation officer may require name and address. . . . .	97
152	Power to require information from certain persons. . . . .	98
153	Power to keep protected wildlife until conservation value is paid . . . . .	99
154	Other powers of conservation officers. . . . .	99
155	Obstruction of conservation officers . . . . .	100
156	Court may order compensation . . . . .	101
157	False or misleading information . . . . .	101
158	False or misleading documents . . . . .	102
159	Impersonation of conservation officer. . . . .	102

**PART 10—LEGAL PROCEEDINGS**

160	Evidentiary provisions. . . . .	102
161	Conduct of executive officers, servants and agents . . . . .	104
162	Executive officers must ensure corporation complies with Act. . . . .	105
163	Offence committed over a period . . . . .	105
164	Indictable and summary offences . . . . .	106
165	Proceedings for indictable offences. . . . .	106
166	Limitation on who may summarily hear indictable offence proceedings . . . . .	107
167	Limitation on time for starting summary proceedings . . . . .	107
168	Court may order costs of rehabilitation or restoration . . . . .	107
169	Additional penalty—conservation value of protected wildlife . . . . .	108
171	Disposal of cultural or natural resources and protected wildlife owned by State . . . . .	108
172	Disposal of wildlife etc. not owned by State. . . . .	108
173	Penalties payable to consolidated fund . . . . .	109

**PART 11—MISCELLANEOUS**

174	Application of Statutory Instruments Act . . . . .	109
174A	Chief executive may make codes of practice . . . . .	110
175	Regulation-making power . . . . .	110

**PART 12—SAVINGS AND TRANSITIONAL**

181	References to repealed Acts . . . . .	112
182	References to Crown land under Act. . . . .	112
183	Authorities under former Act about national parks . . . . .	112

	<b>SCHEDULE</b> . . . . .	114
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**DICTIONARY****ENDNOTES**

1	Index to endnotes . . . . .	124
2	Date to which amendments incorporated. . . . .	124
3	Key . . . . .	125
4	Table of earlier reprints . . . . .	125
5	Tables in earlier reprints. . . . .	126
6	List of legislation . . . . .	126
7	List of annotations . . . . .	127
8	List of forms. . . . .	139
9	Table of corrected minor errors . . . . .	140
10	Table of renumbered provisions. . . . .	140
11	Provisions that have not commenced and are not incorporated into reprint . . . . .	144



# **NATURE CONSERVATION ACT 1992**

[as amended by all amendments that commenced on or before 9 February 2001]

## **An Act to provide for the conservation of nature**

### **PART 1—PRELIMINARY**

#### **1 Short title**

This Act may be cited as the *Nature Conservation Act 1992*.

#### **3 Crown bound**

(1) This Act binds the Crown not only in right of Queensland but also, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

(2) Nothing in this Act renders the Crown in any of its capacities liable to be prosecuted for an offence.

### **PART 2—OBJECT OF ACT**

#### **4 Object of Act**

The object of this Act is the conservation of nature.

#### **5 How object is to be achieved**

The conservation of nature is to be achieved by an integrated and comprehensive conservation strategy for the whole of Queensland that involves, among other things, the following—

- (a) Gathering of information and community education etc.
- gathering, researching, analysing, monitoring and disseminating information on nature;
  - identifying critical habitats and areas of major interest;
  - encouraging the conservation of nature by the education and cooperative involvement of the community, particularly land-holders;
- (b) Dedication and declaration of protected areas
- the dedication and declaration of areas representative of the biological diversity, natural features and wilderness of Queensland as protected areas;
- (c) Management of protected areas
- the management of protected areas in accordance with—
    - (i) the management principles; and
    - (ii) the interim and declared management intent; and
    - (iii) the management plans;for the areas;
- (d) Protection of native wildlife and its habitat
- the protection of the biological diversity of native wildlife and its habitat by—
    - (i) the dedication and declaration of protected areas; and
    - (ii) prescribing protected and prohibited wildlife; and
    - (iii) the management of wildlife in accordance with—
      - (A) the management principles; and
      - (B) the declared management intent; and
      - (C) any conservation plan;for the wildlife; and
    - (iv) entering into conservation agreements;
- (e) Use of protected wildlife and areas to be ecologically sustainable
- providing for the ecologically sustainable use of protected wildlife and areas by the preparation and implementation of

management and conservation plans consistent with the values and needs of the wildlife or areas concerned, particularly plans dealing with the management of—

- (i) protected areas; and
  - (ii) the taking or use of wildlife; and
  - (iii) protected wildlife and its habitat; and
  - (iv) critical habitats and areas of major interest;
- (f) Recognition of interest of Aborigines and Torres Strait Islanders in nature and their cooperative involvement in its conservation
- the recognition of the interest of Aborigines and Torres Strait Islanders in protected areas and native wildlife;
  - the cooperative involvement of Aborigines and Torres Strait Islanders in the conservation of nature;
- (g) Cooperative involvement of land-holders
- the cooperative involvement of land-holders in the conservation of nature.

## **6 Community participation in administration of Act**

This Act is to be administered, as far as practicable, in consultation with, and having regard to the views and interests of, land-holders and interested groups and persons, including Aborigines and Torres Strait Islanders.

## **PART 3—INTERPRETATION**

### *Division 1—Dictionary*

## **7 Definitions**

The dictionary in the schedule defines particular words used in this Act.

*Division 2—Key definitions***8 Meaning of “nature”**

(1) **“Nature”** includes all aspects of nature.

(2) Without limiting subsection (1), **“nature”** includes—

- (a) ecosystems and their constituent parts; and
- (b) all natural and physical resources; and
- (c) natural dynamic processes; and
- (d) the characteristics of places, however large or small, that contribute to—
  - (i) their biological diversity and integrity; or
  - (ii) their intrinsic or scientific value.

**9 Meaning of “conservation”**

**“Conservation”** is the protection and maintenance of nature while allowing for its ecologically sustainable use.

**10 Meaning of “biological diversity”**

(1) **“Biological diversity”** is the natural diversity of native wildlife, together with the environmental conditions necessary for their survival, and includes—

- (a) regional diversity, that is, the diversity of the landscape components of a region, and the functional relationships that affect environmental conditions within ecosystems; and
- (b) ecosystem diversity, that is, the diversity of the different types of communities formed by living organisms and the relations between them; and
- (c) species diversity, that is, the diversity of species; and
- (d) genetic diversity, that is, the diversity of genes within each species.

(2) In subsection (1)—

**“landscape components”** includes landforms, soils, water, climate, wildlife and land uses.

## **11 Meaning of “ecologically sustainable use”**

**“Ecologically sustainable use”** is—

- (a) in relation to wildlife—the taking or use of the wildlife; or
- (b) in relation to protected areas—the use of the areas;

within their capacity to sustain natural processes while—

- (c) maintaining the life support systems of nature; and
- (d) ensuring that the benefit of the use to present generations does not diminish the potential to meet the needs and aspirations of future generations.

## **12 Meaning of “threatening process”**

A **“threatening process”** is any process that is capable of—

- (a) threatening the survival of any protected area, area of major interest, protected wildlife, community of native wildlife or native wildlife habitat; or
- (b) affecting the capacity of any protected area, area of major interest, protected wildlife, community of native wildlife or native wildlife habitat to sustain natural processes.

## **13 Meaning of “critical habitat”**

(1) **“Critical habitat”** is habitat that is essential for the conservation of a viable population of protected wildlife or community of native wildlife, whether or not special management considerations and protection are required.

(2) A **“critical habitat”** may include an area of land that is considered essential for the conservation of protected wildlife, even though the area is not presently occupied by the wildlife.

## **PART 4—PROTECTED AREAS**

### *Division 1—Basic concepts*

#### **14 Classes of protected areas to which Act applies**

The classes of protected areas to which this Act applies are—

- (a) national parks (scientific); and
- (b) national parks; and
- (c) national parks (Aboriginal land); and
- (d) national parks (Torres Strait Islander land); and
- (e) national parks (recovery); and
- (f) conservation parks; and
- (g) resources reserves; and
- (h) nature refuges; and
- (i) coordinated conservation areas; and
- (j) wilderness areas; and
- (k) World Heritage management areas; and
- (l) international agreement areas.

#### **15 Management of protected areas**

(1) Each protected area is to be managed in accordance with—

- (a) the management principles prescribed by this division for the class of protected area; and
- (b) if the area is—
  - (i) a national park (Aboriginal land) or national park (Torres Strait Islander land)—the lease or sublease of the area; or
  - (ii) a nature refuge or a wilderness area—the declared management intent, and the conservation agreement or covenant, for the area; or
  - (iii) a coordinated conservation area—

(A) the interim management intent for the area until a management plan is approved for the area; and

(B) the conservation agreement for the area; and

(c) the management plan for the area.

(2) The interim or declared management intent for a protected area is the management intent for the area specified in the regulation dedicating or declaring the area.

(3) The interim or declared management intent for a protected area must contain a statement of—

(a) the area's significant cultural and natural resources and values; and

(b) the proposed management intent for, and any proposed use of, the area.

## **16 Management principles of national parks (scientific)**

(1) A national park (scientific) is to be managed to—

(a) protect the area's exceptional scientific values and, in particular—

(i) to ensure that the processes of nature continue unaffected in the area; and

(ii) to protect the area's biological diversity to the greatest possible extent; and

(b) allow controlled scientific study and monitoring of the area's natural resources.

(2) However, if threatened wildlife is a significant natural resource for the area, management of the area may include—

(a) manipulation of the wildlife's habitat; and

(b) the control of threatening processes relating to the wildlife, including threatening processes caused by other wildlife.

## **17 Management principles of national parks**

(1) A national park is to be managed to—

- (a) provide, to the greatest possible extent, for the permanent preservation of the area's natural condition and the protection of the area's cultural resources and values; and
- (b) present the area's cultural and natural resources and their values; and
- (c) ensure that the only use of the area is nature-based and ecologically sustainable.

(2) The management principle mentioned in subsection (1)(a) is the cardinal principle for the management of national parks.

### **18 Management principles of national parks (Aboriginal land)**

(1) A national park (Aboriginal land) is to be managed as a national park.

(2) Subject to subsection (1), a national park (Aboriginal land) is to be managed, as far as practicable, in a way that is consistent with any Aboriginal tradition applicable to the area, including any tradition relating to activities in the area.

### **19 Management principles of national parks (Torres Strait Islander land)**

(1) A national park (Torres Strait Islander land) is to be managed as a national park.

(2) Subject to subsection (1), a national park (Torres Strait Islander land) is to be managed, as far as practicable, in a way that is consistent with any Island custom applicable to the area, including any Island custom relating to activities in the area.

### **19A Management principles of national parks (recovery)**

A national park (recovery) is to be managed to do the following—

- (a) protect or restore, to the greatest possible extent, the park's natural condition and protect its cultural resources and values so that it can be dedicated as a national park;
- (b) provide for the manipulation of the park's natural resources to restore its conservation values;

- (c) ensure any commercial or other use of the park's natural resources to restore its conservation values is consistent with an approved regeneration plan for the park;
- (d) ensure any other use of the park is nature-based.

## **20 Management principles of conservation parks**

A conservation park is to be managed to—

- (a) conserve and present the area's cultural and natural resources and their values; and
- (b) provide for the permanent conservation of the area's natural condition to the greatest possible extent; and
- (c) ensure that any commercial use of the area's natural resources, including fishing and grazing, is ecologically sustainable.

## **21 Management principles of resources reserves**

(1) Subject to subsection (2), a resources reserve is to be managed to—

- (a) recognise and, if appropriate, protect the area's cultural and natural resources; and
- (b) provide for the controlled use of the area's cultural and natural resources; and
- (c) ensure that the area is maintained predominantly in its natural condition.

(2) The felling of timber for a commercial purpose must not be conducted in a resources reserve.

## **22 Management principles of nature refuges**

A nature refuge is to be managed to—

- (a) conserve the area's significant natural resources; and
- (b) provide for the controlled use of the area's natural resources; and
- (c) provide for the interests of land-holders to be taken into account.

**23 Management principles of coordinated conservation areas**

A coordinated conservation area is to be managed to—

- (a) conserve the area's natural and cultural values by coordinated management involving the area's various land-holders; and
- (b) take account of the area's values, including its recreational, educational and commercial values; and
- (c) provide for the interests of the various land-holders to be maintained.

**24 Management principles of wilderness areas**

A wilderness area is to be managed to—

- (a) protect or restore the wilderness values, and the cultural and natural resources, of the area to the greatest possible extent; and
- (b) maintain the area to preserve its capacity to evolve in the absence of significant human interference; and
- (c) provide opportunities for solitude and appropriate self-reliant recreational and spiritual activities.

**25 Management principles of World Heritage management areas**

A World Heritage management area is to be managed to—

- (a) meet international obligations in relation to the area; and
- (b) protect the area's internationally outstanding cultural and natural resources and its biological diversity; and
- (c) transmit the area's world heritage values to future generations.

**26 Management principles of international agreement areas**

An international agreement area is to be managed to—

- (a) maintain the area's importance to the conservation of nature that is the subject of significant international concern; and
- (b) conserve the area's native wildlife habitat as far as practicable; and
- (c) provide for the interests of land-holders to be taken into account.

**27 Prohibition on mining**

(1) A mining interest can not be granted in relation to—

- (a) a national park (scientific); or
- (b) a national park; or
- (c) a national park (Aboriginal land); or
- (d) a national park (Torres Strait Islander land); or
- (e) a national park (recovery); or
- (f) a conservation park.

(2) In this section—

**“mining interest”** means a lease, claim or other interest in, or a permit, licence or other right in relation to land that is granted under the *Mineral Resources Act 1989*.

***Division 2—Protected areas (State land)******Subdivision 1—Preliminary*****28 Meaning of “protected area” in division**

In this division—

**“protected area”** means—

- (a) a national park (scientific); or
- (b) a national park; or
- (c) a national park (recovery); or
- (d) a conservation park; or
- (e) a resources reserve.

***Subdivision 2—Dedication, revocation and amalgamation*****29 Dedication of protected areas**

(1) The Governor in Council may, by regulation, dedicate a specified area of State land as—

- (a) a national park (scientific); or
- (b) a national park; or
- (c) a national park (recovery); or
- (d) a conservation park; or
- (e) a resources reserve.

(2) The regulation may define the extent of the area by reference to—

- (a) a specified depth below the surface of land; or
- (b) a specified height above the surface of land.

(3) The classes of protected areas mentioned in subsection (1) are listed in descending order of the level of protection given to them under this Act.

**30 Revocation of State forests and timber reserves**

(1) Despite the *Forestry Act 1959*, if an area that is to be dedicated as a protected area is, or includes part of, a State forest or timber reserve set apart and declared under that Act, the regulation dedicating the area may revoke, in whole or part, the setting apart and declaration of the State forest or timber reserve.

(2) The regulation may be made only if the Legislative Assembly has, on a motion of which at least 14 sitting days notice has been given, passed a resolution requesting the Governor in Council to dedicate the area.

**31 Trustees of protected areas**

(1) If an area is dedicated as a conservation park or resources reserve, the Governor in Council may, by regulation, place the area under the management of trustees.

(2) The trustees are to be appointed by the Governor in Council.

(3) The trustees must comply with section 15 in the management of the protected area.

(4) The *Acts Interpretation Act 1954*, section 25 applies to an office as trustee.

(5) The *Trusts Act 1973* does not apply to—

- (a) trusts created under this section; and
- (b) the trustees of such trusts.

(6) Trustees may, in their official name—

- (a) sue or be sued; and
- (b) take action for removal of trespassers or protection of property under their management.

(7) For the purpose of any legal proceeding, trustees are taken to be the owners of property under their management.

(8) The Governor in Council may, by gazette notice, revoke a trust created under this section.

(9) The persons who were the trustees of a trust immediately before its revocation must, within 30 days of receipt of written notice given to them by the Minister, repay to the State any unspent amount that—

- (a) was paid to them by the State for the purposes of the trust; and
- (b) was held by them when the trust was revoked.

(10) An amount payable to the State under subsection (9) is a debt due to the State and may be recovered in a court having jurisdiction for the recovery of debts up to the amount concerned.

### **32 Revocation of protected areas**

(1) The Governor in Council may, by regulation, revoke the dedication of a protected area in whole or part.

(2) The regulation may be made only if the Legislative Assembly has, on a motion of which at least 14 sitting days notice has been given, passed a resolution requesting the Governor in Council to make the revocation.

### **33 Amalgamation etc. of protected areas**

(1) The Governor in Council may, by regulation—

- (a) amalgamate protected areas of the same class, and assign a name to the amalgamated area; or

- (b) change the class of a protected area by dedicating the area as another class of protected area; or
- (c) change the boundaries of a protected area.

**(2) If—**

- (a) because of the change in the class of a protected area, the area will be given less protection under this Act; or
- (b) because of the change in the boundaries of a protected area, land will be removed from the area (other than for the purpose of dedicating the removed land as land with a higher level of protection under this Act);

the regulation may be made only if the Legislative Assembly has, on a motion of which at least 14 sitting days notice has been given, passed a resolution requesting the Governor in Council to make the revocation.

***Subdivision 3—Interests in protected areas*****34 Leases etc. over protected areas**

**(1)** A lease, agreement, licence, permit or other authority over, or in relation to, land in a protected area (other than a licence, permit or other authority issued or given under a regulation) may be granted, made, issued or given only—

- (a) by—
  - (i) if the area is a national park (scientific), national park or national park (recovery)—the chief executive under this Act; or
  - (ii) if the area is a conservation park or resources reserve—the chief executive or trustees of the area with the consent of the chief executive; or
- (b) under another Act by—
  - (i) the Governor in Council; or
  - (ii) someone else with the consent of the Minister or chief executive.

**(2)** A lease, agreement, licence, permit or other authority mentioned in subsection (1) must be consistent with—

- (a) the management principles for the area; and
- (b) if a management plan has been approved for the area, the management plan.

### **35 Chief executive's powers about permitted uses in national parks or national parks (recovery)**

(1) The chief executive may grant, make, issue or give a lease, agreement, licence, permit or other authority over, or in relation to, land in a national park or national park (recovery) if—

- (a) the use under the authority is prescribed under a regulation made for this section to be a permitted use for the area; and
- (b) the chief executive is satisfied—
  - (i) if the land is in a national park, the cardinal principle for the management of national parks will be observed to the greatest possible extent; and
  - (ii) if the land is in a national park (recovery), the management principle under section 19A(a) will be observed to the greatest possible extent; and
  - (iii) the use will be in the public interest; and
  - (iv) the use is ecologically sustainable; and
  - (v) there is no reasonably practicable alternative to the use.

(2) Subsection (1) has effect despite sections 15 and 34(2).

### **36 Authorities for new national park or national park (recovery)**

(1) This section applies if—

- (a) land is dedicated as a national park or national park (recovery); and
- (b) immediately before the dedication, the land was being used (the “**previous use**”) in a way that is inconsistent with the management principles of the park.

(2) The chief executive may grant an authority (a “**previous use authority**”) over, or in relation to, the land to allow the previous use to continue for no more than the allowable term after the dedication.

(3) However, a previous use authority must not be granted for a national park if the previous use was under a sales permit under the *Forestry Act 1959*, section 46.

(4) A previous use authority must not be renewed.

(5) This section—

(a) applies despite sections 15 and 34(2); but

(b) does not limit section 35.<sup>1</sup>

(6) In this section—

**“allowable term”**, for a previous use of a national park or national park (recovery), means a term no longer than—

(a) if the previous use was under a permit or lease as follows, the term that is the unexpired term of the permit or lease—

(i) an occupation permit under the *Forestry Act 1959*, section 35(1)(a) under which the right of occupation is only for a service facility;

(ii) a stock grazing permit under the *Forestry Act 1959*, section 35(1)(c);

(iii) an apiary permit under the *Forestry Act 1959*, section 35(1)(d);

(iv) a sales permit under the *Forestry Act 1959*, section 46, for the taking of plant parts if it does not authorise cutting or pruning of plants so severely that the plant is likely to die;<sup>2</sup>

(v) a lease under the *Land Act 1994*; or

(b) otherwise—3 years after the dedication.

**“authority”** means an agreement or a lease, licence, permit or other authority.

**“plant parts”** means the flowers, foliage, seeds or stems of the plant.

**“service facility”** includes the following—

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1 Sections 15 (Management of protected areas), 34 (Leases etc. over protected areas) and 35 (Chief executive’s powers about permitted uses in national parks or national parks (recovery))

2 *Forestry Act 1959*, sections 35 (Granting of permit for land within State forest) and 46 (Sale of forest products or quarry material)

- (a) a communications facility, including, for example, a communications tower;
- (b) a device designed to be used for navigation or the guidance of aircraft or vessels;
- (c) a transmission grid under the *Electricity Act 1994*;
- (d) a public water supply facility, including, for example, a public pipeline or pumping station.

### **37 Chief executive's powers to renew existing authorities for national parks**

(1) In this section—

**“authority”** means a lease, agreement, permit or other authority (other than an authority permitting stock grazing or the location of beehives)—

- (a) granted, made, issued or given under the former Act or the *Land Act 1962* over, or in relation to, a national park under the former Act; and
- (b) in force immediately before the repeal of the former Act; and
- (c) continued in force under this Act.

**“former Act”** means the *National Parks and Wildlife Act 1975*.

(2) The chief executive may renew, or consent to the renewal of, an authority for the national park if the use under the authority is prescribed under a regulation made for this section to be a permitted use for the area.

(3) The authority may only be renewed for—

- (a) if no management plan is in force for the area when the renewal is granted—not longer than 10 years; or
- (b) if a management plan is in force for the area when the renewal is granted—the term authorised under the plan.

(4) The authority may be renewed subject to the conditions the chief executive considers appropriate.

(5) This section has effect despite sections 15 and 34(2).

**38 Leases may be granted under Land Act 1994**

(1) Subject to subsection (2), a term lease under the *Land Act 1994* may be granted over any land within a protected area as if the land were reserved and set apart under that Act for public purposes.

