

- (a) the seized thing is an animal left at the place of seizure; and
- (b) the person from whom it was seized is given a direction under subsection (1)(d)(v);

for the *Animal Care and Protection Act 2001*, the person is taken to be, or continue to be, the person in charge of the animal.

152B Offence to tamper with seized thing

- (1) This section applies in relation to a thing seized under this part.
- (2) However, this section does not apply to a person from whom an animal was seized if the person—
 - (a) is complying with a direction under section 152A(1)(d)(v); and
 - (b) does not, without the written authority of a conservation officer, take the animal from the place where it was seized.
- (3) A person, other than a conservation officer or a person authorised by a conservation officer for the purpose, must not do, or attempt to do, any of the following unless the person has a reasonable excuse—
 - (a) tamper with the thing or something done under section 152A(1)(b) to restrict access to it;
 - (b) enter, or be at, the place where the thing is being kept;
 - (c) move the thing from the place where it is being kept;
 - (d) have the thing in the person's possession.

Maximum penalty—500 penalty units.

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

Division 1 Proceedings and offences generally

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 stated document is a copy of a notice, order, licence, permit or other authority issued or given under this Act; or
 - (b) on a stated day, or during a stated period, a stated 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 stated term, or was or was not subject to stated conditions; or
 - (d) on a day mentioned in the certificate, a stated person was given a notice under this Act; or
 - (e) a stated 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 stated 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 stated day;
 - (b) that stated wildlife is a stated 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, a stated taxon, species or class of wildlife;
- (d) that wildlife is or is not indigenous to Australia or indigenous to the State;
- (e) that the place where the offence was committed was in a stated protected area or in a stated zone in a stated 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.
- (7) In this section—

indigenous to the State in relation to wildlife, means—

- (a) wildlife that was not originally introduced to the State by human intervention (other than wildlife introduced before the year 1600); or
- (b) a migratory animal that periodically or occasionally migrates to, or visits, the State;

but does not include wildlife that was introduced to another part of Australia by human intervention after the year 1600 and later spread naturally to the State.

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, and is a misdemeanour.
- (2) Any other offence against this Act is a summary offence.
- (3) To remove any doubt, it is declared that a class 2, 3 or 4 offence under section 88 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 of imprisonment that may be summarily imposed for an indictable offence is 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.

Division 2 Proceedings for declarations and enforcement orders**Subdivision 1 Preliminary****173A Definitions for div 2**

In this division—

court means the Planning and Environment Court.

nominated offence means an offence against section 62, 88, 88A, 89, 90, 91, 92, 94, 97 or 109.²²

person includes a body of persons, whether incorporated or unincorporated.

Subdivision 2 Declarations**173B Court may make declarations**

- (1) A person may bring a proceeding in the court for a declaration about a following matter, other than an excluded matter—
 - (a) a matter that has been, is to be or should have been done for this Act;

22 Section 62 (Restriction on taking etc. of cultural and natural resources of protected areas), 88 (Restrictions on taking protected animal and keeping or use of unlawfully taken protected animal), 88A (Restriction on keeping or use of lawfully taken protected animal), 89 (Restriction on taking etc. particular protected plants), 90 (Restriction on using particular protected plants), 91 (Restriction on release etc. of international and prohibited wildlife), 92 (Restriction on breeding etc. hybrids of protected animals), 94 (Conservation officers prohibited in dealing with protected wildlife), 97 (Restriction on taking etc. of native wildlife in areas of major interest and critical habitats) or 109 (Compliance with order)

- (b) the construction of—
 - (i) this Act, including, for example, a conservation plan or a management plan; or
 - (ii) an authority granted, made, issued or given under the Act over, or in relation to, land in a protected area; or
 - (iii) a licence, permit or other authority issued or given under a regulation;
- (c) the lawfulness under this Act of an activity.
- (2) The court has jurisdiction to hear and decide a proceeding for a declaration under this section.
- (3) A person who starts a proceeding under this section must, within 7 days after the person starts the proceeding, give the chief executive written notice of the proceeding.