(2) The lease must—

(a) be consistent with—

- (i) the management principles for the area; and
- (ii) the management plan for the area; and

(b) be granted only with the consent of, and subject to the conditions decided by, the chief executive.

(3) The *Land Act 1994* applies to the lease to the extent that it is not inconsistent with this Act.

**39 Creation of interests in protected areas**

Despite any other Act, an interest in land in a protected area may be created only in accordance with this Act.

***Subdivision 4—Environmental impact statements*****39A Application of sdiv 4**

(1) This subdivision applies if a person seeks, under section 34, 35, or 38, an interest in land in a protected area.

(2) This subdivision applies despite any other Act under which the interest is to be created.

**39B Chief executive may require EIS**

(1) The chief executive may, before the interest is created, require the person to give the chief executive an EIS for the use, or a stated use, of the land under the interest.

(2) The EIS process under the *Environmental Protection Act 1994* applies for the EIS as if the use or stated use were a project to which chapter 3, part 1 of that Act applies.<sup>3</sup>

(3) The person must pay the costs of preparing the EIS.

### **39C EIS must be considered**

(1) If an EIS has been required, the interest must not be created before the EIS has been given to the chief executive.

(2) If an EIS has been given, the chief executive or other person who may create the interest must take the EIS into account before deciding whether or not to create the interest.

### ***Division 3—Protected areas (Aboriginal land and Torres Strait Islander land)***

#### **40 Dedication of national park as national park (Aboriginal land) or national park (Torres Strait Islander land)**

(1) This section applies to a national park, or part of a national park, (the “**national park land**”) that becomes Aboriginal land or Torres Strait Islander land.

(2) On approval of the management plan for the national park land under section 119, the Governor in Council must, by regulation, dedicate the national park land as national park (Aboriginal land) or national park (Torres Strait Islander land).

(3) Despite any other Act, a regulation under this section takes effect on the delivery of the deed of grant over the national park land to the grantees of the area under the *Aboriginal Land Act 1991* or the *Torres Strait Islander Land Act 1991*.

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3 *Environmental Protection Act 1994*, chapter 3, part 1 (EIS process). See section 37 (When EIS process applies) of that Act.

**41 Dedication of Aboriginal land as national park (Aboriginal land) or Torres Strait Islander land as national park (Torres Strait Islander land)**

(1) This section applies to Aboriginal land or Torres Strait Islander land that is not a national park or included in a national park.

(2) If the grantees of the land and the Minister agree on a proposal for the lease of the land, or part of the land, to the State for the purpose of the land being managed as a national park (Aboriginal land) or national park (Torres Strait Islander land), the Minister may prepare a management plan for the land.

(3) Part 7 applies to the management plan as if it were a management plan required to be prepared under section 111(1).

(4) The Minister must prepare the management plan in cooperation with the grantees of, and the board of management for, the land.

(5) On—

- (a) the signing of the lease; and
- (b) the approval of a management plan for the land;

the Governor in Council must, by regulation, dedicate the land as national park (Aboriginal land) or national park (Torres Strait Islander land).

(6) The regulation may define the extent of the area by reference to—

- (a) a specified depth below the surface of land; or
- (b) a specified height above the surface of land.

(7) Despite any other Act, a regulation under this section takes effect on the registration of the lease.

**42 Dedication of leasehold land as national park (Aboriginal land) or national park (Torres Strait Islander land)**

(1) Despite the *Land Act 1994*, an authorised lessee may, under this section, sublease land to the State for the purpose of the land being managed as a national park (Aboriginal land) or national park (Torres Strait Islander land).

(2) If an authorised lessee and the Minister agree on a proposal for the sublease of land to the State for the purpose of the land being managed as a national park (Aboriginal land) or national park (Torres Strait Islander land), the Minister may prepare a management plan for the land.

(3) Part 7 applies to the management plan as if it were a management plan required to be prepared under section 111(1).

(4) The Minister must prepare the management plan in cooperation with the lessees of, and the board of management for, the land.

(5) On—

(a) the signing of a sublease; and

(b) the approval of a management plan for the land;

the Governor in Council must, by regulation, dedicate the area as national park (Aboriginal land) or national park (Torres Strait Islander land).

(6) The regulation may define the extent of the area by reference to—

(a) a specified depth below the surface of land; or

(b) a specified height above the surface of land.

(7) Despite any other Act, a regulation under this section takes effect on the registration of the sublease.

(8) In this section—

“**authorised lessee**” means a lessee of land under the *Land Act 1994* who the Governor in Council, by regulation, has declared to be an authorised lessee for the purpose of this section.

### *Division 3A—Regeneration plans for national parks (recovery)*

#### **42A Obligation to prepare regeneration plan**

(1) The chief executive must, as soon as practicable after the dedication of a national park (recovery), make a regeneration plan for the park.

(2) However, subsection (1) applies only if the chief executive considers a regeneration plan is necessary for the manipulation of the park’s natural resources to restore its conservation values.

(3) A regeneration plan must be made under this division.

#### **42B Purpose of regeneration plan**

(1) The purpose of a regeneration plan for a national park (recovery) is to describe how it is proposed to manage the manipulation of the park’s natural resources to restore its conservation values.

(2) If a management plan has been approved for the park, the management procedures under the regeneration plan must be consistent with the management plan.

#### **42C Publication of draft regeneration plan**

(1) The chief executive must publish a notice of the preparation of a draft regeneration plan for a national park (recovery) in a newspaper likely to be read by people particularly affected by the draft plan.

(2) The notice must state the following—

- (a) the location and area of the park;
- (b) where copies of the draft plan may be obtained or inspected;
- (c) that any entity may comment about the draft plan to the chief executive;
- (d) the period during which comments may be made.

(3) The stated period must be at least 35 days after the publication of the notice.

(4) A copy of the draft plan must be available free, or on payment of a reasonable price, at the place, or each of the places, stated in the notice.

#### **42D Comments to be considered before final plan made**

The chief executive must, before making a final regeneration plan, consider all comments received by the chief executive within the period under section 42C(2)(d) for making comments about the draft regeneration plan.

#### **42E Final regeneration plan**

(1) The chief executive must make a final regeneration plan by gazette notice.

(2) The chief executive must keep copies of the plan open for public inspection during office hours on business days at—

- (a) the department's head office; and

- (b) each regional office and district office of the department in whose area the national park (recovery) to which the plan relates is situated; and
- (c) other places the chief executive considers appropriate.

#### **42F Implementation of final regeneration plan**

The chief executive must give effect to a final regeneration plan.

#### *Division 4—Nature refuges, coordinated conservation areas and wilderness areas*

#### **43 Meaning of “protected area” in division**

In this division—

“protected area” means—

- (a) a nature refuge; or
- (b) a coordinated conservation area; or
- (c) a wilderness area.

#### **44 Proposal for declaration of protected area**

(1) If the Minister is satisfied that an area should be declared a protected area, the Minister must prepare a proposal for the declaration.

(2) The proposal for the declaration must—

- (a) describe the lands to be included in the area; and
- (b) specify the proposed class of protected area and the proposed management intent for the area.

(3) The Minister must give written notice to all land-holders affected by the proposal.

(4) The notice must specify a day by which the land-holders may make submissions to the Minister relating to the proposal.

(5) If the Minister considers that it is impracticable to give notice to each land-holder of a particular class, it is sufficient compliance with

subsection (3) if the Minister gives notice to the class by publishing a notice in such newspapers as the Minister determines.

(6) In this section—

“**land-holder**” includes a person having an interest in land.

#### **45 Conservation agreements**

(1) If the Minister and land-holders concerned agree on—

- (a) a proposal that an area should be a protected area; and
- (b) the class of the protected area; and
- (c) the management intent for the area;

the Minister may, on behalf of the State, enter into a conservation agreement in relation to the area with the land-holders.

(2) The Minister must not enter into the conservation agreement without the written consent of—

- (a) if land in the area is subject to a lease or mining interest—the lessee or interest holder; or
- (b) if land in the area is subject to an encumbrance—the person entitled to the benefit of the encumbrance.

(3) Subsection (2)(a) applies only if the lessee’s or holder’s rights will be affected by the conservation agreement.

(4) The conservation agreement must be consistent with the management principles for the class of area.

(5) The conservation agreement may contain terms that are binding on—

- (a) the State; and
- (b) a land-holder and the land-holder’s successors in title.

(6) Without limiting subsection (5), the conservation agreement may contain terms—

- (a) requiring the State to provide financial or other assistance; or
- (b) requiring the State to provide technical advice; or
- (c) requiring the State to carry out specified activities; or
- (d) allowing a land-holder to carry out specified activities; or
- (e) prohibiting a specified use of land in the area; or

- (f) restricting the use or management of land in the area; or
- (g) requiring a land-holder to refrain from, or not to permit, specified activities; or
- (h) requiring a land-holder to carry out specified activities; or
- (i) requiring a land-holder to permit or restrict access to the area by specified persons; or
- (j) specifying the way in which amounts provided to a land-holder under the agreement are to be applied by the land-holder; or
- (k) requiring a land-holder to repay amounts paid under the agreement if the land-holder contravenes the agreement or the agreement is terminated under section 47(2); or
- (l) providing for any other matter relating to the conservation of the area, including the implementation of the management plan for the protected area.

#### **46 Declaration of protected area**

(1) The Governor in Council may, by regulation, declare a specified area of State land, or the area the subject of a conservation agreement, as—

- (a) a nature refuge; or
- (b) a coordinated conservation area; or
- (c) a wilderness area.

(2) The regulation must specify—

- (a) if the area is—
  - (i) a nature refuge or a wilderness area—the declared management intent for the area; or
  - (ii) a coordinated conservation area—the interim management intent for the area; and
- (b) the duration of the declaration, which must, if the area is the subject of a conservation agreement, be the duration of the agreement.

(3) The regulation may define the extent of the area by reference to—

- (a) a specified depth below the surface of land; or
- (b) a specified height above the surface of land.

(4) To allay any doubt, a coordinated conservation area or wilderness area may include an area that is, or is part of, a protected area dedicated or declared under any provision of this Act.

(5) Subsection (4) does not apply to revoke the dedication or declaration of a protected area, or a part of a protected area, included in a coordinated conservation area or wilderness area.

(6) In subsection (1)—

“**State land**” includes a reserve under the *Land Act 1994*.

#### **47 Duration and termination of conservation agreements**

(1) A conservation agreement has effect until it expires under its terms unless—

- (a) it is terminated under subsection (2); or
- (b) the declaration of the protected area to which it relates is revoked.

(2) A conservation agreement may be terminated only if—

- (a) in the case of a nature refuge or wilderness area—
  - (i) the land-holder who entered into the agreement requests its termination under the terms of the agreement; and
  - (ii) the Minister is of the opinion that the area to which the agreement relates is no longer needed for, or is no longer capable of being used to achieve, the declared management intent for the area; or
- (b) in the case of a coordinated conservation area—the land-holder requests its termination under the terms of the agreement.

#### **48 Variation of conservation agreements**

A conservation agreement may be varied by a later agreement between the State and land-holders concerned, including, for example—

- (a) in the case of a nature refuge or wilderness area—by removing, at the request of the land-holder who entered into the agreement, a part of the area that, in the Minister’s opinion, is no longer needed for, or capable of being used to achieve, the declared management intent for the area; and

- (b) in the case of a coordinated conservation area—by removing a part of the area at the request of one of the land-holders.

#### **49 Compulsory declaration of nature refuge**

**(1)** If—

- (a) the Minister and land-holders concerned are unable to agree on—
  - (i) a proposal to declare a nature refuge; or
  - (ii) the terms of a conservation agreement for the area concerned; and
- (b) the Minister is of the opinion that the area is, or includes—
  - (i) an area of major interest; or
  - (ii) a critical habitat;and should be declared a nature refuge;

the Minister may give written notice to the land-holders, and persons having an interest in the land-holders' land, advising that a recommendation may be made to the Governor in Council that the area be compulsorily declared as a nature refuge.

**(2)** The notice must specify—

- (a) the proposed management intent for the area; and
- (b) the reasons why the Minister has reached the opinion; and
- (c) a day by which objections relating to the recommendation must be received by the Minister.

**(3)** After consideration of any objections properly received by the Minister, the Governor in Council may, by regulation, declare the area, or part of the area, as a nature refuge.

**(4)** The regulation must—

- (a) describe the area for which the declaration is made; and
- (b) specify the declared management intent for the area; and
- (c) specify the covenant applying to the declaration; and
- (d) specify such other particulars as are prescribed.

**50 Revocation of protected area**

The Governor in Council may, by regulation, revoke the declaration of a protected area in whole or part.

**51 Conservation agreements and covenants binding**

(1) A conservation agreement that is recorded by the registrar under section 134 in relation to land is binding on—

- (a) the successors in title to the land-holder who entered into the agreement; and
- (b) persons who have an interest in the land.

(2) A conservation agreement (other than an agreement mentioned in subsection (1)) is binding on the persons mentioned in section 45(2).

(3) A conservation covenant is binding on—

- (a) the land-holder and the land-holder's successors in title; and
- (b) persons who have an interest in the land.

**52 Liability of State**

(1) In this section—

**“private land”** means land other than State land.

(2) The State is not legally liable for an act or omission merely because—

- (a) a conservation agreement has been entered into under section 45 for private land; or
- (b) private land has been declared under section 46 or 49 as, or as part of, a protected area.

*Division 5—World Heritage management areas***53 Proposal to declare World Heritage management area**

(1) If an area has been included in the World Heritage List established and kept under the World Heritage Convention, the Minister may, by advertisement published in a newspaper circulating throughout

Queensland, propose that the whole or part of the area be declared a World Heritage management area.

(2) The advertisement must—

- (a) describe the lands to be included in the proposed area; and
- (b) specify the proposed management of the area; and
- (c) invite submissions from affected land-holders, interested groups and persons and members of the public; and
- (d) specify a day by which submissions are to be made to the Minister.

#### **54 Preparation of management plan**

After consideration of any submissions properly made in relation to the proposal, the Minister may prepare a management plan under part 7 for the area as if it were required under section 111(1), except that the Minister need not give notice of the proposal to prepare a draft management plan.

#### **55 Declaration of World Heritage management area**

(1) On approval of a management plan for an area that is proposed to become a World Heritage management area, the Governor in Council must, by regulation, declare the area to which the plan relates to be a World Heritage management area.

(2) The regulation must—

- (a) describe the area for which the declaration is made; and
- (b) specify such other particulars as are prescribed.

(3) The regulation may define the extent of the area by reference to—

- (a) a specified depth below the surface of land; or
- (b) a specified height above the surface of land.

(4) To allay any doubt, a World Heritage management area may include an area that is, or is part of, a protected area dedicated or declared under any provision of this Act.

(5) Subsection (4) does not apply to revoke the dedication or declaration of a protected area, or a part of a protected area, included in a World Heritage management area.

**56 Revocation of World Heritage management area**

(1) The Governor in Council may, by regulation, revoke the declaration under this Act of a World Heritage management area, in whole or part.

(2) The regulation may be made only if the Legislative Assembly has, on a motion of which at least 14 sitting days notice has been given, passed a resolution requesting the Governor in Council to make the revocation.

***Division 6—International agreement areas*****57 Proposal to declare international agreement area**

(1) If the Minister is of the opinion that an area has internationally significant natural values, the Minister may, by advertisement published in a newspaper circulating throughout Queensland, propose that the area be declared an international agreement area.

(2) The advertisement must—

- (a) describe the lands to be included in the proposed area; and
- (b) specify the proposed management of the area; and
- (c) invite submissions from affected land-holders, interested groups and persons and members of the public; and
- (d) specify a day by which submissions are to be made to the Minister.

**58 Preparation of management plan**

After consideration of any submissions properly made in relation to the proposal, the Minister may prepare a management plan under part 7 for the area as if it were required under section 111(1), except that the Minister need not give notice of the proposal to prepare a draft management plan.

**59 Declaration of international agreement area**

(1) On approval of a management plan for an area that is proposed to become an international agreement area, the Governor in Council must, by regulation, declare the area to which the plan relates to be an international agreement area.

(2) The regulation must—

(a) describe the area for which the declaration is made; and

(b) specify such other particulars as are prescribed.

(3) The regulation may define the extent of the area by reference to—

(a) a specified depth below the surface of land; or

(b) a specified height above the surface of land.

(4) To allay any doubt, an international agreement area may include an area that is, or is part of, a protected area dedicated or declared under any provision of this Act.

(5) Subsection (4) does not apply to revoke the dedication or declaration of a protected area, or a part of a protected area, included in an international agreement area.

## **60 Revocation of international agreement area**

The Governor in Council may, by regulation, revoke the declaration under this Act of an international agreement area, in whole or part.

### *Division 7—Cultural and natural resources*

## **61 Property in cultural and natural resources**

(1) All cultural and natural resources of a national park (scientific), national park, national park (recovery), conservation park or resources reserve are the property of the State.

(2) However, if land in a protected area mentioned in subsection (1) was included in a forest reserve immediately before the dedication of the protected area, subsection (1) does not extinguish or affect native title or native title rights and interests in relation to the land.

## **62 Restriction on taking etc. of cultural and natural resources of protected areas**

(1) A person, other than an authorised person, must not take, use, keep or interfere with a cultural or natural resource of a protected area, other than under—

(a) the interim or declared management intent for the area; or

*Nature Conservation Act 1992*

- (b) any conservation agreement or covenant applicable to the area; or
- (c) a lease, agreement, licence, permit or other authority granted, made, issued or given—
  - (i) by the chief executive under sections 34 to 38; or
  - (ii) under the *Forestry Act 1959* or *Mineral Resources Act 1989*; or
  - (iii) under another Act by the Governor in Council, or someone else with the consent of the Minister or chief executive; or
- (d) a licence, permit or other authority issued or given under a regulation; or
- (e) if the area is a conservation park, resources reserve, nature refuge, coordinated conservation area, wilderness area, World Heritage management area or international agreement area—an exemption under a regulation.

Maximum penalty—3 000 penalty units or 2 years imprisonment.

(2) It is a defence to a charge of taking or interfering with a cultural or natural resource in contravention of subsection (1) to prove that—

- (a) the taking or interference happened in the course of a lawful activity that was not directed towards the taking or interference; and
- (b) the taking or interference could not have been reasonably avoided.

(3) Subsection (2) does not allow a person to use or keep the resource.

(4) Despite subsection (1) and section 15,<sup>4</sup> but subject to the conditions prescribed under a regulation, a person may take—

- (a) a fish in a prescribed place; or
- (b) an invertebrate animal in a prescribed place for use as bait to take fish under paragraph (a); or
- (c) a mud crab (*Scylla serrata*) in a prescribed place.

(5) However, subsection (4) does not authorise a person to take—

- (a) an animal for a commercial purpose; or

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<sup>4</sup> Section 15 (Management of protected areas)

(b) an animal prescribed under this Act as threatened or rare wildlife;  
or

(c) an animal prescribed under a regulation for this paragraph.

(6) Also, subsection (4) does not, in itself, authorise a person to enter a prescribed place.

(7) In this section—

“**authorised person**” means a person as follows performing functions under this Act in relation to the protected area—

(a) the chief executive;

(b) a conservation officer, public service officer or other employee of the department acting under the chief executive’s authority.

“**national park**” includes a national park (Aboriginal land) or, national park (Torres Strait Islander land) or national park (recovery).

“**prescribed place**” means a national park, or part of a national park, prescribed under a regulation for subsection (4)(a), (b) or (c).

### *Division 8—General*

#### **63 Meaning of ‘land-holder’ in division**

In this division—

“**land-holder**” includes a person having an interest in land.

#### **64 Naming of protected areas**

The Governor in Council may, by regulation, assign a name to, or alter the name of, a protected area or aggregation of protected areas.

#### **65 Effect of change in class of protected area**

(1) If a protected area, or part of a protected area, is dedicated or declared under this Act to be a protected area of a different class—

(a) the later dedication or declaration revokes the earlier dedication or declaration of the area or the part of the area to which the dedication or declaration relates; and

- (b) the management plan for the area ceases to apply to the area, unless the regulation dedicating or declaring the area otherwise declares.

(2) To allay any doubt—

- (a) subsection (1) applies subject to sections 32 and 33; and
- (b) subsection (1) does not apply to the declaration of a protected area that includes another class of protected area.

## **66 Cancellation of licences etc.**

(1) If a licence, permit or other authority issued or given under any Act permits the holder to do an act that would contravene a regulation giving effect to a management plan for—

- (a) a World Heritage management area; or
- (b) an international agreement area;

the operation of such an authority is, by force of this section, cancelled to the extent that it permits the doing of the act.

(2) The Minister must, immediately after the making of the regulation, give written notice of the cancellation to the authority holder.

(3) If the Minister considers that it is impracticable to give notice to each holder of a particular class of authority holder, it is sufficient compliance with subsection (2) if the Minister gives notice of the cancellation to the authority holders by publishing a notice in such newspapers as the Minister determines.

(4) The cancellation takes effect from the day the regulation commences.

(5) Subsection (1) applies despite any other Act.

## **67 Compensation when protected area declared**

(1) This section applies if—

- (a) a nature refuge is declared under section 49; or
- (b) a regulation giving effect to a management plan for a World Heritage management area or international agreement area commences.

(2) If a land-holder's interest in land is injuriously affected by a restriction or prohibition imposed under the declaration or regulation on the land-holder's existing use of the land, the land-holder is entitled to be paid by the State the reasonable compensation because of the restriction or prohibition that is agreed between the State and the land-holder or, failing agreement, decided by the Land Court.

(3) The land-holder's interest in the land is not injuriously affected if the restriction or prohibition under the declaration or regulation is the same, or to the same effect, as a provision of another law applying to the land immediately before the commencement of the declaration or regulation.

(4) Compensation is not payable if compensation has already been paid for—

- (a) the restriction or prohibition; or
- (b) a restriction or prohibition to the same effect.

(5) A claim for compensation must—

- (a) be made in a form approved by the chief executive; and
- (b) be made to the chief executive within 6 months after the declaration of the protected area or the commencement of the regulation, or the longer period the chief executive or Land Court in special circumstances allows.

(6) In making a determination, the Land Court must have regard to the following matters—

- (a) the capacity of the land to sustain the existing use;
- (b) any change in the value of the land because of the declaration or regulation;
- (c) any change in the profitability of the land because of the declaration or regulation;
- (d) any conservation agreement with the land-holder.

(7) Subsection (6) does not limit the matters to which the Land Court may have regard in making a determination.

(8) Subsection (2) does not apply to land—

- (a) if—
  - (i) a regulation giving effect to a management plan for a nature refuge is in force; and

- (ii) the nature refuge is declared to be included in a World Heritage management area or international agreement area; and
  - (iii) the regulation continues to apply to the nature refuge after declaration; and
  - (iv) the land-holder receives, or is entitled to receive, compensation under this section in relation to the land because of the declaration of the nature refuge; or
- (b) if—
- (i) an area is identified in a conservation plan as, or including, a critical habitat or an area of major interest; and
  - (ii) the area is declared to be a protected area; and
  - (iii) the regulation making the declaration declares that the plan continues to apply to the area after declaration; and
  - (iv) the land-holder receives, or is entitled to receive, compensation under section 126 in relation to the land because of the approval of the plan.

(9) In this section—

“**existing use**” of land includes a lawful use made of the land immediately before the commencement of the declaration or regulation that restricts or prohibits the use.

## **68 No compensation on termination of conservation agreements or revocation of protected areas**

If—

- (a) a conservation agreement is terminated under this Act; or
- (b) a declaration of a protected area is revoked, in whole or part;

the land-holders concerned are not entitled to compensation because of the termination or revocation.

## **69 Preservation of land-holders’ interests**

The interests of a land-holder of land forming part of a protected area are not affected by the dedication or declaration of the protected area except to the extent of—

- (a) any binding conservation agreement, or conservation covenant, in relation to the land; or
- (b) a regulation giving effect to the management plan for the area.

## **70 Unlawful use of certain words**

(1) A person must not use words about an area that is not a protected area in a way that is likely to cause someone else reasonably to believe the area is a protected area.

(2) A person must not use words about a protected area in a way that is likely to cause someone else reasonably to believe the area is a protected area of a different class.

Maximum penalty—50 penalty units.

## **PART 4A—FOREST RESERVES**

### *Division 1—Preliminary*

#### **70A Purpose of pt 4A and its achievement**

(1) The purpose of this part is to assist the dedication of areas within State forests, timber reserves or Land Act reserves as protected areas.

(2) The purpose is achieved primarily by providing for forest reserve dedications as an interim measure to assist the dedication of the areas as protected areas.

(3) It is Parliament's intention that, subject to any revocation under this part, each area of land dedicated as a forest reserve will become a protected area as soon as practicable after its dedication.

#### **70B Definitions for pt 4A**

In this part—

“**authority**” means an agreement or a lease, licence, permit or other authority.

“**forest reserve**” means an area dedicated as a forest reserve under section 70C, the dedication for which has not been revoked under section 70E.

“**Land Act reserve**” means a reserve under the *Land Act 1994*.

“**proposed protected area**” means an area designated as a proposed protected area under section 70K(1), the designation for which has not ended under section 70M.

“**proposed protected area register**” means the register that the chief executive keeps under section 70N.

“**protected area**” means any of the following—

- (a) a national park (scientific);
- (b) a national park;
- (c) a national park (recovery);
- (d) a conservation park;
- (e) a resources reserve.

“**State forest**” means a State forest under the *Forestry Act 1959*.

“**timber reserve**” means a timber reserve under the *Forestry Act 1959*.

### *Division 2—Dedication and revocation*

#### **70C Dedication of forest reserves**

The Governor in Council may, under a regulation, dedicate a stated area of land as a forest reserve if the area is, or is part of, a State forest, timber reserve or Land Act reserve.

#### **70D Naming of forest reserves**

A regulation may give a name to, or change the name of, a forest reserve.

#### **70E Revocation of forest reserves**

(1) The Governor in Council, may under a regulation, revoke the dedication of a forest reserve or a part of a forest reserve.

(2) The regulation may be made only if the Legislative Assembly has, on a motion of which at least 14 sitting days notice has been given, passed a resolution requesting the Governor in Council to make the revocation.

(3) However, subsection (2) does not apply if the regulation states the purpose of the revocation is to allow the forest reserve to become a protected area.

### *Division 3—Management of forest reserves*

#### *Subdivision 1—Management principles of forest reserves*

#### **70F Management principles**

(1) A forest reserve is to be managed to do the following—

- (a) protect the biological diversity, cultural resources and values and conservation values of land included in the reserve, having regard to the purpose of this part;
- (b) provide for the continuation of any lawful existing use of the land;

*Examples of existing uses that may be lawful existing uses—*

- 1. Apiculture, foliage harvesting, recreation and salvage timber harvesting under the *Forestry Act 1959*.
  - 2. Grazing under the *Forestry Act 1959* or the *Land Act 1994*.
  - 3. Maintenance and use of existing roads used for timber extraction and other forest management activities under the *Forestry Act 1959*.
  - 4. Mining under the *Mineral Resources Act 1989*.
- (c) ensure all uses of the land under an authority in relation to the forest reserve made after its dedication are ecologically sustainable;
  - (d) ensure all uses of the land under an authority made after any designation of land in the forest reserve as a proposed protected area are consistent with the management principles for the class of protected area that the land is proposed to become.

(2) However, subsection (1)(b) only applies to the use of the land for commercial logging if the purpose of the logging is to remove plantation trees to restore the land's conservation values.

(3) To remove any doubt, it is declared that the dedication of the land as a forest reserve or any designation of land in the forest reserve as a proposed protected area does not extinguish or affect native title or native title rights and interests in relation to the land.

(4) In this section—

**“commercial logging”** means taking timber for commercial gain, other than—

- (a) to build, maintain or repair public infrastructure or utilities relating to the forest reserve; or
- (b) to enhance or protect a lawful use of the land, or to ensure the use may be carried out safely; or
- (c) to allow native vegetation on the land to be regenerated under a written approval given by the chief executive; or
- (d) for use as firewood; or
- (e) incidentally to a lawful use of the land that does not involve taking timber.

*Example for paragraph (e)—*

If collecting seeds from trees on the land is lawful, collecting the seeds may involve taking branches from trees that have the seeds on them.

**“ecologically sustainable”**, for use of the land, means use within the capacity of the land to sustain natural processes while—

- (a) maintaining the life support systems of nature; and
- (b) ensuring the benefit of the use to present generations does not diminish the potential to meet the needs and aspirations of future generations.

**“make”**, for an authority, includes renew the authority.

### *Subdivision 2—Management*

#### **70G State forest or timber reserve dedicated as a forest reserve**

(1) This section applies if land in a State forest or timber reserve is dedicated as a forest reserve.

(2) The land ceases to be land in a State forest or timber reserve.

(3) However—

- (a) the *Forestry Act 1959* continues to apply, with necessary changes, in relation to the land and its management as if the land were, and had continued to be, a State forest or timber reserve; but
- (b) the *Forestry Act 1959*, section 33<sup>5</sup> does not apply to the management of the land.

(4) This section applies despite the *Forestry Act 1959*.

### **70H Land Act reserve dedicated as a forest reserve**

(1) This section applies if land in a Land Act reserve is dedicated as a forest reserve.

(2) The land ceases to be land in a Land Act reserve.

(3) However, the *Land Act 1994* continues to apply, with necessary changes, in relation to the land and its management as if the land were, and had continued to be, a Land Act reserve.

(4) Also, if a person was, immediately before the dedication, a trustee of the land under the *Land Act 1994*, the person continues to be a trustee of the land under that Act.

(5) This section applies despite the *Land Act 1994*.

### **70I Management principles prevail**

(1) A forest reserve must be managed under the management principles under section 70F.

(2) If there is an inconsistency between the management principles and a provision of the *Forestry Act 1959* or the *Land Act 1994*, the management principles prevail to the extent of the inconsistency.

(3) Despite sections 70G and 70H, an action must not be done in relation to the management of a forest reserve if it is inconsistent with the management principles.

(4) In this section—

“**action**” includes any of the following—

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5 *Forestry Act 1959*, section 33 (Cardinal principle of management of State forests)

- (a) making, amending or renewing an authority in relation to a forest reserve;
- (b) converting an authority to another form of authority;
- (c) changing the purpose of an authority;
- (d) offering or agreeing to carry out an action under paragraphs (a) to (c).

#### ***Division 4—Progression to protected area***

##### ***Subdivision 1—Review of forest reserves***

#### **70J Review**

(1) The chief executive must review each forest reserve to consider the most appropriate class of protected area for land in the reserve.

(2) The review must start as soon as practicable after the dedication of the forest reserve.

##### ***Subdivision 2—Proposed protected areas***

#### **70K Designation**

(1) The chief executive may, by an entry in the proposed protected area register, designate the whole or part of a forest reserve as a proposed protected area if—

- (a) under section 70J the chief executive has reviewed the reserve; and
- (b) subsections (2) to (5) have been complied with.

(2) The chief executive must publish a notice of a proposed designation in a newspaper likely to be read by people particularly affected by it.

(3) The notice must state the following—

- (a) the location and area of the proposed protected area;
- (b) the class of protected area that the area is proposed to become;

(c) that any entity may comment about the proposal to the chief executive;

(d) the period during which comments may be made.

(4) The stated period must be at least 35 days after the publication of the notice.

(5) The chief executive must consider any comment about the proposal made during the period.

### **70L Effect of designation**

(1) Subject to the management principle under section 70F(1)(d), a proposed protected area designation acts as a proposal only and the area continues to be a forest reserve.

(2) A proposed protected area designation does not—

(a) make, or have the effect of making, the area a protected area or a protected area of the class it is proposed to become; or

(b) bind the Governor in Council to dedicate, or the chief executive to take action to dedicate, the area as a protected area or as a protected area of that class.

### **70M When designation ends**

The designation of an area as a proposed protected area ends if—

(a) the dedication of the area as a forest reserve is revoked; or

(b) the area is dedicated as a protected area.

### **70N Register of proposed protected areas**

(1) The chief executive must keep a register of proposed protected areas.

(2) The register must, for each proposed protected area, state—

(a) its location and area; and

(b) the class of protected area that it is proposed to become; and

(c) any other information the chief executive considers desirable.

(3) The chief executive may keep the register in the way the chief executive considers appropriate, including, for example, in electronic form.

(4) The chief executive must keep the register open for inspection during office hours on business days at—

- (a) the department's head office; and
- (b) each regional office of the department in whose area the proposed protected area is situated; and
- (c) other places the chief executive considers appropriate.

### **70O Amendment of designation**

(1) The chief executive may, by an entry in the proposed protected area register, amend the designation of an area as a proposed protected area if subsections (2) to (5) have been complied with.

(2) The chief executive must publish a notice of a proposed amendment in a newspaper likely to be read by people particularly affected by it.

(3) The notice must state the following—

- (a) the location of the area;
- (b) the proposed amendment;
- (c) that any entity may comment about the proposal to the chief executive;
- (d) the period during which comments may be made.

(4) The stated period must be at least 35 days after the publication of the notice.

(5) The chief executive must consider any comment about the proposal made during the period.

### ***Division 5—Miscellaneous provisions***

### **70P References to State forest or timber reserve in other legislation**

(1) A reference in another Act or in subordinate legislation to a State forest or timber reserve is, if the context permits, taken to include a forest reserve.

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

- (a) the reference is in or under the *Forestry Act 1959*;<sup>6</sup> or
- (b) the reference is only to the setting apart and dedication of an area as a State forest or timber reserve.

### **70Q References to Land Act reserves in other legislation**

(1) A reference in this or another Act or in subordinate legislation to a Land Act reserve is, if the context permits, taken to include a forest reserve.

(2) However, subsection (1) does not apply if the reference is in or under the *Land Act 1994*.

## **PART 5—WILDLIFE AND HABITAT CONSERVATION**

### *Division 1—Basic concepts*

#### **71 Classes of wildlife to which Act applies**

The classes of wildlife to which this Act applies are—

- (a) protected wildlife, that is—
  - (i) presumed extinct wildlife; and
  - (ii) endangered wildlife; and
  - (iii) vulnerable wildlife; and
  - (iv) rare wildlife; and
  - (v) common wildlife; and
- (b) international wildlife; and
- (c) prohibited wildlife.

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<sup>6</sup> For State forests or timber reserves, see section 70G(3) (State forest or timber reserve dedicated as a forest reserve).

**72 Management of wildlife—general**

(1) Wildlife is to be managed in accordance with—

- (a) the management principles prescribed by this division for the class of the wildlife; and
- (b) the declared management intent for the wildlife; and
- (c) any conservation plan for the wildlife.

(2) The declared management intent for wildlife is the management intent applicable to the wildlife under the regulations.

(3) The declared management intent for wildlife must contain a statement of—

- (a) the significance of the wildlife to nature and its value; and
- (b) the proposed management intent for the wildlife; and
- (c) the principles relating to any proposed taking and use of the wildlife.

**73 Management principles of protected wildlife**

Protected wildlife is to be managed to—

- (a) conserve the wildlife and its values and, in particular to—
  - (i) ensure the survival and natural development of the wildlife in the wild; and
  - (ii) conserve the biological diversity of the wildlife to the greatest possible extent; and
  - (iii) identify, and reduce or remove, the effects of threatening processes relating to the wildlife; and
  - (iv) identify the wildlife's critical habitat and conserve it to the greatest possible extent; and
- (b) ensure that any use of the wildlife—
  - (i) for scientific study and monitoring; or
  - (ii) for educational, recreational, commercial and authorised purposes; or

- (iii) by Aboriginal people under Aboriginal tradition or Torres Strait Islanders under Island custom;  
is ecologically sustainable.

#### **74 Management principles of international wildlife**

International wildlife is to be managed in accordance with the wildlife's international conservation significance and, in particular—

- (a) to ensure the protection of protected wildlife from any threatening process that may be posed by the wildlife; and
- (b) to prevent unlawful introduction of the wildlife into Queensland; and
- (c) prohibit the release of the wildlife into the wild except under a licence, permit or other authority issued or given under a regulation.

#### **75 Management principles of prohibited wildlife**

Prohibited wildlife is to be managed to—

- (a) prohibit the release of the wildlife into the wild except under a licence, permit or other authority issued or given under a regulation; and
- (b) identify and, if practicable, control any threatening process caused by the wildlife; and
- (c) reduce and, if possible, eliminate the population and distribution of the wildlife in the wild; and
- (d) encourage the humane taking and use of the wildlife.

### *Division 2—Classes of wildlife*

#### **76 Native wildlife may be prescribed as presumed extinct wildlife**

(1) If the Governor in Council is of the opinion that native wildlife is extinct, the wildlife may be prescribed as presumed extinct wildlife.

(2) Native wildlife is taken to be extinct if it has not been sighted in the wild for a period critical to its life cycle despite thorough searching.

**77 Native wildlife may be prescribed as endangered wildlife**

(1) If the Governor in Council is of the opinion that—

- (a) native wildlife is in danger of extinction; or
- (b) the survival of native wildlife in the wild is unlikely if threatening processes continue;

the wildlife may be prescribed as endangered wildlife.

(2) Native wildlife is taken to be in danger of extinction if—

- (a) its number has been reduced to a critical level or its habitat has been so drastically reduced that it may be in immediate danger of extinction; or
- (b) it has not been sighted in the wild for a period critical to its life cycle although no thorough search has been made for it.

**78 Native wildlife may be prescribed as vulnerable wildlife**

(1) If the Governor in Council is of the opinion that the survival of native wildlife in the wild is vulnerable if threatening processes continue, the wildlife may be prescribed as vulnerable wildlife.

(2) Native wildlife is taken to be vulnerable if—

- (a) its population is decreasing because of threatening processes; or
- (b) its population has been seriously depleted and its protection is not secured; or
- (c) its population, while abundant, is at risk because of threatening processes; or
- (d) its population is—
  - (i) low or localised; or
  - (ii) dependent on limited habitat that is at risk because of threatening processes.

**79 Native wildlife may be prescribed as rare wildlife**

(1) If the Governor in Council is of the opinion that native wildlife that is not threatened wildlife is rare, the wildlife may be prescribed as rare wildlife.

(2) Rare wildlife may include native wildlife whose population is represented by—

- (a) a relatively large population in a restricted range; or
- (b) smaller populations thinly spread over a wider range.

### **80 Native wildlife may be prescribed as common wildlife**

(1) If the Governor in Council is of the opinion that—

- (a) native wildlife is common or abundant; and
- (b) the wildlife is likely to survive in the wild;

the wildlife may be prescribed as common wildlife.

(2) Native wildlife may be prescribed as common wildlife even though the wildlife is the subject of a threatening process.

### **81 Wildlife may be prescribed as international wildlife**

If the Governor in Council is of the opinion that wildlife included in appendix I or II of CITES is not indigenous to Australia, the wildlife may be prescribed as international wildlife.

### **82 Wildlife may be prescribed as prohibited wildlife**

If the Governor in Council is of the opinion that wildlife is—

- (a) an unnatural hybrid or not indigenous to Australia; and
- (b) likely to constitute a threatening process to protected wildlife;

the wildlife may be prescribed as prohibited wildlife.

## *Division 3—Ownership of protected wildlife*

### **83 Property in protected animals**

(1) Subject to subsections (2) to (5) and sections 85 and 86, all protected animals are the property of the State.

(2) A protected animal ceases to be the property of the State if—

- (a) the animal is taken under a licence, permit or other authority issued or given under a regulation; and
- (b) under a conservation plan property in the animal passes from the State on that taking of the animal.

(3) A protected animal to which subsection (2) applies becomes the property of the holder of the authority, subject to the rights in the animal of any other person (other than the rights of the State under subsection (1)).

(4) A protected animal that is the progeny of an animal to which subsection (2) applies is the property of the owner of the progeny's female parent, subject to the rights in the animal of any other person (other than the rights of the State under subsection (1)).

(5) If—

- (a) a person is keeping an animal that is not a protected animal; and
- (b) the animal becomes a protected animal because of the making of a regulation under this Act;

the animal and its progeny do not become the property of the State merely because of the making of the regulation.

## **84 Property in protected plants**

(1) Subject to subsections (2) to (4) and section 86, all protected plants (other than protected plants on private land) are the property of the State.

(2) A protected plant ceases to be the property of the State if—

- (a) the plant is taken under a licence, permit or other authority issued or given under a regulation; and
- (b) under a conservation plan property in the plant passes from the State on that taking of the plant.

(3) A protected plant to which subsection (2) applies becomes the property of the holder of the authority, subject to the rights in the plant of any other person (other than the rights of the State under subsection (1)).

(4) The progeny of a plant to which subsection (2) applies is the property of the owner of the plant from which the progeny is propagated, subject to the rights in the plant of any other person (other than the rights of the State under subsection (1)).

(5) In this section—

**“protected plant”** means a protected plant that—

- (a) is prescribed under this Act as rare or threatened wildlife; and
- (b) is in the wild.

**“private land”** means—

- (a) freehold land; or
- (b) land the subject of a lease under any Act containing an entitlement to a deed of grant in fee simple.

## **85 Property in newly protected animals**

(1) In this section—

**“commencing day”** means the day on which this division commences.

**“declaration day”** for an animal means the day on which the animal becomes a newly protected animal.

**“newly protected animal”** means a protected animal that, immediately before the commencing day, was not fauna under the *Fauna Conservation Act 1974*.

(2) If a person is keeping a newly protected animal at the beginning of the declaration day, the animal and its progeny do not become the property of the State merely because of the animal becoming a protected animal.

## **86 Preservation of existing property rights**

Sections 83 and 84 do not affect property rights a person (other than the State) has in native wildlife immediately before the wildlife becomes protected wildlife.

## **87 Liability of State**

The State is not legally liable for an act or omission merely because protected animals and plants are the property of the State.

***Division 4—Restrictions on activities relating to protected wildlife*****88 Restriction on taking etc. protected animals**

(1) Subject to section 93, a person, other than an authorised person, must not take, use or keep a protected animal, other than under—

- (a) a conservation plan applicable to the animal; or
- (b) a licence, permit or other authority issued or given under a regulation; or
- (c) an exemption under a regulation.

Maximum penalty—3 000 penalty units or 2 years imprisonment.

(2) Subsection (1) does not apply to the taking of protected animals in a protected area.<sup>7</sup>

(3) It is a defence to a charge of taking a protected animal in contravention of subsection (1) to prove that—

- (a) the taking happened in the course of a lawful activity that was not directed towards the taking; and
- (b) the taking could not have been reasonably avoided.

(4) Subsection (3) does not allow a person to use or keep the animal.

(5) In this section—

**“authorised person”** means a person as follows performing functions under this Act in relation to the protected animal—

- (a) the chief executive;
- (b) a conservation officer, public service officer or other employee of the department acting under the chief executive’s authority.

**89 Restriction on taking etc. protected plants**

(1) Subject to section 93, a person, other than an authorised person, must not take a protected plant, other than under—

- (a) a conservation plan applicable to the plant; or

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<sup>7</sup> Section 62 deals with the taking of protected animals in a protected area.

- (b) a licence, permit or other authority issued or given under a regulation; or
- (c) an exemption under a regulation.

(2) Subsection (1) does not apply to the taking of protected plants in a protected area.<sup>8</sup>

(3) It is a defence to a charge of taking a protected plant in contravention of subsection (1) to prove that—

- (a) the taking happened in the course of a lawful activity that was not directed towards the taking; and
- (b) the taking could not have been reasonably avoided.

(4) A person must not use or keep a protected plant that has been taken in contravention of subsection (1).

(5) In this section—

**“authorised person”** means a person as follows performing functions under this Act in relation to the protected plant—

- (a) the chief executive;
- (b) a conservation officer, public service officer or other employee of the department acting under the chief executive’s authority.

**“protected plant”** means a protected plant that—

- (a) is prescribed under this Act as rare or threatened wildlife; and
- (b) is in the wild.

Maximum penalty—3 000 penalty units or 2 years imprisonment.

## **90 Restriction on using threatened or rare plants**

(1) Subject to section 93, a person, other than an authorised person, must not use a protected plant that is threatened or rare wildlife other than under—

- (a) a licence, permit or other authority issued under a regulation; or
- (b) an exemption under a regulation.

Maximum penalty—1 000 penalty units.

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<sup>8</sup> Section 62 deals with the taking of protected animals in a protected area.

(2) In this section—

**“authorised person”** means a person as follows performing functions under this Act in relation to the threatened or rare protected plant—

- (a) the chief executive;
- (b) a conservation officer, public service officer or other employee of the department acting under the chief executive’s authority.

## **91 Prohibition on release etc. of international and prohibited wildlife**

(1) A person, other than an authorised person, must not—

- (a) abandon international or prohibited wildlife in the wild; or
- (b) release international or prohibited wildlife into the wild; or
- (c) keep or use international or prohibited wildlife; or
- (d) introduce international or prohibited wildlife into Queensland;

other than under—

- (e) a conservation plan applicable to the wildlife; or
- (f) a licence, permit or other authority issued or given under a regulation.

Maximum penalty—3 000 penalty units or 2 years imprisonment.

(2) In this section—

**“authorised person”** means a person as follows performing functions under this Act in relation to the international or prohibited wildlife—

- (a) the chief executive;
- (b) a conservation officer, public service officer or other employee of the department acting under the chief executive’s authority.

## **92 Prohibition on breeding etc. hybrids of protected animals**

(1) A person must not—

- (a) knowingly breed a hybrid or mutation of a protected animal; or
- (b) abandon a hybrid or mutation of a protected animal in the wild;

other than under a regulation or exemption under a regulation.

Maximum penalty—165 penalty units.

(2) A person must not release a hybrid or mutation of a protected animal into the wild other than under a conservation plan for the protected animal. Maximum penalty—165 penalty units or 1 year's imprisonment.

### **93 *Aborigines' and Torres Strait Islanders' rights to take etc. protected wildlife***

(1) *Despite any other Act, an Aborigine or Torres Strait Islander may take, use or keep protected wildlife under Aboriginal tradition or Island custom.*

(2) *Subsection (1) applies subject to any provision of a conservation plan that expressly applies to the taking, using or keeping of protected wildlife under Aboriginal tradition or Island custom.*

(3) *An Aborigine or Torres Strait Islander who takes, uses or keeps protected wildlife in contravention of a provision of a conservation plan that expressly prohibits the taking, using or keeping of protected wildlife under Aboriginal tradition or Island custom commits an offence against this Act.*

(4) *Subsection (1) does not apply to the taking, using or keeping of protected wildlife in a protected area.<sup>9</sup>*

*Maximum penalty—3 000 penalty units or imprisonment for 2 years.<sup>10</sup>*

### **94 Conservation officers prohibited in dealing with protected wildlife**

A conservation officer must not acquire or hold an interest in—

- (a) a licence, permit or other authority issued or given under a regulation for the purpose of conducting the business of dealing in protected wildlife; or
- (b) any business dealing in protected wildlife; or
- (c) any place at or in which the business of dealing in protected wildlife is conducted; or

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9 Section 62 deals with, among other things, the taking, using or keeping of protected wildlife in a protected area.

10 This provision had not commenced on or before reprint date.

- (d) any contract or arrangement made for the purpose of dealing in protected wildlife.

Maximum penalty—50 penalty units.

### *Division 5—Conservation value for protected wildlife*

#### **95 Payment of conservation value**

(1) Subject to subsection (8), there is payable to the State for protected wildlife taken under a licence, permit or other authority issued or given under a regulation, the conservation value (if any) prescribed under this Act for the wildlife.

(2) The conservation value of protected wildlife is an expression in monetary terms of the State's conservation concern for the wildlife.

(3) Despite any Act or law, payment of the conservation value does not, of itself, transfer property in protected wildlife from the State.

(4) The person who lawfully takes protected wildlife must pay the conservation value for the wildlife within 30 days after the wildlife is taken.

Maximum penalty—50 penalty units.

(5) A person who lawfully takes protected wildlife must not give up or surrender possession of the wildlife unless the conservation value for the wildlife has been paid.

Maximum penalty—50 penalty units.

(6) A person must not keep protected wildlife knowing that the conservation value for the wildlife has not been paid.

Maximum penalty—50 penalty units.

(7) If a person lawfully takes wildlife, subsection (6) does not apply to the keeping of the wildlife by the person during the period allowed under subsection (4) for the payment of the conservation value for the wildlife.

(8) The conservation value of wildlife is not payable by a person if the person—

- (a) is exempt from the payment under a regulation; or
- (b) takes the wildlife for an authorised purpose under a conservation plan applicable to the wildlife.

**96 Recovery of unpaid conservation value**

(1) An amount of conservation value payable under this Act is a debt due to the State and may be recovered in a court having jurisdiction for the recovery of debts up to the amount concerned.

(2) A proceeding may be instituted against a person for the recovery of an amount of conservation value payable under this Act whether or not—

- (a) a prosecution has been instituted against the person for an offence in relation to the nonpayment; or
- (b) the person has been convicted of an offence in relation to the nonpayment.

***Division 6—Specific restriction on activities relating to native wildlife*****97 Restriction on taking etc. of native wildlife in areas of major interest and critical habitats**

(1) This section applies to native wildlife (other than protected wildlife<sup>11</sup>) in an area that is identified under a conservation plan as, or including—

- (a) a critical habitat; or
- (b) an area of major interest.

(2) A person, other than an authorised person, must not take, use, keep or interfere with the wildlife, other than under—

- (a) the conservation plan; or
- (b) a licence, permit or other authority issued or given under a regulation.

Maximum penalty—3 000 penalty units or 2 years imprisonment.

(3) It is a defence to a charge of taking or interfering with wildlife in contravention of subsection (2) to prove that—

- (a) the taking or interference happened in the course of a lawful activity that was not directed towards the taking or interference; and

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11 Sections 62, 88 and 89 deal with the taking, using and keeping of protected wildlife.

(b) the taking or interference could not have been reasonably avoided.

(4) Subsection (3) does not allow a person to use or keep the wildlife.

(5) In this section—

**“authorised person”** means a person as follows performing functions under this Act in relation to the native wildlife—

(a) the chief executive;

(b) a conservation officer, public service officer or other employee of the department acting under the chief executive’s authority.

### *Division 7—General*

#### **98 No right to enter land**

Nothing in this Act gives—

(a) the holder of a licence, permit or other authority issued or given under a regulation; or

(b) an Aborigine or Torres Strait Islander;

the right to enter any land for the purpose of taking wildlife without the land-holder’s consent.

#### **99 Offence to trespass—general**

(1) A person must not—

(a) take wildlife on any land; or

(b) enter or be on any land for the purpose of taking wildlife;

without the land-holder’s consent.

Maximum penalty—165 penalty units.

(2) Subsection (1) does not apply to a conservation officer who—

(a) has entered the land under part 9; and

(b) exercises a power under the part.

**100 Offence to trespass—land-holders' rights**

(1) This section applies to a person who a land-holder suspects on reasonable grounds—

- (a) is trespassing on the land-holder's land; and
- (b) is committing on the land, has committed on the land or is on the land for the purpose of committing, an offence against this Act.

(2) The land-holder may—

- (a) require the person to state—
  - (i) the person's name and address; and
  - (ii) the person's purpose for being on the land; and
- (b) if the person is on the land without lawful authority—require the person to leave the land immediately.

(3) If—

- (a) the person fails to give—
  - (i) his or her name and address; or
  - (ii) the person's purpose for being on the land;  
if required to do so by the land-holder; or
- (b) the person—
  - (i) is on the land without lawful authority; and
  - (ii) fails to leave the land immediately if required to do so by the land-holder;

the person commits an offence against this Act.

Maximum penalty—165 penalty units.

(4) This section does not affect any other right or remedy that the land-holder may have against the trespasser.

## **PART 6—INTERIM CONSERVATION ORDERS**

### **101 Definitions**

In this part—

“**land-holder**” includes a person having an interest in land.

“**protected area**” includes the Wet Tropics Area within the meaning of the *Wet Tropics World Heritage Protection and Management Act 1993*.

### **102 Issue of order**

If the Minister is of the opinion that—

- (a) rare or threatened wildlife; or
- (b) a protected wildlife habitat that is, in the Minister’s opinion, a critical habitat; or
- (c) an area of major interest; or
- (d) a protected area;

is subject to a threatening process that is likely to have significant detrimental effect on the wildlife, habitat or area, the Minister may make an interim conservation order for the conservation, protection or management of the wildlife, habitat or area.

### **103 Effect of order**

(1) An interim conservation order may provide for—

- (a) the prohibition or control of a specified threatening process; or
- (b) such other matters as are prescribed.

(2) An order may be made in relation to land even though—

- (a) the wildlife or habitat is not within the land; or
- (b) the land is not within an area of major interest or protected area.

### **104 Notice of order**

(1) On the day an interim conservation order is made, the Minister must give or send written notice to—

- (a) all land-holders of land to which the order relates; and
- (b) the local government for the area in which the land is situated;

that the order has been made and of the terms of the order.

(2) It is sufficient compliance with subsection (1)(a) in relation to a land-holder if the Minister gives notice of the order to the land-holder by displaying the notice in a prominent place on the land.

### **105 Duration of order**

(1) An interim conservation order has effect from the time it is made and continues in force for not more than 60 days.

(2) The Governor in Council may, by gazette notice, extend the order by not more than 90 days.

### **106 Orders prevail over planning schemes**

If there is any conflict between an interim conservation order and a planning scheme, the order prevails over the planning scheme.

### **107 Suspension of licences etc.**

(1) If a licence, permit or other authority issued or given under any Act permits the holder to do an act that would contravene an interim conservation order, the Minister may, by order, suspend the operation of the authority to the extent that it permits the doing of the act.

(2) The Minister must give written notice of the order to the authority holder.

(3) If the Minister considers that it is impracticable to give notice to each holder of a particular class of authority, it is sufficient compliance with subsection (2) if the Minister gives notice of the order to the authority holders by publishing a notice in such newspapers as the Minister determines.

(4) The suspension—

(a) takes effect from—

- (i) if notice is given under subsection (2)—the day the notice is received by the holder; or

- (ii) if notice is given under subsection (3)—the day the notice is first published in a newspaper; or
  - (iii) if a later day is specified in the notice—the later day; and
- (b) ends—
- (i) when the interim conservation order ends; or
  - (ii) if an earlier day is specified in the notice—the earlier day.
- (5) This section applies despite any other Act.

### **108 Compensation**

(1) A land-holder of land subject to an interim conservation order is entitled to be paid by the State such reasonable compensation because of the making of the order as is agreed between the State and the land-holder or, failing agreement, as is determined by the Land Court.

(2) A claim for compensation must—

- (a) be made in a form approved by the chief executive; and
- (b) be made to the chief executive within 6 months after the making of the order or the longer period the chief executive or the Land Court in special circumstances allows.

### **109 Compliance with order**

A person must not contravene an interim conservation order.

Maximum penalty—3 000 penalty units or 2 years imprisonment.

## **PART 7—MANAGEMENT AND CONSERVATION PLANS**

### **110 Meaning of “land-holder” in part**

In this part—

“**land-holder**” includes a person having an interest in land.

**111 Management plans**

(1) The Minister must, as soon as practicable after—

- (a) the dedication of—
  - (i) a national park (scientific); or
  - (ii) a national park; or
  - (iii) a national park (recovery); or
  - (iv) a conservation park; or
  - (v) a resources reserve; or
- (b) the declaration of—
  - (i) a nature refuge (other than a nature refuge that is the subject of a conservation agreement under which a management plan is not to be prepared); or
  - (ii) a coordinated conservation area; or
  - (iii) a wilderness area;

prepare a management plan for the area.

(2) Subsection (1) does not apply if—

- (a) the dedication or declaration is a dedication or declaration of a change in the class of a protected area; and
- (b) the regulation dedicating or declaring the area declares that the management plan for the area continues to apply.

(3) Subsection (1) does not apply if—

- (a) on the dedication or declaration of a protected area (the “**new area**”), the new area is amalgamated with another protected area for which a management plan is in force; and
- (b) the regulation dedicating or declaring the new area declares that the management plan applies to the amalgamated area.

(4) If—

- (a) on or after the dedication or declaration of a protected area (the “**new area**”), the new area is amalgamated with another protected area (the “**original area**”) for which a management plan is in force; and

- (b) a management plan is required to be prepared for the new area under this section;

the Minister may prepare a management plan for the amalgamated area or a management plan amending the plan for the original area to apply the plan to the new area.

(5) If—

- (a) on or after the dedication or declaration of a protected area, the area is included in an aggregation of protected areas assigned a name under section 64; and
- (b) a management plan is required to be prepared for the area under this section;

the Minister may prepare a management plan for the aggregation of areas instead of a plan for the area (whether or not plans have been prepared for other areas included in the aggregation of areas).

(6) If the Minister decides to prepare a management plan for an amalgamated area or aggregation of areas, this part applies to the preparation and approval of the plan with any necessary changes and any changes prescribed by regulation.

## **112 Conservation plans**

(1) The Minister may prepare a conservation plan for any native wildlife, class of wildlife, native wildlife habitat or area that is, in the Minister's opinion, an area of major interest.

(2) If a person applies for a licence, permit or other authority under a regulation to—

- (a) take or use protected wildlife; or
- (b) release international or prohibited wildlife into the wild; or
- (c) introduce international or prohibited wildlife into Queensland;

the Minister may, before the authority is given—

- (d) require the person, at the person's cost, to prepare a draft conservation plan; or
- (e) prepare a draft conservation plan;

for the taking, use, release or introduction of the wildlife.

(3) The procedures applying to the preparation and approval of plans under this part (other than sections 113 and 114) apply to a draft conservation plan prepared under subsection (2).

(4) The Minister may require the person to pay—

- (a) if subsection (2)(d) applies—the reasonable costs incurred by the Minister in relation to the preparation and approval of a final conservation plan; or
- (b) if subsection (2)(e) applies—the reasonable costs incurred by the Minister in relation to—
  - (i) the preparation of the draft and final conservation plans; and
  - (ii) the approval of the final conservation plan.

(5) A conservation plan may make provision about the following matters—

- (a) any matter for which a regulation may be made under this Act, including, for example, prescribing offences for contraventions of the plan, and fixing a maximum penalty of a fine of not more than 165 penalty units for the contravention;
- (b) the use or development of land, and activities, in an area identified under the plan as, or including, a critical habitat or an area of major interest.

### **113 Notice of proposal to prepare draft plan**

(1) The Minister must give public notice that the Minister proposes to prepare a draft management or conservation plan (other than a plan for a nature refuge that is subject to a conservation agreement).

(2) The notice must—

- (a) be published in such newspapers as the Minister determines; and
- (b) specify the protected area, area of major interest, wildlife or native wildlife habitat concerned; and
- (c) invite submissions from land-holders, local governments, interested groups and persons, including Aborigines and Torres Strait Islanders and members of the public; and
- (d) specify a day by which submissions may be made to the Minister.

### **114 Preparation of draft plan**

When preparing a draft management or conservation plan, the Minister must consider all submissions properly made to the Minister.

### **115 Notice of preparation of draft plan**

(1) The Minister must give public notice when a draft management or conservation plan has been prepared (other than a plan for a nature refuge that is subject to a conservation agreement).

(2) The notice must—

- (a) be published in such newspapers as the Minister determines; and
- (b) specify the protected area, area of major interest, wildlife or native wildlife habitat concerned; and
- (c) specify the addresses at which copies of the draft plan may be inspected and, on payment of the appropriate fee, purchased; and
- (d) invite submissions from land-holders, local governments, interested groups and persons, including Aborigines and Torres Strait Islanders and members of the public; and
- (e) specify a day by which submissions may be made to the Minister.

(3) The fee for the purchase of a copy of a draft plan is the amount that—

- (a) the chief executive considers to be reasonable; and
- (b) is not more than the reasonable cost of preparing the plan.

### **116 Submissions to be considered when preparing final plans**

When preparing a final management or conservation plan, the Minister must consider all submissions properly made to the Minister.

### **117 Final management plans**

(1) A final management plan for a protected area must—

- (a) be consistent with the management principles for the class of the area and, if the area is a nature refuge, coordinated conservation area or wilderness area, any conservation agreement or covenant for the area; and

- (b) specify management outcomes for the protection, presentation and use of the area and the policies, guidelines and actions to achieve the outcomes.

(2) A final management plan for a protected area may divide the area into management zones.

### **118 Final conservation plans**

(1) A final conservation plan for wildlife must be consistent with the management principles for the class of wildlife.

(2) A final conservation plan for wildlife, or a class of wildlife, may provide for the State to be divided into wildlife districts.

### **119 Approval of final plan**

(1) A final management or conservation plan does not have effect until it has been approved by the Governor in Council.

(2) A final conservation plan is subordinate legislation.

(3) The chief executive must keep the approved plan open for inspection by members of the public during office hours on business days at—

- (a) the department's head office; and
- (b) each regional office of the department; and
- (c) such other places as the chief executive considers appropriate.

### **120 Implementation of approved plan**

(1) On approval of a management plan for a protected area—

- (a) if the area is a national park (Aboriginal land) or national park (Torres Strait Islander land)—the board of management for the area; or
- (b) if the area is under the control of trustees—the trustees; or
- (c) if paragraphs (a) and (b) do not apply—the chief executive;

must give effect to the plan.

(2) On approval of a conservation plan for wildlife, native wildlife habitat or area of major interest, the chief executive must give effect to the plan.

**121 Plan replaces interim or declared management intent**

(1) A management plan for a coordinated conservation area or wilderness area replaces the interim or declared management intent for the area.

(2) A conservation plan for wildlife, or a class of wildlife, replaces the declared management intent for the wildlife, or class of wildlife, unless the plan declares that this subsection does not apply to the plan.

**122 Conservation plans and regulations prevail over planning schemes**

If there is any conflict between a conservation plan, or regulation giving effect to a management plan, and a planning scheme (whether made before or after the plan or regulation), the plan or regulation prevails over the planning scheme.

**123 Local governments' decisions to be consistent with plans**

(1) This section applies to land in—

- (a) a protected area for which a regulation is in force giving effect to a management plan for the area; or
- (b) an area identified under a conservation plan as, or including, a critical habitat or an area of major interest.

(2) A local government must not issue or give any approval, consent, permit or other authority for a use of, or a development on, the land that is inconsistent with the regulation or plan.

**124 Amendment of plans**

(1) The Governor in Council may amend a management or conservation plan by a subsequent management or conservation plan only if the procedures applying to the preparation and approval of plans under this part (other than sections 113 and 114) are followed.

(2) However, subsection (1) does not apply to the amendment of a management or conservation plan to—

- (a) correct an error in the plan; or
- (b) make a change (other than a change of substance) in the plan; or

- (c) if the plan or a regulation provides that an amendment of a stated type may be made to the plan by amendment under this subsection—make an amendment of that type.

### **125 Review of plans**

(1) The Minister must review the operation of each management and conservation plan not later than 10 years after its approval.

(2) The procedures applying to the preparation and approval of plans under this part apply to the review of plans with any necessary changes and any changes prescribed by regulation.

### **126 Compensation**

(1) This section applies if—

- (a) a conservation plan is approved for an area identified under the plan as, or including, a critical habitat or an area of major interest; and
- (b) a land-holder's interest in land in the area is injuriously affected by a restriction or prohibition imposed under the plan on the land-holder's existing use of the land.

(2) The land-holder is entitled to be paid by the State the reasonable compensation because of the restriction or prohibition that is agreed between the State and the land-holder or, failing agreement, decided by the Land Court.

(3) The land-holder's interest in the land is not injuriously affected if the restriction or prohibition under the conservation plan is the same, or to the same effect, as a provision of another law applying to the land immediately before the commencement of the plan.

(4) Compensation is not payable if compensation has already been paid for—

- (a) the restriction or prohibition; or
- (b) a restriction or prohibition to the same effect.

(5) A claim for compensation must—

- (a) be made in a form approved by the chief executive; and

- (b) be made to the chief executive within 6 months after the approval of the conservation plan or the longer period the chief executive or Land Court in special circumstances allows.

(6) In making a determination, the Land Court must have regard to the following matters—

- (a) the capacity of the land to sustain the existing use;
- (b) any change in the value of the land because of the approval of the conservation plan;
- (c) any change in the profitability of the land because of the approval of the conservation plan;
- (d) any conservation agreement with the land-holder.

(7) Subsection (6) does not limit the matters to which the Land Court may have regard in making a determination.

(8) In this section—

“**existing use**” of land includes a lawful use made of the land immediately before the commencement of the conservation plan that restricts or prohibits the use.

## **PART 8—ADMINISTRATION**

### **127 Appointment of conservation officers**

(1) The Minister may—

- (a) appoint an employee of the department; or
- (b) appoint an officer of the public service; or
- (c) appoint a police officer;<sup>12</sup> or
- (d) with the person’s consent, appoint another person;

to be a conservation officer.

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12 A proposed appointment must have the approval of the commissioner of the police service under the *Police Powers and Responsibilities Act 2000*, section 12.

(2) The Minister may appoint a conservation officer, who has satisfactorily completed a course of training approved by the Minister, to be a special conservation officer.

(3) An appointment under subsection (1) or (2) must be in, or evidenced by, writing signed by the Minister.

(4) A conservation officer appointed under subsection (1)(a) or (b) holds office subject to the conditions specified in the instrument of appointment.

(5) A conservation officer appointed under subsection (1)(d)—

(a) holds office for the term, and subject to the conditions, specified in the instrument of appointment; and

(b) may resign office by writing signed and given to the Minister.

### **128 Appointment of honorary protectors**

(1) The Minister may, by signed writing, appoint a qualified person, with the person's consent, to be an honorary protector.

(2) An honorary protector—

(a) holds office for the term, and subject to the conditions, specified in the instrument of appointment; and

(b) has the powers of a conservation officer under section 151 and such other powers as may be prescribed; and

(c) may resign by writing signed and given to the Minister.

(3) In this section—

**“qualified person”** means a person who—

(a) in the Minister's opinion, has the necessary expertise or experience to be an honorary protector; or

(b) has satisfactorily completed a course of training approved by the Minister.

### **129 Minister may inquire into suitability of proposed appointees**

(1) Before appointing a person as a conservation officer or honorary protector, the Minister may inquire into the suitability of the person.

(2) The Minister may obtain a report from the commissioner of the police service about the criminal history of the person.

(3) The report must include reference to, or disclosure of, convictions mentioned in of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6.

### **130 Identity cards**

(1) The Minister must issue an identity card to—

- (a) each conservation officer, other than a police officer or an officer of a prescribed class; and
- (b) each honorary protector.

(2) The identity card must—

- (a) contain a recent photograph of the conservation officer or honorary protector; and
- (b) be in a form approved, in writing, by the Minister; and
- (c) in the case of a conservation officer who is a special conservation officer—state that the officer is a special conservation officer; and
- (d) be signed by the conservation officer or honorary protector.

(3) A person who ceases to be a conservation officer or honorary protector must, as soon as practicable, return his or her card to the Minister.

Maximum penalty for subsection (3)—50 penalty units.

### **131 Proof of authority**

A conservation officer (other than an officer who is in uniform) or an honorary protector must not exercise any power under this Act in relation to a person unless the conservation officer or honorary protector first produces his or her identity card for inspection by the person.

### **132 Advisory committees**

(1) The Minister may establish as many advisory committees as the Minister considers appropriate for the purposes of the administration of this Act, including, for example—

- (a) scientific advisory committees; and
- (b) wilderness area advisory committees; and

- (c) protected area management advisory committees; and
- (d) wildlife management advisory committees.

(2) An advisory committee is to have the functions that the Minister specifies, including, for example, the function of advising the Minister on—

- (a) the management intent of, and the identification of areas that are suitable for declaration as, wilderness areas; and
- (b) the identification, classification and management of protected areas; and
- (c) the classification of wildlife; and
- (d) the suitability of management and conservation plans.

(3) A member of an advisory committee may be paid such fees and allowances as are approved by the Governor in Council.

### **133 Chief executive to keep register**

(1) The chief executive must keep a register of—

- (a) protected areas; and
- (b) leases granted under sections 34 to 37; and
- (c) protected wildlife; and
- (d) international wildlife; and
- (e) prohibited wildlife; and
- (f) conservation agreements; and
- (g) management and conservation plans; and
- (h) critical habitats; and
- (i) areas of major interest; and
- (j) interim conservation orders; and
- (k) conservation officers; and
- (l) honorary protectors.

(2) Subject to subsection (3), the chief executive must—

- (a) keep the registers open for inspection by members of the public during office hours on business days at—

- (i) the department's head office; and
- (ii) such other places as the chief executive considers appropriate; and
- (b) on payment of the prescribed fee by a person—
  - (i) permit the person to take extracts from a register; or
  - (ii) give the person a copy of a part of a register.

(3) A person must not be given information that is declared under section 136 to be confidential information.

### **134 Records to be maintained by registrar**

- (1) The chief executive must, within 14 days after—
- (a) a registrable conservation agreement is entered into; or
  - (b) a nature refuge is declared under section 49; or
  - (c) a regulation giving effect to a management plan for a World Heritage management area or international agreement area commences; or
  - (d) an area is identified under a conservation plan as, or including—
    - (i) a critical habitat; or
    - (ii) an area of major interest;

give written notice to the registrar that the agreement has been entered into, the declaration made, the regulation has commenced or the plan approved, in relation to specified private land.

- (2) The registrar must maintain records that—
- (a) show that the land specified in the notice is—
    - (i) the subject of a registrable conservation agreement; or
    - (ii) subject to a conservation covenant; or
    - (iii) the subject of a management plan and the regulation giving effect to it; or
    - (iv) the subject of a conservation plan; and
  - (b) state the places where—
    - (i) particulars of the agreement; or

- (ii) particulars of the conservation covenant applying to the declaration; or
  - (iii) the management plan for the area and regulation; or
  - (iv) the conservation plan for the area;
- may be inspected.

(3) The registrar must maintain the records in such a way that a search of the register maintained by the registrar under any Act relating to the land will show the existence of—

- (a) the registrable conservation agreement; or
- (b) the conservation covenant; or
- (c) the management plan and regulation; or
- (d) the conservation plan.

(4) The chief executive must, within 14 days after—

- (a) a registrable conservation agreement is terminated; or
- (b) the declaration of a protected area is revoked; or
- (c) a regulation giving effect to a management plan is repealed; or
- (d) a conservation plan is revoked; or
- (e) an area is removed from the operation of the conservation plan;

give written notice to the registrar of the termination, revocation, repeal or removal.

(5) The registrar must, on receipt of a notice under subsection (4), remove the particulars of the land from the registrar's records.

(6) In this section—

**“private land”** means land other than State land.

**“registrable conservation agreement”** means a conservation agreement expressed to be binding on the land-holder's successor's in title and other persons who have an interest in the land the subject of the agreement.

### **135 Chief executive may inquire into applications**

(1) The chief executive may, in relation to—

- (a) an application for, or renewal of, a licence, permit or other authority;
- (b) an application for the consent of the Minister to, or to the renewal of, a lease, agreement, licence, permit or other authority;

inquire into—

- (c) if the applicant is an individual—the fame, character and suitability of the applicant; or
- (d) if the applicant is a corporation—the fame, character and suitability of each executive officer of the corporation.

(2) The chief executive may obtain—

- (a) a report from the commissioner of the police service in respect of the criminal history of the applicant and, if the applicant is a corporation, in respect of each executive officer of the corporation; and
- (b) if the applicant, or an executive officer of a corporation that is an applicant, holds or previously held in another State or a Territory a relevant lease, licence, permit or other authority—a report from the appropriate authority in the State or Territory.

(3) A report under subsection (2)(a) must include reference to or disclosure of convictions mentioned in of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6.

### **136 Confidentiality of information**

(1) The chief executive may declare information acquired in the administration of this Act to be confidential information if the chief executive is of the opinion that disclosure of the information may result in an unreasonable level of risk to the wellbeing of a cultural or natural resource or critical habitat.

(2) If, while performing duties under, or in relation to, this Act, a person gets—

- (a) confidential information; or
- (b) information obtained under section 129 or 135;

the person must not, whether directly or indirectly, disclose or make use of the information except to the extent necessary to perform the person's duties under or in relation to this Act.

Maximum penalty—165 penalty units.

(3) In this section—

“**this Act**” includes the Acts repealed by this Act.

### **137 Licences to be consistent with management principles, and management intent or plan**

(1) A licence, permit or other authority issued or given under a regulation or another Act to take, use, keep or interfere with a cultural or natural resource of a protected area must be consistent with—

- (a) the management principles for the area; and
- (b) the interim or declared management intent, or management plan, for the area.

(2) A licence, permit or other authority issued or given under a regulation to—

- (a) take, use or keep protected wildlife; or
- (b) abandon, release, keep, use or introduce international or prohibited wildlife;

must be consistent with—

- (c) the management principles for the wildlife; and
- (d) the declared management intent, or conservation plan, applicable to the wildlife.

### **138 Compensation not payable**

(1) In this section—

“**authority**” means a licence, permit or other authority issued or given under a regulation or conservation plan.

(2) Compensation is not payable if, under a regulation or conservation plan—

- (a) the renewal of an authority is refused; or
- (b) conditions are imposed on an authority, or anything previously permitted under an authority is prohibited or regulated; or
- (c) an authority is amended, or anything previously permitted under an authority is prohibited or regulated; or

(d) an authority is suspended or cancelled.

(3) However, subsection (2) does not prevent a regulation or conservation plan providing for payment of compensation.

### **139 Annual report**

(1) The chief executive must, within 3 months after the end of each financial year, give to the Minister a report on the administration of this Act during the year.

(2) The Minister must lay a copy of the report before the Legislative Assembly within 14 sitting days after its receipt by the Minister.

### **140 Delegation by Minister**

The Minister may delegate to an officer of the public service powers under this Act (other than sections 102 and 107).

### **141 Delegation by chief executive**

(1) The chief executive may delegate the chief executive's powers under this Act to a conservation officer or an officer of the public service.

(2) However, the chief executive may not delegate powers under the following sections—

- section 34
- section 35
- section 36
- section 37
- section 38
- section 136.

### **142 Protection from liability**

(1) This section applies to—

- (a) the Minister or chief executive; and
- (b) a conservation officer; and

(c) a person acting under the direction of a person mentioned in paragraph (a) or (b).

(2) A person to whom this section applies does not incur civil liability for an act or omission done or omitted to be done honestly and without negligence under, or for the purposes of, this Act.

(3) A liability that would, but for this section, attach to a person to whom this section applies attaches instead to the State.

### **143 Immunity from prosecution**

(1) A conservation officer is not liable to be prosecuted for an offence against this Act for anything done or omitted to be done—

- (a) under the direction of the Minister or chief executive; or
- (b) in the exercise of a power or performance of a function conferred or imposed on the officer under this Act.

(2) A person acting under the direction of the Minister, chief executive or a conservation officer is not liable to be prosecuted for an offence against this Act for anything done or omitted to be done under the direction.

## **PART 9—INVESTIGATION AND ENFORCEMENT**

### **144 Power to stop and search vehicles etc.**

(1) This section applies if a conservation officer suspects on reasonable grounds that—

- (a) a vehicle, boat or aircraft is being, or has been, used in the commission of an offence against this Act; or
- (b) a vehicle, boat or aircraft, or anything on or in, a vehicle, boat or aircraft may afford evidence of the commission of an offence against this Act.

(2) The conservation officer may, with such assistance and by such force as is necessary and reasonable—

- (a) enter or board the vehicle, boat or aircraft; and

(b) exercise the powers set out in section 147.

(3) If—

(a) the vehicle or boat is moving or about to move; or

(b) the aircraft is moving, or about to move, on the ground;

the conservation officer may signal the driver or the person in command or control, or who appears to be in command or control, of the vehicle, boat or aircraft, to stop or not to move the vehicle, boat or aircraft.

(4) A person must not, without reasonable excuse, disobey a signal under subsection (3).

Maximum penalty—165 penalty units or 1 year's imprisonment.

(5) It is a reasonable excuse for the person to fail to stop or to move the vehicle, boat or aircraft if—

(a) to immediately obey the signal would have endangered the person or another person; and

(b) the person obeys the signal as soon as it is practicable to obey the signal.

(6) The conservation officer may require the driver or the person in command or control, or who appears to be in command or control, of the vehicle, boat or aircraft—

(a) to provide such reasonable assistance as the officer requires to enable the vehicle, boat or aircraft to be entered or boarded under subsection (2); or

(b) to bring the vehicle, boat or aircraft to a specified place and remain in control of the vehicle, boat or aircraft at the place for a reasonable time to enable the officer to exercise the officer's powers in relation to the vehicle, boat or aircraft.

(7) A person must not, without reasonable excuse, contravene a requirement under subsection (6).

Maximum penalty—165 penalty units or 1 year's imprisonment.

(8) If, while searching the vehicle, boat or aircraft, the conservation officer finds a thing that the officer believes, on reasonable grounds, will afford evidence of the commission of an offence against this Act, section 146(2)(a) to (c) apply to the thing.

(9) If, after searching the vehicle, boat or aircraft, the conservation officer believes on reasonable grounds that the vehicle, boat or aircraft will

afford evidence of the commission of an offence against this Act, section 146(2)(a) and (b) apply to the vehicle, boat or aircraft.

### **145 Entry and search—monitoring compliance**

(1) Subject to subsection (2), a conservation officer may, for the purpose of finding out whether this Act is being complied with—

- (a) enter any place at any reasonable time of the day or night; and
- (b) exercise the powers set out in section 147.

(2) The conservation officer must not enter a place, or exercise a power under subsection (1), unless—

- (a) the occupier of the place consents to the entry or exercise of the power; or
- (b) a warrant under section 148 authorises the entry or exercise of the power; or
- (c) the place is a place to which the public are admitted (whether or not for consideration) and the entry is made when members of the public attend or the premises are open for admission by the public; or
- (d) the place is premises, or the part of premises, that—
  - (i) are licensed under a regulation and the entry is made when the premises are open for conduct of business or otherwise open for entry; and
  - (ii) are not used exclusively for residential purposes.

(3) In this section—

“place” does not include a vehicle, boat or aircraft.

### **146 Entry and search—evidence of offences**

(1) Subject to subsection (3), if a conservation officer has reasonable grounds for suspecting that there is in a place a particular thing (“**the evidence**”) that may afford evidence of the commission of an offence against this Act, the officer may—

- (a) enter the place; and
- (b) exercise the powers set out in section 147.

(2) If the conservation officer enters the place and finds the evidence, the following provisions have effect—

- (a) the officer may seize the evidence;
- (b) the officer may keep the evidence for 6 months or, if a prosecution for an offence against this Act in the commission of which the evidence may have been used or otherwise involved is instituted within that period, until the completion of the proceeding for the offence and any appeal in relation to the proceeding;
- (c) if the evidence is a document—while the officer has possession of the document, the officer may take extracts from and make copies of the document, but must allow the document to be inspected at any reasonable time by a person who would be entitled to inspect it if it were not in the officer's possession.

(3) A conservation officer must not enter the place or exercise a power under subsection (1) unless—

- (a) the occupier of the place consents to the entry or exercise of the power; or
- (b) a warrant under section 149 that was issued in relation to the evidence authorises the entry or exercise of the power.

(4) If, while searching the place under subsection (1) under a warrant under section 149—

- (a) a conservation officer finds a thing that the officer believes, on reasonable grounds, to be—
  - (i) a thing (other than the evidence) that will afford evidence of the commission of the offence mentioned in subsection (1); or
  - (ii) a thing that will afford evidence of the commission of another offence against this Act; and
- (b) the officer believes, on reasonable grounds, that it is necessary to seize the thing to prevent—
  - (i) its concealment, loss or destruction; or
  - (ii) its use in committing, continuing or repeating the offence mentioned in subsection (1) or the other offence, as the case may be;

subsection (2) applies to the thing as if it were the evidence.

(5) In this section—

“**place**” does not include a vehicle, boat or aircraft.

### **147 General powers of conservation officer in relation to places**

(1) A conservation officer who enters or boards a place under this part may exercise any of the following powers—

- (a) search any part of the place;
- (b) inspect, examine, photograph or film anything in or on the place;
- (c) take extracts from, and make copies of, any documents in or on the place;
- (d) take into or onto the place such persons, equipment and materials as the conservation officer reasonably requires for the purpose of exercising any powers in relation to the place;
- (e) require the occupier or any person in or on the place to give to the conservation officer reasonable assistance in relation to the exercise of the powers mentioned in paragraphs (a) to (d);
- (f) the powers mentioned in the following provisions—
  - (i) section 151;
  - (ii) section 152;
  - (iii) section 154(1)(b) to (e).

(2) A person must not, without reasonable excuse, fail to comply with a requirement made under subsection (1)(e).

Maximum penalty—50 penalty units.

(3) It is a reasonable excuse for a person to fail to answer a question or produce a document (other than a document required to be kept by the person under a regulation) if answering the question, or producing the document, might tend to incriminate the person.

(4) A conservation officer who seizes or damages anything under this part must, as soon as it is reasonably practicable after seizing or damaging the thing, give written notice of particulars of the thing or damage.

(5) The notice must be given to—

- (a) if anything is seized—the person from whom the thing was seized; or

- (b) if damage was caused to anything—the person who appears to the conservation officer to be the owner of the thing.

(6) This section does not limit any power that a conservation officer has apart from this section.

### **148 Monitoring warrants**

(1) A conservation officer may apply to a magistrate for a warrant under this section in relation to a particular place (other than premises, or the part of premises, used exclusively for residential purposes).

(2) Subject to subsection (3), the magistrate may issue the warrant if the magistrate is satisfied, by information on oath, that it is reasonably necessary that the conservation officer should have access to the place for the purpose of finding out whether this Act is being complied with.

(3) If the magistrate requires further information concerning the grounds on which the issue of the warrant is being sought, the magistrate must not issue the warrant unless the conservation officer or some other person has given the information to the magistrate in the form (either orally or by affidavit) that the magistrate requires.

(4) The warrant must—

- (a) authorise the conservation officer, with such assistance and by such force as is necessary and reasonable—
  - (i) to enter the place; and
  - (ii) to exercise the powers set out in section 147(1)(a) to (e); and
- (b) state whether the entry is authorised to be made at any reasonable time of the day or night or only during specified reasonable hours of the day or night; and
- (c) specify the day (not more than 14 days after the issue of the warrant) on which the warrant ceases to have effect; and
- (d) state the purpose for which the warrant is issued.

### **149 Offence related warrants**

(1) A conservation officer may apply to a magistrate for a warrant under this section in relation to a particular place.

(2) Subject to subsection (3), the magistrate may issue the warrant if the magistrate is satisfied, by information on oath, that there are reasonable grounds for suspecting that there is, or there may be within the next 7 days, in or on the place a particular thing (“**the evidence**”) that may afford evidence of the commission of an offence against this Act.

(3) If the magistrate requires further information concerning the grounds on which the issue of the warrant is being sought, the magistrate must not issue the warrant unless the conservation officer or another person has given the information to the magistrate in the form (either orally or by affidavit) that the magistrate requires.

(4) The warrant must—

- (a) authorise the conservation officer, with such assistance and by such force as is necessary and reasonable—
  - (i) to enter the place; and
  - (ii) to exercise the powers set out in section 147(1)(a) to (e); and
  - (iii) to seize the evidence; and
- (b) state whether the entry is authorised to be made at any time of the day or night or only during specified hours of the day or night; and
- (c) specify the day (not more than 14 days after the issue of the warrant) on which the warrant ceases to have effect; and
- (d) state the purpose for which the warrant is issued.

### **150 Warrants may be granted by telephone, facsimile, radio etc.**

- (1) If a conservation officer considers it necessary to do so because of—
- (a) urgent circumstances; or
  - (b) other special circumstances, including, for example, the officer’s remote location;

the officer may, under this section, apply by telephone, facsimile, radio or another form of communication for a warrant under section 148 or 149.

(2) Before applying for the warrant, the conservation officer must prepare an information of the kind mentioned in section 148(2) or 149(2) that sets out the grounds on which the issue of the warrant is sought.

(3) If it is necessary to do so, a conservation officer may apply for the warrant before the information has been sworn.

(4) If the magistrate is satisfied—

- (a) after having considered the terms of the information; and
- (b) after having received such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought;

that there are reasonable grounds for issuing the warrant, the magistrate may, under section 148 or 149, complete and sign the warrant that the magistrate would issue under the section if the application had been made under the section.

(5) If the magistrate completes and signs the warrant, the magistrate must immediately send a copy of the warrant to the conservation officer by facsimile or, if it is not reasonably practicable to do so—

- (a) the magistrate must—
  - (i) tell the officer what the terms of the warrant are; and
  - (ii) tell the officer the day and time when the warrant was signed; and
  - (iii) record on the warrant the reasons for granting the warrant; and
- (b) the officer must—
  - (i) complete a form of warrant in the same terms as the warrant completed and signed by the magistrate; and
  - (ii) write on the form of warrant the name of the magistrate and the day and time when the magistrate signed the warrant.

(6) The conservation officer must also—

- (a) not later than the day after the day of expiry or execution of the warrant (whichever is the earlier); or
- (b) if it is not practicable to comply with paragraph (a)—as soon as practicable after the day mentioned in the paragraph;

send to the magistrate—

- (c) the information mentioned in subsection (2), which must have been properly sworn; and

- (d) if a form of warrant was completed by the conservation officer under subsection (5)(b)—the completed form of warrant.

(7) When the magistrate receives the documents mentioned in subsection (6), the magistrate must—

- (a) attach them to the warrant that the magistrate completed and signed; and
- (b) deal with them in the way in which the magistrate would have dealt with the information if the application for the warrant had been made under section 148 or 149.

(8) A facsimile copy of a warrant, or a form of warrant properly completed by the conservation officer under subsection (5)(b), is authority for any entry, search, seizure or other exercise of a power that the warrant signed by the magistrate authorises.

(9) If—

- (a) it is material for a court to be satisfied that an entry, search, seizure or other exercise of power was authorised by this section; and
- (b) the warrant completed and signed by the magistrate authorising the exercise of power is not produced in evidence;

the court must assume, unless the contrary is proved, that the exercise of power was not authorised by such a warrant.

### **151 Conservation officer may require name and address**

(1) This section applies if a conservation officer—

- (a) finds a person committing an offence against this Act; or
- (b) finds a person in circumstances that lead the officer to suspect, on reasonable grounds, that the person has just committed an offence against this Act; or
- (c) has information that leads the officer to suspect, on reasonable grounds, that a person has just committed an offence against this Act; or
- (d) believes, on reasonable grounds, that the name and address of a person is required for the administration or enforcement of this Act.

(2) The conservation officer may require the person to state the person's name and address.

(3) When making the requirement, the conservation officer must warn the person it is an offence to fail to state the person's name and address, unless the person has a reasonable excuse.

(4) The conservation officer may require the person to give evidence of the correctness of the person's name or address if the officer suspects, on reasonable grounds, that the name or address given is false.

(5) A person must comply with a conservation officer's requirement under subsection (2) or (4), unless the person has a reasonable excuse for not complying with the requirement.

Maximum penalty—100 penalty units.

(6) The person does not commit an offence against this section if—

- (a) the conservation officer required the person to state the person's name and address on suspicion of the person having committed an offence against this Act; and
- (b) the person is not proved to have committed the offence.

## **152 Power to require information from certain persons**

(1) This section applies if a conservation officer suspects, on reasonable grounds, that—

- (a) an offence against this Act has happened; and
- (b) a person may be able to give information about the offence.

(2) The conservation officer may require the person to give information about the offence.

(3) When making the requirement, the conservation officer must warn the person it is an offence to fail to give the information, unless the person has a reasonable excuse.

(4) The person must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—100 penalty units.

(5) It is a reasonable excuse for the person to fail to give information if giving the information might tend to incriminate the person.

(6) The person does not commit an offence against this section if the information sought by the conservation officer is not in fact relevant to the offence.

### **153 Power to keep protected wildlife until conservation value is paid**

(1) If a conservation officer, under this Act, seizes protected wildlife for which an amount of conservation value remains unpaid, the officer may keep the wildlife until the conservation value for the wildlife is paid.

(2) If the amount is not paid within 30 days after the seizure, the wildlife may be disposed of in such way as the chief executive directs.

(3) The seizure and keeping of wildlife does not affect any proceeding under this Act for the recovery of an amount of conservation value for the wildlife or an offence in relation to the nonpayment of the amount.

### **154 Other powers of conservation officers**

(1) Subject to subsections (2) to (5), a conservation officer may, for the purposes of this Act, exercise any of the following powers—

- (a) enter any land at any reasonable time for the purpose of—
  - (i) inspecting, researching or reporting on protected, international or prohibited wildlife, critical habitats or areas of major interest; or
  - (ii) inspecting an area to ascertain—
    - (A) its suitability for dedication or declaration as a protected area; or
    - (B) whether a conservation agreement should be entered into in relation to the area;
- (b) require a person to produce to the officer—
  - (i) any licence, permit or other authority held by the person under a regulation; or
  - (ii) any document required to be kept by the person under a regulation;
- (c) inspect, take extracts from, make copies of or keep a document produced to the officer under paragraph (b);
- (d) if the officer is a special conservation officer—

- (i) arrest a person found by the officer committing an offence against this Act; or
- (ii) arrest a person whom the officer suspects on reasonable grounds of having committed an offence against this Act; if the officer believes on reasonable grounds that proceedings by way of complaint and summons against the person would be ineffective;
- (e) such other powers as are prescribed.

(2) Before exercising the power mentioned in subsection (1)(a), a conservation officer must—

- (a) obtain or, in urgent circumstances, take all reasonable steps to obtain, the consent of the land-holder concerned; or
- (b) give at least 14 days written notice to the land-holder concerned of—
  - (i) the officer's intention to enter the land; and
  - (ii) the proposed purpose in entering the land; and
  - (iii) the day and time when the officer proposes to enter the land.

(3) In exercising the power mentioned in subsection (1)(a), a conservation officer must take all reasonable steps to ensure that the officer causes as little inconvenience, and does as little damage, as is practicable.

(4) A conservation officer may keep a document under subsection (1)(c) only for the purpose of taking copies of the document and must, as soon as practicable after taking the copies, return the document to the person who produced it.

(5) If a special conservation officer arrests a person under subsection (1)(d), the officer must, as soon as it is reasonably practicable to do so, deliver the person into the custody of a police officer at the nearest accessible police station or watch-house to be dealt with according to law.

### **155 Obstruction of conservation officers**

(1) A person must not obstruct a conservation officer in the exercise of a power under this Act.

(2) A person is taken to obstruct a conservation officer in the exercise of a power under this Act if the person—

- (a) assaults, abuses, hinders, resists or intimidates the officer or a person assisting the officer in the exercise of the officer's powers under this Act; or
- (b) deliberately prevents or attempts to prevent (whether directly or indirectly) a person from—
  - (i) being questioned by a conservation officer; or
  - (ii) giving, under this Act, any information or document to a conservation officer; or
- (c) in any other way obstructs, or attempts to obstruct, a conservation officer in the exercise of the officer's powers under this Act.

Maximum penalty—165 penalty units or 1 year's imprisonment.

### **156 Court may order compensation**

(1) A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under this part, including, for example, in complying with a requirement made of the person under this part.

(2) Payment of compensation may be claimed and ordered in a proceeding for—

- (a) compensation brought in a court of competent jurisdiction; or
- (b) an offence against this Act brought against the person making the claim for compensation.

(3) A court may order the payment of compensation for the loss or expense only if it is satisfied it is just to make the order in the circumstances of the particular case.

### **157 False or misleading information**

(1) A person must not—

- (a) make a statement to a conservation officer that the person knows is false or misleading in a material particular; or
- (b) omit from a statement made to a conservation officer anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—100 penalty units.

(2) A complaint against a person for an offence against subsection (1)(a) or (b) is sufficient if it states that the information given was false or misleading to the person's knowledge.

### **158 False or misleading documents**

A person must not give to a conservation officer a document containing information that the person knows is false, misleading or incomplete in a material particular without—

- (a) indicating to the officer that the document is false, misleading or incomplete and the respect in which the document is false, misleading or incomplete; and
- (b) giving the correct information to the officer if the person has, or can reasonably obtain, the correct information.

Maximum penalty—100 penalty units.

### **159 Impersonation of conservation officer**

A person must not pretend to be a conservation officer.

Maximum penalty—50 penalty units.

## **PART 10—LEGAL PROCEEDINGS**

### **160 Evidentiary provisions**

(1) This section applies to any proceeding under or in relation to this Act.

(2) It is not necessary to prove the appointment of a conservation officer or the authority of a conservation officer to do any act under this Act.

(3) A signature purporting to be that of the chief executive or a conservation officer is evidence of the signature it purports to be.

(4) A certificate purporting to be signed by the chief executive stating that—

- (a) a specified document is a copy of a notice, order, licence, permit or other authority issued or given under this Act; or
- (b) on a specified day, or during a specified period, a specified person was or was not the holder of a licence, permit or other authority issued or given under this or another Act; or
- (c) a licence, permit or other authority was or was not issued or given for a specified term, or was or was not subject to specified conditions; or
- (d) on a day mentioned in the certificate, a specified person was given a notice under this Act; or
- (e) a specified document is a copy of a part of a register kept under this Act; or
- (f) an amount payable under this Act has not been paid by a specified person;

is evidence of the matter stated in the certificate.

**(5)** A statement in a complaint starting the proceeding of any of the following matters is evidence of the matters—

- (a) that the matter of the complaint came to the knowledge of the complainant on a specified day;
- (b) that specified wildlife is a specified class of wildlife under this Act;
- (c) that the whole or any part of—
  - (i) the progeny, larvae, pupae, eggs or genetic or reproductive material of an animal; or
  - (ii) the carcass or another part of an animal; or
  - (iii) the flowers, seeds or genetic or reproductive material of a plant;is, or is from, specified wildlife or a specified class of wildlife;
- (d) that wildlife is indigenous to Australia or Queensland;
- (e) that the place where the offence was committed was in a specified protected area or in a specified zone in a specified protected area.

(6) In a proceeding for an offence that an act or omission was committed in a protected area, it is not necessary to prove the particular protected area in which the offence was committed.

### **161 Conduct of executive officers, servants and agents**

(1) If, in a proceeding for an offence against this Act, it is necessary to establish the state of mind of a corporation in relation to particular conduct, it is sufficient to show—

- (a) that the conduct was engaged in by an executive officer, servant or agent of the corporation within the scope of his or her actual or apparent authority; and
- (b) that the executive officer, servant or agent had the state of mind.

(2) Any conduct engaged in on behalf of a corporation by an executive officer, servant or agent of the corporation within the scope of his or her actual or apparent authority is to be taken, in a proceeding for an offence against this Act, to have been engaged in also by the corporation unless the corporation establishes that it took reasonable precautions and exercised due diligence to avoid the conduct.

(3) If, in a proceeding for an offence against this Act, it is necessary to establish the state of mind of a person other than a corporation in relation to particular conduct, it is sufficient to show—

- (a) that the conduct was engaged in by a servant or agent of the person within the scope of his or her actual or apparent authority; and
- (b) that the servant or agent had the state of mind.

(4) Any conduct engaged in on behalf of a person other than a corporation by a servant or agent of the person within the scope of his or her actual or apparent authority is to be taken, in a proceeding for an offence against this Act, to have been engaged in also by the first person unless the first person establishes that the person took reasonable precautions and exercised due diligence to avoid the conduct.

(5) If—

- (a) a person other than a corporation is convicted of an offence; and
- (b) the person would not have been convicted of the offence if subsections (3) and (4) had not been enacted;

the person is not liable to be punished by imprisonment for the offence.

(6) In this section—

“**engaging**” in conduct includes failing to engage in conduct.

“**state of mind**” of a person includes a reference to—

- (a) the person’s knowledge, intention, opinion, belief or purpose; and
- (b) the person’s reasons for the intention, opinion, belief or purpose.

### **162 Executive officers must ensure corporation complies with Act**

(1) The executive officers of a corporation must ensure that the corporation complies with this Act.

(2) If a corporation commits an offence against a provision of this Act, each of the executive officers of the corporation also commit an offence, namely, the offence of failing to ensure that the corporation complies with this Act.

Maximum penalty—the penalty for the contravention of the provision by an individual.

(3) Evidence that the corporation has committed an offence against this Act is evidence that each of the executive officers committed the offence of failing to ensure that the corporation complies with this Act.

(4) However, it is a defence for an executive officer to prove that—

- (a) the corporation’s offence was committed without the officer’s knowledge or consent; and
- (b) the officer took all reasonable steps to ensure that the corporation complied with this Act.

### **163 Offence committed over a period**

(1) This section applies to the offence of taking—

- (a) a cultural or natural resource in contravention of section 62; or
- (b) protected wildlife in contravention of section 88 or 89; or
- (c) native wildlife in contravention of section 97.

(2) If the day or days on which a person is alleged to have committed the offence can not be established, the person may—

- (a) be charged with 1 offence of taking the resource or wildlife over, or at some unknown time during, a specified period; and
- (b) be convicted and punished accordingly.

### **164 Indictable and summary offences**

(1) An offence against this Act for which the maximum penalty of imprisonment is 2 years or more is an indictable offence.

(2) Any other offence against this Act is a summary offence.

### **165 Proceedings for indictable offences**

(1) A proceeding for an indictable offence against this Act may be taken, at the election of the prosecution—

- (a) by way of summary proceedings under the *Justices Act 1886*; or
- (b) on indictment.

(2) A magistrate must not hear an indictable offence summarily if—

- (a) the defendant asks at the start of the hearing that the charge be prosecuted on indictment; or
- (b) the magistrate considers that the charge should be prosecuted on indictment.

(3) If subsection (2) applies—

- (a) the magistrate must proceed by way of an examination of witnesses for an indictable offence; and
- (b) a plea of the person charged at the start of the proceeding must be disregarded; and
- (c) evidence brought in the proceeding before the magistrate decided to act under subsection (2) is taken to be evidence in the proceeding for the committal of the person for trial or sentence; and
- (d) before committing the person for trial or sentence, the magistrate must make a statement to the person as required by section 104(2)(b) of the *Justices Act 1886*.

(4) The maximum penalty that may be summarily imposed for an indictable offence is 165 penalty units or 1 year's imprisonment.

**166 Limitation on who may summarily hear indictable offence proceedings**

- (1) A proceeding must be before a magistrate if it is a proceeding—
- (a) for the summary conviction of a person on a charge for an indictable offence; or
  - (b) for an examination of witnesses for a charge for an indictable offence.

(2) However, if a proceeding for an indictable offence is brought before a justice who is not a magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.

**167 Limitation on time for starting summary proceedings**

(1) A proceeding for an offence against this Act by way of summary proceeding under the *Justices Act 1886* must start—

- (a) within 1 year after—
  - (i) the commission of the offence; or
  - (ii) the offence comes to the complainant's knowledge, but not later than 2 years after the commission of the offence;whichever is the later; or
- (b) if section 163 applies to the offence—within 1 year after—
  - (i) the end of the relevant period; or
  - (ii) the offence comes to the complainant's knowledge, but not later than 2 years after the end of the relevant period;whichever is the later.

**168 Court may order costs of rehabilitation or restoration**

On a conviction of a person for an offence against this Act, the court may order the person to pay to the State such amount as it considers appropriate for, or towards, the cost of rehabilitation or restoration of a critical habitat, cultural or natural resource or protected area.

**169 Additional penalty—conservation value of protected wildlife**

A person who is convicted of an offence of taking—

- (a) a natural resource that is protected wildlife in contravention of section 62; or
- (b) protected wildlife in contravention of section 88 or 89;

is liable to an additional penalty of not more than twice the conservation value of the protected wildlife in relation to which the offence is committed.

**171 Disposal of cultural or natural resources and protected wildlife owned by State**

(1) This section applies to a cultural or natural resource or protected wildlife that—

- (a) is the property of the State; and
- (b) has been seized under this Act in relation to an offence against this Act.

(2) Despite any other provision of this Act, if the chief executive is satisfied that it is necessary to do so—

- (a) in the interests of the welfare of the resource or wildlife; or
- (b) for the protection of the resource or wildlife;

the chief executive may direct that the resource or wildlife be disposed of in such a way as the chief executive considers appropriate.

(3) Subsection (2) applies even though a proceeding has not been taken for, or a person convicted of, the offence.

**172 Disposal of wildlife etc. not owned by State**

(1) If a person is convicted of an offence against this Act, any wildlife in relation to which the offence was committed that is not already the property of the State—

- (a) is forfeited to the State; and
- (b) must be disposed of in such a way as the chief executive directs.

(2) If—

- (a) a person is convicted of an offence against this Act; and

- (b) a direction is not given under section 171 for the disposal of any cultural or natural resource in relation to which the offence was committed;

the court may make such order, as it considers appropriate, for the disposal of the cultural or natural resource.

(3) Forfeiture of wildlife under subsection (1)(a) does not confer a right to compensation on any person.

(4) Subject to subsection (5), if a person is convicted of an offence against this Act, the court may order that anything in relation to which the offence was committed that has been seized be forfeited to the State.

(5) If the court is satisfied that—

- (a) the thing is another person's property and the other person has exercised due diligence to prevent a contravention of this Act; and
- (b) the offence has been committed without the person's knowledge, consent or help;

the court may order that the thing be given to the person on such conditions as the court considers appropriate.

(6) A person who contravenes a condition of a court order made under subsection (5) commits an offence against this Act.

Maximum penalty for subsection (6)—50 penalty units.

### **173 Penalties payable to consolidated fund**

All penalties ordered to be paid in relation to offences against this Act must be paid into the consolidated fund.

## **PART 11—MISCELLANEOUS**

### **174 Application of Statutory Instruments Act**

(1) The *Statutory Instruments Act 1992*, sections 49 and 50 do not apply to a regulation mentioned in the following provisions of this Act—

- section 30

- section 32(2)
- section 33(2)
- section 56
- section 70E(2).

(2) Subsection (1) has effect despite the *Statutory Instruments Act 1992*, section 52.<sup>13</sup>

### **174A Chief executive may make codes of practice**

(1) The chief executive may, by gazette notice, approve or make codes of practice for—

- (a) protected areas; or
- (b) forest reserves under part 4A; or
- (c) protected wildlife.

(2) The *Statutory Instruments Act 1992*, sections 49, 50 and 51<sup>14</sup> apply to a code of practice as if it were subordinate legislation.

(3) The chief executive must keep copies of each code of practice open for public inspection during office hours on business days at—

- (a) the department's head office; and
- (b) each regional office of the department; and
- (c) other places the chief executive considers appropriate.

### **175 Regulation-making power**

(1) The Governor in Council may make regulations under this Act.

(2) A regulation may be made with respect to any of the following matters—

- (a) access to protected areas by persons or animals;

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13 *Statutory Instruments Act 1992*, section 52 (Other notification, gazettal, tabling or disallowance provisions of no effect)

14 *Statutory Instruments Act 1992*, sections 49 (Subordinate legislation must be tabled), 50 (Disallowance) and 51 (Limited saving of operation of subordinate legislation that ceases to have effect)

*Nature Conservation Act 1992*

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- (b) the use of land, and activities, in protected areas;
- (c) the removal from protected areas of—
  - (i) trespassers; or
  - (ii) persons who are believed on reasonable grounds to have contravened this Act;
- (d) the presence and use of vehicles and boats in, and the flight of aircraft over, protected areas;
- (e) the seizure of vehicles, boats, aircraft or property—
  - (i) found in a protected area in contravention of a regulation; or
  - (ii) found abandoned in a protected area;
- (f) the seizure for the protection of native wildlife of vehicles, boats, aircraft and appliances—
  - (i) found on land without the land-holder's consent; or
  - (ii) found abandoned on land;
- (g) the removal and disposal of seized vehicles, boats, aircraft property and appliances;
- (h) the taking of animals or plants into, or out of, protected areas, and the impounding, removal, destruction or disposal of animals found straying in protected areas;
- (i) giving effect to, and enforcing compliance with, management and conservation plans or codes of practice approved or made under section 174A;
- (j) the taking or keeping of wildlife, the moving of wildlife into, in and out of the State and the dealing with, use or release of wildlife into the wild;
- (k) the records to be kept and returns to be lodged by the holders of licences, permits and other authorities and requirements as to the inspection of the records;
- (l) the disqualification of persons from holding a licence, permit or other authority;
- (m) the matters in respect of which fees, costs and charges are payable under this Act, the amounts of the fees, costs and charges, the persons who are liable to pay the fees, costs and

- charges, when the fees, costs and charges are payable, and the recovery of any amount of the fees, costs and charges not paid;
- (n) the institution and conduct of appeals against decisions under a regulation;
  - (o) exemption from compliance with provisions of a regulation or a conservation plan;
  - (p) prescribing offences for contraventions of a regulation, and fixing a maximum penalty of a fine of not more than 165 penalty units for such a contravention.

## **PART 12—SAVINGS AND TRANSITIONAL**

### **181 References to repealed Acts**

In an Act or document, a reference to any of the following Acts may, if the context permits, be taken to be a reference to this Act—

- *Fauna Conservation Act 1952*
- *Fauna Conservation Act 1974*
- *National Parks and Wildlife Act 1975*
- *Native Plants Protection Act 1930*.

### **182 References to Crown land under Act**

In an Act or document, a reference to Crown land under this Act may, if the context permits, be taken to be a reference to State land under this Act.

### **183 Authorities under former Act about national parks**

(1) An authority given or made under section 33 or 35 of the former Act and in force immediately before 19 December 1994 is taken to have continued in force until it expires, or is earlier terminated, under its terms.<sup>15</sup>

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15 Most of the provisions of this Act commenced on 19 December 1994.

*National Parks and Wildlife Act 1975*, sections 33 (Power to grant special leases and permits) and 35 (Permits, etc.)

(2) The former Act, other than the power to extend or renew the authority, continues to apply to the authority as if this Act had not been enacted.

(3) For applying subsections (1) and (2), the chief executive is taken to be the director of national parks and wildlife under the former Act.

(4) A reference in the authority to the director is taken to be a reference to the chief executive.

(5) In this section—

**“authority”** means an agreement or a lease or permit or other authority.

**“former Act”** means the repealed *National Parks and Wildlife Act 1975*.

**SCHEDULE****DICTIONARY**

section 7

**“Aboriginal land”** has the meaning given by the *Aboriginal Land Act 1991*, section 10.

**“animal”** means any member of the animal kingdom (other than human), (whether alive or dead), and includes—

- (a) any—
  - (i) amphibian; or
  - (ii) bird; or
  - (iii) coral; or
  - (iv) fish; or
  - (v) invertebrate; or
  - (vi) mammal; or
  - (vii) reptile; and
- (b) the whole or any part of—
  - (i) the progeny, larvae, pupae, eggs or genetic or reproductive material of an animal; and
  - (ii) the carcass or another part of an animal.

**“appliance”** means anything used or capable of being used for taking, or facilitating the taking of, wildlife or a cultural or natural resource, and includes—

- (a) a weapon within the meaning of the *Weapons Act 1990*; and
- (b) an explosive within the meaning of the *Explosives Act 1999*; and
- (c) a trap, snare, net or birdlime; and
- (d) a decoy; and
- (e) poison; and

## SCHEDULE (continued)

- (f) a torch or other artificial light; and
- (g) a shovel, hoe, pick, mattock, saw, axe, knife or other implement.

**“area of major interest”** means an area that contains natural resources of significant nature conservation value.

**“Australia”** includes the external Territories.

**“authorised purpose”**, in relation to the use of protected wildlife, means a purpose that—

- (a) will provide some significant benefit to wildlife or humans, including, for example, the development of drugs for the treatment of disease; and
- (b) is authorised under a conservation plan for the wildlife.

**“biological diversity”** has the meaning given by section 10.

**“boat”** means a boat, ship or other vessel of any size or kind, and includes a hovercraft.

**“buy”** includes—

- (a) agree or offer to buy; and
- (b) receive or accept under an agreement; and
- (c) agree to receive or accept under an agreement; and
- (d) offer or attempt to receive or accept under an agreement; and
- (e) cause or permit to be received or accepted under an agreement; and
- (f) acquire by exchange; and
- (g) accept on hire or lease.

**“carcass”** of an animal includes—

- (a) its flesh, organs or body fluids; and
- (b) its feathers, hair, fur, skin, scales, shell or exoskeleton; and
- (c) its bones, horns, antlers, teeth or tusks.

**“CITES”** means the Convention on International Trade in Endangered Species of Wild Fauna and Flora done at Washington in the United States of America on 3 March 1973, a copy of which (apart from the

## SCHEDULE (continued)

appendices to it) is set out in the *Wildlife Protection (Regulation of Exports and Imports) Act 1982* (Cwlth), schedule 8.

**“common wildlife”** means native wildlife that is prescribed under this Act as common wildlife.

**“conservation”** has the meaning given by section 9.

**“conservation agreement”** means a conservation agreement under section 45, and includes an agreement varying an earlier agreement.

**“conservation covenant”** means a covenant applying to the declaration of a nature refuge under section 49.

**“conservation officer”** means a conservation officer appointed under this Act.

**“conservation park”** means an area declared under this Act as a conservation park.

**“conservation plan”** means a conservation plan approved under part 7.

**“conservation value”** of protected wildlife means the conservation value prescribed under this Act in relation to the wildlife.

**“conviction”** includes a plea of guilty or a finding of guilt by a court even though a conviction is not recorded.

**“coordinated conservation area”** means an area declared under this Act as a coordinated conservation area.

**“critical habitat”** has the meaning given by section 13.

**“cultural resources”** of a protected area means places or objects that have anthropological, archaeological, historical, scientific, spiritual or sociological significance or value, including such significance or value under Aboriginal tradition or Island custom.

**“ecologically sustainable use”** has the meaning given by section 11.

**“EIS”** means an environmental impact statement.

**“endangered wildlife”** means native wildlife that is prescribed under this Act as endangered wildlife.

**“executive officer”** of a corporation means a person, by whatever name called and whether or not the person is a director of the corporation, who is concerned with, or takes part in, the management of the corporation.

## SCHEDULE (continued)

**“fee”** includes tax.

**“habitat”** of wildlife includes an area that is not presently occupied by the wildlife.

**“honorary protector”** means an honorary protector appointed under this Act.

**“hovercraft”** means a vehicle designed to be supported on a cushion of air.

**“indigenous to Australia”**, in relation to wildlife, means—

- (a) wildlife that was not originally introduced to Australia by human intervention (other than wildlife introduced before the year 1600); or
- (b) a migratory animal that periodically or occasionally migrates to, or visits, Australia.

**“indigenous to Queensland”**, in relation to wildlife, means—

- (a) wildlife that was not originally introduced to Queensland by human intervention (other than wildlife introduced before the year 1600); or
- (b) a migratory animal that periodically or occasionally migrates to, or visits, Queensland;

but does not include wildlife that was introduced to another part of Australia by human intervention and subsequently spread naturally to Queensland.

**“interest”**, in relation to land, includes a mining interest.

**“interfere with”**, in relation to a cultural or natural resource, includes destroy, damage, mark, move and dig up.

**“interim conservation order”** means an order made under part 6.

**“international agreement area”** means an area declared under this or another Act as an international agreement area.

**“international wildlife”** means wildlife that is prescribed under this Act as international wildlife.

**“in the wild”**, in relation to wildlife, means in an independent state of natural liberty.

## SCHEDULE (continued)

**“keep”**, in relation to a cultural or natural resource or wildlife, includes have in possession, or under control, in any place (whether for the use or benefit of the person in relation to whom the term is used or another person), even though another person has the actual possession or custody.

**“land”** includes—

- (a) the airspace above land; and
- (b) land that is, or is at any time, covered by waters; and
- (c) waters.

**“land-holder”** includes—

- (a) for a reserve under the *Land Act 1994*—the trustees of the reserve; and
- (b) for land leased under the *Land Act 1994*—the lessee of the land.

**“management plan”** means a management plan approved under part 7.

**“mining interest”** means—

- (a) a mining claim, mineral development licence or mining lease granted under the *Mineral Resources Act 1989*; or
- (b) a petroleum lease granted under the *Petroleum Act 1923*.

**“national park”** means an area dedicated under this Act as a national park.

**“national park (Aboriginal land)”** means an area dedicated under this Act as a national park (Aboriginal land).

**“national park (scientific)”** means an area dedicated under this Act as a national park (scientific).

**“national park (Torres Strait Islander land)”** means an area dedicated under this Act as a national park (Torres Strait Islander land).

**“native wildlife”** means any taxon or species of wildlife indigenous to Australia.

**“natural resources”**, in relation to—

- (a) a protected area; or
- (b) an area identified under a conservation plan as, or including—
  - (i) a critical habitat; or

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SCHEDULE (continued)

(ii) an area of major interest;

means the natural and physical features of the area, including wildlife, soil, water, minerals and air.

**“nature”** has the meaning given by section 8.

**“nature-based”**, in relation to the use of a protected area, includes scientific, educational, spiritual, intellectual, cultural and recreational.

**“nature refuge”** means an area declared under this Act as a nature refuge.

**“official name”** of trustees of a protected area means trustees of (*name of the area*).

**“place”** includes—

- (a) vacant land or premises; and
- (b) a vehicle, boat or aircraft.

**“planning scheme”** has the meaning given by the *Integrated Planning Act 1997*, section 2.1.1.

**“plant”** means any member of the plant or fungus kingdom (whether alive or dead and standing or fallen), and includes—

- (a) any—
  - (i) flowering plant; or
  - (ii) cycad; or
  - (iii) conifer; or
  - (iv) fern or fern ally; or
  - (v) moss; or
  - (vi) liverwort; or
  - (vii) alga; or
  - (viii) fungus; or
  - (ix) lichen; and
- (b) the whole or any part of the flowers, seeds or genetic or reproductive material of a plant.

## SCHEDULE (continued)

**“premises”** includes—

- (a) a building or structure, or a part of a building or structure, of any kind; and
- (b) the land on which a building or structure is situated; and
- (c) a vehicle, boat or aircraft.

**“presumed extinct wildlife”** means native wildlife that is prescribed under this Act as presumed extinct wildlife.

**“procaryote”** means a unicellular organism lacking a true nucleus, and includes bacteria and cyanobacteria.

**“prohibited wildlife”** means wildlife that is prescribed under this Act as prohibited wildlife.

**“protect”** includes rehabilitate.

**“protected animal”** means an animal that is prescribed under this Act as threatened, rare or common wildlife, but does not include a processed product that—

- (a) is made or derived from a protected animal; and
- (b) is declared under a regulation or conservation plan for the protected animal to be a processed product that is not included in this definition.

**“protected area”** means a protected area of a class mentioned in section 14.

**“protected plant”** means a plant that is prescribed under this Act as threatened, rare or common wildlife, but does not include a processed product that—

- (a) is made or derived from a protected plant; and
- (b) is declared under a regulation or conservation plan for the protected plant to be a processed product that is not included in this definition.

**“protected wildlife”** means native wildlife that is prescribed under this Act as—

- (a) presumed extinct wildlife; or
- (b) endangered wildlife; or

## SCHEDULE (continued)

- (c) vulnerable wildlife; or
- (d) rare wildlife; or
- (e) common wildlife.

**“protista”** means a unicellular organism other than a procaryote.

**“rare wildlife”** means native wildlife that is prescribed under this Act as rare wildlife.

**“regeneration plan”** means a regeneration plan made under part 4, division 3A.

**“registrar”** means the person responsible for keeping a register in relation to dealings in land.

**“resources reserve”** means an area dedicated under this Act as resources reserve.

**“sell”** includes—

- (a) auction, exchange or supply; and
- (b) keep, expose, supply or receive for sale; and
- (c) send or deliver for sale; and
- (d) dispose of by hire or lease; and
- (e) cause or permit the doing of an act mentioned in paragraph (a), (b), (c) or (d); and
- (f) offer or attempt to do an act mentioned in paragraph (a), (b), (c) or (d); and
- (g) offer or attempt to sell; and
- (h) cause or permit to be sold.

**“special conservation officer”** means a special conservation officer appointed under this Act.

**“species”** means a species, subspecies, hybrid, variant, race, mutation or geographically separate population of any animal or plant.

**“State land”** means all land in Queensland that is not—

- (a) freehold land, or land contracted to be granted in fee-simple by the State; or
- (b) a reserve under the *Land Act 1994*; or

## SCHEDULE (continued)

- (c) subject to a lease or licence under the *Land Act 1994*; or
- (d) subject to a mining interest.

**“take”** includes—

- (a) in relation to an animal—
  - (i) hunt, shoot, wound, kill, skin, poison, net, snare, spear, trap, catch, dredge for, bring ashore or aboard a boat, pursue, lure, injure or harm the animal; or
  - (ii) attempt to do an act mentioned in subparagraph (i); and
- (b) in relation to a plant—
  - (i) gather, pluck, cut, pull up, destroy, dig up, fell, remove or injure the plant or any part of the plant; or
  - (ii) attempt to do an act mentioned in subparagraph (i).

**“threatened wildlife”** means native wildlife that is prescribed under this Act as—

- (a) presumed extinct wildlife; or
- (b) endangered wildlife; or
- (c) vulnerable wildlife.

**“threatening process”** has the meaning given by section 12.

**“Torres Strait Islander land”** has the meaning given by of the *Torres Strait Islander Land Act 1991*, section 9.

**“unnatural hybrid”** of wildlife means a hybrid, variant, race or mutation of the wildlife that has been derived because of manipulation by humans.

**“use”**, in relation to a cultural or natural resource or wildlife, includes buy, sell, process, move or gain any benefit from the resource or wildlife.

**“vulnerable wildlife”** means native wildlife that is prescribed under this Act as vulnerable wildlife.

**“waters”** means Queensland waters.

**“wild by nature”**, in relation to wildlife, means derived because of natural ecological and biological processes and not because of manipulation by humans.

## SCHEDULE (continued)

**“wilderness”** means an area that is, or can be restored to be—

- (a) of sufficient size to enable the long-term protection of its natural systems and biological diversity; and
- (b) substantially undisturbed by modern society; and
- (c) remote at its core from points of mechanised access and other evidence of society.

**“wilderness area”** means an area declared under this Act as a wilderness area.

**“wildlife”** means any taxon or species of an animal, plant, protista, procaryote or virus.

**“World Heritage Convention”** means the Convention for the Protection of the World Cultural and Natural Heritage that has been adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization, a copy of which is set out in the schedule to the *World Heritage Properties Conservation Act 1983* (Cwlth).

**“World Heritage management area”** means an area declared under this or another Act as a World Heritage management area.

**ENDNOTES****1 Index to endnotes**

	Page
2 Date to which amendments incorporated . . . . .	124
3 Key . . . . .	125
4 Table of earlier reprints . . . . .	125
5 Tables in earlier reprints . . . . .	126
6 List of legislation . . . . .	126
7 List of annotations . . . . .	127
8 List of forms . . . . .	139
9 Table of corrected minor errors . . . . .	140
10 Table of renumbered provisions . . . . .	140
11 Provisions that have not commenced and are not incorporated into reprint . . . .	140

**2 Date to which amendments incorporated**

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 9 February 2001. Future amendments of the Nature Conservation Act 1992 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	prev	= previous
amd	= amended	(prev)	= previously
amdt	= amendment	proc	= proclamation
ch	= chapter	prov	= provision
def	= definition	pt	= part
div	= division	pubd	= published
exp	= expires/expired	R[X]	= Reprint No.[X]
gaz	= gazette	RA	= Reprints Act 1992
hdg	= heading	reloc	= relocated
ins	= inserted	renum	= renumbered
lap	= lapsed	rep	= repealed
notfd	= notified	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 1992
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered

### 4 Table of earlier reprints

#### TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 81 of 1994	23 December 1994
2	to Act No. 57 of 1995	21 December 1995
2A	to Act No. 80 of 1997	17 December 1997
2B	to Act No. 13 of 1998	9 July 1998
2C	to Act No. 15 of 1999	19 August 1999
2D	to Act No. 5 of 2000	4 July 2000

## 5 Tables in earlier reprints

### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	2
Changed names and titles	1
Corrected minor errors	1
Obsolete and redundant provisions	1
Renumbered provisions	1

## 6 List of legislation

### **Nature Conservation Act 1992 No. 20**

date of assent 22 May 1992

pts 1–3, pt 4 div 1, pt 5 div 1, ss 111, 113–119 and 132 commenced on date of assent

pt 4 divs 4, 7–8 and s 134 commenced 12 February 1993 (1993 SL No. 26)

pt 5 div 2 commenced 2 September 1994 (1994 SL No. 326)

prev s 159 sch 2 (amendments of the Acts Interpretation Act 1954) commenced 1 July 1992 (1992 SL No. 159)

pts 6, 9 and 11, ss 127, 130–131, 133, 136, 140–142, 160–168, prev s 159 sch 2 (amendments 24 of the Land Act 1962) commenced 14 May 1994 (1994 SL No. 151)

s 164A commenced 14 October 1994 (1994 SL No. 362)

s 93 not yet proclaimed into force

remaining provisions commenced 19 December 1994 (1994 SL No. 472)

as amended by—

### **Wet Tropics World Heritage Protection and Management Act 1993 No. 50 ss 1–2, 86 Sch 3**

date of assent 30 September 1993

ss 1–2 commenced on date of assent

remaining provisions commenced 1 November 1993 (1993 SL No. 396)

### **Fisheries Act 1994 No. 37 s 244 sch 2**

date of assent 8 September 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 27 January 1995 (1994 SL No. 9)

### **Nature Conservation Amendment Act 1994 No. 42**

date of assent 14 September 1994

commenced on date of assent

### **Land Act 1994 No. 81 ss 1–2, 527 sch 5**

date of assent 1 December 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1995 (1995 SL No. 185)

**Environmental Legislation Amendment Act 1995 No. 40 pts 1, 4**

date of assent 27 October 1995  
 commenced on date of assent

**Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1**

date of assent 28 November 1995  
 commenced on date of assent

**Nature Conservation Amendment Act 1997 No. 8**

date of assent 15 May 1997  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 12 December 1997 (1997 SL No. 433)

**Environmental and Other Legislation Amendment Act 1997 No. 80 pts 1, 4**

date of assent 5 December 1997  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 12 December 1997 (1997 SL No. 432)

**Building and Integrated Planning Amendment Act 1998 No. 13 ss 1, 2(3), 191 sch**

date of assent 23 March 1998  
 ss 1–2 commenced on date of assent  
 remaining amdts commenced 30 March 1998 (1998 SL No. 55)

**Explosives Act 1999 No. 15 ss 1–2 137 sch 1**

date of assent 22 April 1999  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 11 June 1999 (1999 SL No. 108)

**Police Powers and Responsibilities Act 2000 No. 5 ss 1–2, 373 sch 3**

date of assent 23 March 2000  
 ss 1–2, 373 commenced on date of assent (see s 2(2))  
 remaining provisions commenced 1 July 2000 (see s 2(1), (3) and 2000 SL No. 174)

**Nature Conservation and Other Legislation Amendment Act 2000 No. 44 pts 1–2 ss 3(2), 42 sch**

date of assent 25 October 2000  
 ss 1–2 commenced on date of assent  
 s 25 (to the extent it inserts pt 4A div 6) not yet proclaimed into force (see s 2)  
 remaining provisions commenced on date of assent

**Environmental Protection and Other Legislation Amendment Act 2000 No. 64 ss 1, 2(2), pt 5**

date of assent 24 November 2000  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 1 January 2001 (2000 SL No. 350)

## **7 List of annotations**

**Commencement**

s 2 om R2 (see RA s 37)

**How object is to be achieved**

s 5            amd 1994 No. 42 ss 3, 2 sch

**Community participation in administration of Act**

s 6            amd 1994 No. 42 s 2 sch

**PART 3—INTERPRETATION****Division 1—Dictionary**

div hdg    ins 2000 No. 44 s 4

**Definitions**

s 7            **Note**—s 7 prev contained definitions for this Act. Definitions are now located  
                  in the schedule—Dictionary.  
                  amd 2000 No. 44 s 5(1)

**Division 2—Key definitions**

div hdg    ins 2000 No. 44 s 6

**PART 4—PROTECTED AREAS****Division 1—Basic concepts****Classes of protected areas to which Act applies**

s 14            amd 2000 No. 44 s 7

**Management of protected areas**

s 15            amd 1994 No. 42 s 2 sch; 2000 No. 44 s 42 sch

**Management principles of national parks (scientific)**

s 16            sub 1994 No. 42 s 5

**Management principles of national parks**

s 17            sub 1994 No. 42 s 5

**Management principles of national parks (recovery)**

s 19A          ins 2000 No. 44 s 8

**Management principles of conservation parks**

s 20            amd 1994 No. 42 s 2 sch

**Management principles of resources reserves**

s 21            amd 2000 No. 44 s 9

**Prohibition on mining**

s 27            amd 2000 No. 44 s 10

**Division 2—Protected areas (State land)****Subdivision 1—Preliminary**

sdiv hdg    ins 2000 No. 44 s 11

**Meaning of “protected area” in division**

s 28            amd 2000 No. 44 s 12

**Subdivision 2—Dedication, revocation and amalgamation**

sdiv hdg    ins 2000 No. 44 s 13

**Dedication of protected areas**

s 29            amd 1994 No. 42 s 2 sch; 2000 No. 44 s 14

**Revocation of State forests and timber reserves**

**s 30** amd 1994 No. 42 s 2 sch; 2000 No. 44 s 42 sch

**Trustees of protected areas**

**s 31** amd 1994 No. 42 ss 6, 2 sch; 1995 No. 57 s 4 sch 1

**Revocation of protected areas**

**s 32** amd 1994 No. 42 s 2 sch; 2000 No. 44 s 15

**Amalgamation etc. of protected areas**

**s 33** amd 1994 No. 42 s 2 sch; 2000 No. 44 s 16

**Subdivision 3—Interests in protected areas**

**sdiv hdg** ins 2000 No. 44 s 17

**Leases etc. over protected areas**

**s 34** sub 1994 No. 42 s 7  
amd 2000 No. 44 s 18

**Chief executive's powers about permitted uses in national parks or national parks (recovery)**

**prov hdg** amd 2000 No. 44 s 19(1)

**s 35** ins 1994 No. 42 s 7  
amd 1995 No. 40 s 13; 2000 No. 44 ss 19(2)–(5), 39

**Authorities for new national park or national park (recovery)**

**s 36** ins 1994 No. 42 s 7  
amd 1994 No. 81 s 527 sch 5  
sub 2000 No. 44 s 20

**Chief executive's powers to renew existing authorities for national parks**

**s 37** ins 1994 No. 42 s 7  
amd 1995 No. 40 s 14; 2000 No. 44 s 39

**Leases may be granted under Land Act 1994**

**prov hdg** amd 1994 No. 81 s 527 sch 5  
**s 38** amd 1994 No. 42 s 8; 1994 No. 81 s 527 sch 5

**Creation of interests in protected areas**

**s 39** ins 1994 No. 42 s 9

**Subdivision 4—Environmental impact statements**

**sdiv hdg** ins 2000 No. 44 s 21

**Application of sdiv 4**

**s 39A** ins 2000 No. 44 s 21

**Chief executive may require EIS**

**s 39B** ins 2000 No. 44 s 21  
amd 1994 No. 62 s 616(2) (as ins 2000 No. 64 s 52)

**EIS must be considered**

**s 39C** ins 2000 No. 44 s 21

**Dedication of national park as national park (Aboriginal land) or national park (Torres Strait Islander land)**

**s 40** amd 1994 No. 42 s 2 sch

**Dedication of Aboriginal land as national park (Aboriginal land) or Torres Strait Islander land as national park (Torres Strait Islander land)****s 41**            amd 1994 No. 42 s 2 sch**Dedication of leasehold land as national park (Aboriginal land) or national park (Torres Strait Islander land)****s 42**            amd 1994 No. 42 s 2 sch**Division 3A—Regeneration plans for national parks (recovery)****(ss 42A–42F)** ins 2000 No. 44 s 22**Conservation agreements****s 45**            amd 1994 No. 42 s 2 sch**Declaration of protected area****s 46**            amd 1994 No. 42 s 2 sch; 1995 No. 57 s 4 sch 1**Compulsory declaration of nature refuge****s 49**            amd 1994 No. 42 s 2 sch**Revocation of protected area****s 50**            amd 1994 No. 42 s 2 sch**Conservation agreements and covenants binding****s 51**            amd 1994 No. 42 s 10; 2000 No. 44 s 39**Liability of State****s 52**            ins 1994 No. 42 s 11; 2000 No. 44 s 39**Proposal to declare World Heritage management area****s 53**            amd 1994 No. 42 s 2 sch**Preparation of management plan****prov hdg**    amd 1994 No. 42 s 2 sch**s 54**            amd 1994 No. 42 s 2 sch**Declaration of World Heritage management area****s 55**            amd 1994 No. 42 s 2 sch**Revocation of World Heritage management area****s 56**            amd 1994 No. 42 s 2 sch**Proposal to declare international agreement area****s 57**            amd 1994 No. 42 s 2 sch**Preparation of management plan****prov hdg**    amd 1994 No. 42 s 2 sch**s 58**            amd 1994 No. 42 s 2 sch**Declaration of international agreement area****s 59**            amd 1994 No. 42 s 2 sch**Revocation of international agreement area****s 60**            amd 1995 No. 42 s 2 sch**Property in cultural and natural resources****s 61**            amd 2000 No. 44 s 23

**Restriction on taking etc. of cultural and natural resources of protected areas**

s 62            amd 1994 No. 42 s 12; 1997 No. 8 s 4; 2000 No. 44 s 24

**Naming of protected areas**

s 64            amd 1994 No. 42 s 2 sch

**Effect of change in class of protected area**

s 65            amd 1994 No. 42 s 2 sch

**Cancellation of licences etc.**

s 66            amd 1994 No. 42 s 13

**Compensation when protected area declared**

s 67            sub 1994 No. 42 s 14  
                  amd 2000 No. 44 s 39

**Preservation of land-holders' interests**

s 69            amd 1994 No. 42 s 2 sch

**Unlawful use of certain words**

s 70            sub 1994 No. 42 s 15

**PART 4A—FOREST RESERVES**

pt hdg        ins 2000 No. 44 s 25  
                  exp 5 years after div 6 commences (see s 70R)

**Division 1—Preliminary**

(ss 70A–70B) ins 2000 No. 44 s 25  
                  exp 5 years after div 6 commences (see s 70R)

**Division 2—Dedication and revocation**

(ss 70C–70E) ins 2000 No. 44 s 25  
                  exp 5 years after div 6 commences (see s 70R)

**Division 3—Management of forest reserves**

(ss 70F–70I) ins 2000 No. 44 s 25  
                  exp 5 years after div 6 commences (see s 70R)

**Division 4—Progression to protected area**

(ss 70J–70O) ins 2000 No. 44 s 25  
                  exp 5 years after div 6 commences (see s 70R)

**Division 5—Miscellaneous provisions**

(ss 70P–70Q) ins 2000 No. 44 s 25  
                  exp 5 years after div 6 commences (see s 70R)

**Division 6—Expiry of pt 4A**

(s 70R)        ins 2000 No. 44 s 25  
                  exp 5 years after div 6 commences (see s 70R)

**Property in protected animals**

s 83            amd 1994 No. 42 s 2 sch; 2000 No. 44 s 39

**Property in protected plants**

s 84            amd 1994 No. 42 s 2 sch; 2000 No. 44 s 39

**Property in newly protected animals**

s 85 ins 1994 No. 42 s 16

**Preservation of existing property rights**s 86 ins 1994 No. 42 s 16  
amd 2000 No. 44 s 39**Restriction on taking etc. protected animals**

s 88 amd 1994 No. 42 s 17; 2000 No. 44 s 26

**Restriction on taking etc. protected plants**

s 89 amd 1994 No. 42 s 18; 2000 No. 44 s 27

**Restriction on using threatened or rare plants**s 90 ins 1994 No. 42 s 19  
amd 2000 No. 44 ss 28, 39**Prohibition on release etc. of international and prohibited wildlife**

s 91 amd 2000 No. 44 s 29

**Prohibition on breeding etc. hybrids of protected animals**

s 92 amd 1994 No. 42 s 2 sch

**Aborigines' and Torres Strait Islanders' rights to take etc. protected wildlife**

s 93 amd 1994 No. 42 s 20

**Restriction on taking etc. of native wildlife in areas of major interest and critical habitats**

s 97 amd 2000 No. 44 s 30

**Offence to trespass—general**

s 99 amd 2000 No. 44 s 31

**Definitions**

s 101 sub 1993 No. 50 s 86 sch 3

**Notice of order**

s 104 amd 1994 No. 42 s 2 sch

**Duration of order**

s 105 amd 1994 No. 42 s 2 sch

**Suspension of licences etc.**

s 107 amd 1994 No. 42 s 2 sch

**Compensation**

s 108 amd 1994 No. 42 s 21

**PART 7—MANAGEMENT AND CONSERVATION PLANS**

pt hdg sub 1994 No. 42 s 2 sch

**Meaning of “land-holder” in part**s 110 prev s 110 om 1994 No. 42 s 28  
pres s 110 ins 1994 No. 42 s 22**Management plans**

prov hdg sub 1994 No. 42 s 23(1)

s 111 amd 1994 No. 42 ss 23(2)–(3), 2 sch; 2000 No. 44 ss 32, 39

**Conservation plans**

**prov hdg** sub 1994 No. 42 24(1)  
**s 112** amd 1994 No. 42 s 24(2)–(6); 1995 No. 40 s 15

**Notice of proposal to prepare draft plan**

**s 113** amd 1994 No. 42 s 2 sch

**Preparation of draft plan**

**s 114** amd 1994 No. 42 s 2 sch

**Notice of preparation of draft plan**

**s 115** amd 1994 No. 42 ss 25, 2 sch

**Submissions to be considered when preparing final plans**

**s 116** sub 1994 No. 42 s 26

**Final management plans**

**s 117** ins 1994 No. 42 s 26

**Final conservation plans**

**s 118** ins 1994 No. 42 s 26

**Approval of final plan**

**s 119** amd 1994 No. 42 s 27

**Implementation of approved plan**

**s 120** amd 1994 No. 42 s 2 sch

**Plan replaces interim or declared management intent**

**s 121** sub 1994 No. 42 s 29

**Conservation plans and regulations prevail over planning schemes**

**s 122** sub 1994 No. 42 s 30

**Local governments' decisions to be consistent with plans**

**s 123** ins 1994 No. 42 s 30  
 amd 1995 No. 40 s 16

**Amendment of plans**

**s 124** amd 1994 No. 42 s 2 sch; 1995 No. 40 s 17

**Review of plans**

**s 125** amd 1994 No. 42 s 31

**Compensation**

**s 126** sub 1994 No. 42 s 32

**Appointment of conservation officers**

**s 127** amd 1994 No. 42 s 33; 2000 No. 5 s 373 sch 3

**Minister may inquire into suitability of proposed appointees**

**s 129** ins 1994 No. 42 s 34

**Identity cards**

**s 130** amd 2000 No. 5 s 373 sch 3

**Advisory committees**

**s 132** amd 1994 No. 42 s 2 sch

**Chief executive to keep register**

s 133      amd 1994 No. 42 s 2 sch; 2000 No. 44 s 33

**Records to be maintained by registrar**

s 134      amd 1994 No. 42 s 35

**Confidentiality of information**

s 136      amd 1994 No. 42 s 36; 2000 No. 44 s 39

**Licences to be consistent with management principles, and management intent or plan**

prov hdg   sub 1994 No. 42 s 2 sch

s 137      amd 1994 No. 42 s 2 sch

**Compensation not payable**

s 138      ins 1994 No. 42 s 37

**Delegation by chief executive**

s 141      sub 1994 No. 42 s 38

amd 2000 No. 44 s 39

**Protection from liability**

s 142      amd 1994 No. 42 s 2 sch

**Immunity from prosecution**

s 143      ins 1994 No. 42 s 39

**Power to stop and search vehicles etc.**

s 144      amd 1994 No. 42 s 40

**Entry and search—evidence of offences**

s 146      amd 1994 No. 42 s 2 sch

**General powers of conservation officer in relation to places**

s 147      amd 1994 No. 42 s 2 sch; 2000 No. 44 s 39

**Offence related warrants**

s 149      prev s 149 om 1994 No. 42 s 2 sch

**Conservation officer may require name and address**

s 151      sub 1994 No. 42 s 41

**Power to require information from certain persons**

s 152      sub 1994 No. 42 s 42

**Other powers of conservation officers**

s 154      amd 2000 No. 5 s 373 sch 3

**Court may order compensation**

s 156      ins 1994 No. 42 s 43

**Acts repealed**

s 158      prev s 158 om R1 (see RA s 40)

**Acts amended**

s 159      prev s 159 om R1 (see RA s 40)

**Evidentiary provisions**

**s 160** amd 1994 No. 42 s 2 sch

**Meaning of “repealed Act” in Division**

**s 161** prev s 161 exp 19 December 1994 (see s 180(1))

**Executive officers must ensure corporation complies with Act**

**s 162** prev s 162 exp 19 December 1994 (see s 180(1))  
pres s 162 ins 1994 No. 42 s 44

**Honorary protectors**

**s 163** prev s 163 exp 19 December 1994 (see s 180(1))

**Indictable and summary offences**

**s 164** prev s 164 exp 19 December 1994 (see s 180(1))  
pres s 164 sub 1994 No. 42 s 45

**Management plans may be prepared for existing National Parks**

**s 164A** ins 1994 No. 42 s 48  
exp 19 December 1994 (see s 180(1))

**Proceedings for indictable offences**

**s 165** prev s 165 sub 1994 No. 42 s 49  
exp 19 December 1994 (see s 180(1))  
pres s 165 ins 1994 No. 42 s 45

**Division 2—Protected wildlife**

**div hdg** om R2 (see RA s 37)

**Limitation on who may summarily hear indictable offence proceedings**

**s 166** prev s 166 exp 19 December 1994 (see s 180(1))  
pres s 166 ins 1994 No. 42 s 45

**Limitation on time for starting summary proceedings**

**s 167** prev s 167 om 1994 No. 42 s 2 sch  
pres s 167 ins 1994 No. 42 s 45  
amd 2000 No. 44 s 39

**Keeping of protected animals**

**s 168** prev s 168 exp 19 December 1994 (see s 180(1))

**Licences etc. in relation to protected wildlife**

**s 169** prev s 169 exp 19 December 1994 (see s 180(1))

**Newly prohibited animal**

**s 169A** ins 1994 No. 42 s 51  
exp 19 December 1994 (see s 180(1))

**Division 3—General**

**div hdg** exp 19 December 1995 (see s 180(1))

**Photographs and fingerprints of offenders**

**prov hdg** sub 1994 No. 42 s 2 sch  
**s 170** om 2000 No. 5 s 373 sch 3

**Numbering and renumbering of Act**

s 172 ins 1994 No. 42 s 52  
om R1 (see RA s 37)

**Application of Statutory Instruments Act**

s 174 sub 1994 No. 42 s 46; 1995 No. 57 s 4 sch 1  
amd 2000 No. 44 ss 34, 39

**Chief executive may make codes of practice**

s 174A ins 2000 No. 44 s 35

**Regulation-making power**

prov hdg sub 2000 No. 44 s 36(1)

s 175 amd 1994 No. 42 s 47; 1995 No. 57 s 4 sch 1; 2000 No. 44 s 36(2)

**PART 12—SAVINGS AND TRANSITIONAL**

pt hdg prev pt 12 hdg om R1 (see RA s 39)

**Division 1—Preliminary**

div hdg exp 19 December 1995 (see s 180(2))

**Meaning of “commencing day” in Part**

s 176 exp 19 December 1995 (see s 180(2))

**Division 2—National Parks and Wildlife Act 1975**

div 2 hdg prev div 2 hdg exp 19 December 1994 (see s 180(1))

**Fauna refuges**

s 177 ins 1994 No. 42 s 50  
exp 19 December 1995 (see s 177(4))

**Transitional regulations**

s 178 om 2000 No. 44 s 42 sch

**References to conservation plans**

s 179 ins 1994 No. 42 s 52  
exp 19 December 1995 (see s 180(2))

**Expiry of Part**

s 180 ins 1994 No. 42 s 52  
exp 19 December 1995 (see s 180(2))

**Division 4—Updating of references**

div hdg ins 1995 No. 57 s 4 sch 1  
om 2000 No. 44 s 42 sch

**References to repealed Acts**

s 181 amd 1995 No. 57 s 4 sch 1

**References to Crown land under Act**

s 182 ins 1995 No. 57 s 4 sch 1

**Authorities under former Act about national parks**

s 183 ins 2000 No. 44 s 37

**SCHEDULE—DICTIONARY**

- Note**— definitions for this Act were originally located in s 7 prev sch 1 om R1 (see RA s 40)  
 pres sch ins 2000 No. 44 s 38
- def “**Aboriginal land**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**Aboriginal people**” om 1994 No. 42 s 4(1)  
 def “**Aboriginal tradition**” om 1994 No. 42 s 4(1)  
 def “**Aborigine**” om 1994 No. 42 s 4(1)  
 def “**animal**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**appliance**” ins 1994 No. 42 s 4(2)  
   amd 1999 No. 15 s 137 sch 1  
   reloc from s 7 2000 No. 44 s 5(3)  
 def “**area of major interest**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**Australia**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**authorised purpose**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**biological diversity**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**boat**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**buy**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**carcass**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**chief executive**” om 1994 No. 42 s 4(1)  
 def “**CITES**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**common wildlife**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**conservation**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**conservation agreement**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**conservation covenant**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**conservation officer**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**conservation park**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**conservation plan**” sub 1994 No. 42 s 4(1)–(2)  
   reloc from s 7 2000 No. 44 s 5(3)  
 def “**conservation value**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**conviction**” ins 1994 No. 42 s 4(2)  
   reloc from s 7 2000 No. 44 s 5(3)  
 def “**coordinated conservation area**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**critical habitat**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**Crown land**” om 1995 No. 57 s 4 sch 1  
 def “**cultural resources**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**ecologically sustainable use**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**EIS**” ins 2000 No. 44 s 5(2)  
   reloc from s 7 2000 No. 44 s 5(3)  
 def “**endangered wildlife**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**executive officer**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**fee**” ins 1994 No. 42 s 4(2)  
   reloc from s 7 2000 No. 44 s 5(3)  
 def “**habitat**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**honorary protector**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**hovercraft**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**indigenous to Australia**” amd 1994 No. 42 s 4(3)  
   reloc from s 7 2000 No. 44 s 5(3)  
 def “**indigenous to Queensland**” amd 1994 No. 42 s 4(4)  
   reloc from s 7 2000 No. 44 s 5(3)

- def **“interest”** reloc from s 7 2000 No. 44 s 5(3)
- def **“interfere with”** reloc from s 7 2000 No. 44 s 5(3)
- def **“interim conservation order”** reloc from s 7 2000 No. 44 s 5(3)
- def **“international agreement area”** reloc from s 7 2000 No. 44 s 5(3)
- def **“international wildlife”** reloc from s 7 2000 No. 44 s 5(3)
- def **“in the wild”** amd 1997 No. 80 s 44  
reloc from s 7 2000 No. 44 s 5(3)
- def **“keep”** reloc from s 7 2000 No. 44 s 5(3)
- def **“Island custom”** om 1994 No. 42 s 4(1)
- def **“land”** reloc from s 7 2000 No. 44 s 5(3)
- def **“land-holder”** sub 1995 No. 57 s 4 sch 1  
reloc from s 7 2000 No. 44 s 5(3)
- def **“management plan”** sub 1994 No. 42 s 4(1)–(2)  
reloc from s 7 2000 No. 44 s 5(3)
- def **“mining interest”** reloc from s 7 2000 No. 44 s 5(3)
- def **“national park”** reloc from s 7 2000 No. 44 s 5(3)
- def **“national park (Aboriginal land)”** reloc from s 7 2000 No. 44 s 5(3)
- def **“national park (scientific)”** reloc from s 7 2000 No. 44 s 5(3)
- def **“national park (Torres Strait Islander land)”** reloc from s 7 2000 No. 44 s 5(3)
- def **“native wildlife”** sub 1994 No. 42 s 4(1)–(2)  
reloc from s 7 2000 No. 44 s 5(3)
- def **“natural resources”** amd 1994 No. 42 s 2 sch  
reloc from s 7 2000 No. 44 s 5(3)
- def **“nature”** reloc from s 7 2000 No. 44 s 5(3)
- def **“nature-based”** reloc from s 7 2000 No. 44 s 5(3)
- def **“nature refuge”** reloc from s 7 2000 No. 44 s 5(3)
- def **“official name”** ins 1994 No. 42 s 4(2)  
reloc from s 7 2000 No. 44 s 5(3)
- def **“place”** reloc from s 7 2000 No. 44 s 5(3)
- def **“planning scheme”** amd 1998 No. 13 s 191 sch  
reloc from s 7 2000 No. 44 s 5(3)
- def **“plant”** reloc from s 7 2000 No. 44 s 5(3)
- def **“premises”** reloc from s 7 2000 No. 44 s 5(3)
- def **“presumed extinct wildlife”** reloc from s 7 2000 No. 44 s 5(3)
- def **“procaryote”** ins 1994 No. 42 s 4(2)  
reloc from s 7 2000 No. 44 s 5(3)
- def **“prohibited wildlife”** reloc from s 7 2000 No. 44 s 5(3)
- def **“protect”** reloc from s 7 2000 No. 44 s 5(3)
- def **“protected animal”** amd 1994 No. 42 s 2 sch  
reloc from s 7 2000 No. 44 s 5(3)
- def **“protected area”** reloc from s 7 2000 No. 44 s 5(3)
- def **“protected plant”** amd 1994 No. 42 s 2 sch  
reloc from s 7 2000 No. 44 s 5(3)
- def **“protected wildlife”** reloc from s 7 2000 No. 44 s 5(3)
- def **“protista”** ins 1994 No. 42 s 4(2)  
reloc from s 7 2000 No. 44 s 5(3)
- def **“rare wildlife”** reloc from s 7 2000 No. 44 s 5(3)
- def **“regeneration plan”** ins 2000 No. 44 s 5(2)  
reloc from s 7 2000 No. 44 s 5(3)

- def “**registrar**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**resources reserve**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**sell**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**special conservation officer**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**species**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**State land**” ins 1995 No. 57 s 4 sch 1  
   reloc from s 7 2000 No. 44 s 5(3)  
 def “**take**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**threatened wildlife**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**threatening process**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**Torres Strait Islander land**” om 1994 No. 42 s 4(1)  
 def “**unnatural hybrid**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**use**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**vulnerable wildlife**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**waters**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**wild by nature**” sub 1994 No. 42 s 4(1)–(2)  
   reloc from s 7 2000 No. 44 s 5(3)  
 def “**wilderness**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**wilderness area**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**wildlife**” sub 1994 No. 42 s 4(1)–(2)  
   reloc from s 7 2000 No. 44 s 5(3)  
 def “**World Heritage Convention**” reloc from s 7 2000 No. 44 s 5(3)  
 def “**World Heritage management area**” reloc from s 7 2000 No. 44 s5(3)

**SCHEDULE 2—ACTS AMENDED**

- amd 1994 No. 37 s 244 sch 2  
 om R1 (see RA s 40)

**8 List of forms****Form FM497 Version 2FEB95—Licence Application**

pubd gaz 24 March 1995 p 1307

**Form FM498 Version 2FEB95—Licence/Permit/Authority Renewal**

pubd gaz 24 March 1995 p 1307

**Form FM499 Version 2FEB95—Macropod Commercial Wildlife and Commercial Macropod Harvesting Licence Application**

pubd gaz 24 March 1995 p 1307

**Form FM500 Version 2FEB95—Permit/Authority Application**

pubd gaz 24 March 1995 p 1307

**Form FM534 Version November 94—Stock permit application**

pubd gaz 24 March 1995 p 1307

**Form FM535 Version November 94—Permit application for activities on Protected Areas**

pubd gaz 24 March 1995 p 1307

**Form FM536 Version November 94—Commercial activity permit application**  
pubd gaz 24 March 1995 p 1307

## **9 Table of corrected minor errors**

### TABLE OF CORRECTED MINOR ERRORS

under the Reprints Act 1992 s 44

Provision	Description
154(1)(d)(ii)	om 'who' insert 'whom'

## **10 Table of renumbered provisions**

### TABLE OF RENUMBERED PROVISIONS [Reprint No. 1]

under the Reprints Act 1992 s 43 as required by the Nature Conservation Act 1992 s 172

Previous	Renumbered as
15(1)(b)(ii)	15(1)(b)(i)
15(1)(b)(iii)	15(1)(b)(ii)
15(1)(b)(iv)	15(1)(b)(iii)
29(3)	29(2)
29(4)	29(3)
34A	35
34B	36
34C	37
35	38
35A	39
36	40
37	41
38	42
39	43
40	44
41	45
42	46
43	47
44	48
45	49
46	50
47	51
47(1A)	51(2)
47(2)	51(3)
47A	52
48	53
49	54

Previous	Renumbered as
50.....	.55
51.....	.56
52.....	.57
53.....	.58
54.....	.59
55.....	.60
56.....	.61
57.....	.62
58.....	.63
59.....	.64
60.....	.65
61.....	.66
62.....	.67
63.....	.68
64.....	.69
65.....	.70
66.....	.71
67.....	.72
68.....	.73
69.....	.74
70.....	.75
71.....	.76
72.....	.77
73.....	.78
74.....	.79
75.....	.80
76.....	.81
77.....	.82
78.....	.83
79.....	.84
79A.....	.85
79B.....	.86
80.....	.87
81.....	.88
82.....	.89
82A.....	.90
83.....	.91
84.....	.92
85.....	.93
86.....	.94
87.....	.95
88.....	.96
89.....	.97
90.....	.98
91.....	.99
92.....	.100
93.....	.101
94.....	.102

*Nature Conservation Act 1992*

Previous	Renumbered as
95.....	103
96.....	104
97.....	105
98.....	106
99.....	107
100.....	108
101.....	109
101A.....	110
102.....	111
103.....	112
104.....	113
105.....	114
106.....	115
107.....	116
107A.....	117
107B.....	118
108.....	119
108(3)(a).....	119(3)
108(3)(a)(i).....	119(3)(a)
108(3)(a)(ii).....	119(3)(b)
108(3)(a)(iii).....	119(3)(c)
109.....	120
111.....	121
112.....	122
112A.....	123
113.....	124
114.....	125
115.....	126
116.....	127
117.....	128
117A.....	129
118.....	130
119.....	131
120.....	132
121.....	133
122.....	134
122(1)(e).....	134(1)(d)
122(2)(a)(iia).....	134(2)(a)(iii)
122(2)(a)(iii).....	134(2)(a)(iv)
122(2)(b)(iia).....	134(2)(b)(iii)
122(2)(b)(iii).....	134(2)(b)(iv)
122(4)(ba).....	134(4)(c)
122(4)(c).....	134(4)(d)
122(4)(d).....	134(4)(e)
123.....	135
124.....	136
125.....	137
125A.....	138

*Nature Conservation Act 1992*

Previous	Renumbered as
126.....	139
127.....	140
128.....	141
129.....	142
129A .....	143
130.....	144
131.....	145
132.....	146
133.....	147
133(7) .....	147(6)
134.....	148
135.....	149
136.....	150
137.....	151
138.....	152
139.....	153
140.....	154
141.....	155
141A .....	156
142.....	157
143.....	158
144.....	159
145.....	160
146.....	161
146A .....	162
147.....	163
148.....	164
148A .....	165
148B .....	166
148C .....	167
150.....	168
151.....	169
152.....	170
153.....	171
154.....	172
155.....	173
156.....	174
157.....	175
157(2)(ea) .....	175(2)(f)
157(2)(eb) .....	175(2)(g)
157(2)(f) .....	175(2)(h)
157(2)(g) .....	175(2)(i)
157(2)(h) .....	175(2)(j)
157(2)(i).....	175(2)(k)
157(2)(j).....	175(2)(l)
157(2)(k) .....	175(2)(m)
157(2)(l).....	175(2)(n)
157(2)(n) .....	175(2)(o)

Previous	Renumbered as
157(2)(o) .....	175(2)(p)
pt 13 .....	pt 12
160 .....	176
div 3 .....	div 2
166A .....	177
div 4 .....	div 3
170 .....	178
171 .....	179
173 .....	180

## 11 Provisions that have not commenced and are not incorporated into reprint

The following provision is not incorporated in this reprint because it had not commenced before the reprint date (see Reprints Act 1992, s 5(c)).

**Nature Conservation and Other Legislation Amendment Act 2000 No. 44 s 25** (to the extent that it inserts pt 4A div 6) reads as follows—

### 25 Insertion of new pt 4A

After part 4—

*insert—*

***‘Division 6—Expiry of pt 4A***

#### **‘Expiry**

**‘70R.** This part expires 5 years after this division commences.’.