Maximum penalty—20 penalty units.

- (4) The Minister or the chief executive may choose to be a party to the proceeding by filing in the court a notice of election in the form approved by the chief executive.
- (5) In this section—

excluded matter means a matter relating to—

- (a) a licence, permit or other authority issued or given under a regulation authorising—
 - (i) the recreational keeping of wildlife; or
 - (ii) the care and rehabilitation of sick, injured or orphaned protected animals or animals whose habitats have been destroyed by human activity or natural disaster; or
- (b) camping in protected areas.

173C Court may make orders about declarations

The court may also make an order about a declaration made under section 173B.

Subdivision 3 Enforcement orders

173D Proceeding for enforcement orders

- (1) A person may bring a proceeding in the court—
 - (a) for an order to remedy or restrain the commission of a nominated offence (an *enforcement order*); or
 - (b) if the person has brought a proceeding under this section for an enforcement order and the court has not decided the proceeding—for an order under section 173E (an *interim enforcement order*); or
 - (c) for an order to cancel or change an enforcement order or interim enforcement order.
- (2) The person may bring a proceeding for an enforcement order whether or not any right of the person has been, or may be, infringed by, or because of, the commission of the offence.
- (3) If the chief executive is not a party to a proceeding for an enforcement order, the person must, within 7 days after the person starts the proceeding, give the chief executive written notice of the proceeding.

Maximum penalty—20 penalty units.
- (4) The Minister or the chief executive may choose to be a party to the proceeding by filing in the court a notice of election in the form approved by the chief executive.

173E Making interim enforcement order

- (1) The court may make an order pending a decision of a proceeding for an enforcement order if the court is satisfied it would be appropriate to make the order.
- (2) The court may make the order subject to conditions.
- (3) However, the court may not require as a condition of the order that the applicant for the order give an undertaking about damages.

173F Making enforcement order

- (1) The court may make an enforcement order if the court is satisfied the nominated offence—
 - (a) is being or has been committed; or
 - (b) will be committed unless the enforcement order is made.
- (2) If the court is satisfied the offence is being or has been committed, the court may make an enforcement order whether or not there has been a prosecution for the offence under this Act.

173G Effect of orders

- (1) An enforcement order or an interim enforcement order may direct a party to the proceeding for the order—
 - (a) to stop an activity that constitutes, or will constitute, a nominated offence; or
 - (b) not to start an activity that will constitute a nominated offence; or
 - (c) to do anything required to stop committing a nominated offence; or
 - (d) to return anything to a condition as close as practicable to the condition it was in immediately before a nominated offence was committed; or
 - (e) to do anything to comply with this Act.
- (2) Without limiting the court's powers, an enforcement order or an interim enforcement order may require—
 - (a) the repair, demolition or removal of a building; or
 - (b) for a relevant nominated offence—
 - (i) the rehabilitation or restoration of a protected area, the habitat of protected wildlife, a critical habitat or an area of major interest (an *affected area*); or
 - (ii) if an affected area is not capable of being rehabilitated or restored—the planting and nurturing of cultural or natural resources, wildlife or the habitat of protected wildlife in a stated area of equivalent size to the affected area.

- (3) An enforcement order or an interim enforcement order—
 - (a) may be in terms the court considers appropriate to secure compliance with this Act; and
 - (b) must state the time by which the order is to be complied with.
- (4) A person must not contravene an enforcement order or an interim enforcement order.
Maximum penalty—3000 penalty units or 2 years imprisonment.
- (5) In this section—
relevant nominated offence means a nominated offence relating to any of the following—
 - (a) taking or interfering with natural or cultural resources of a protected area;²³
 - (b) taking protected wildlife, other than in a protected area;²⁴
 - (c) taking or interfering with native wildlife, other than protected wildlife, in a critical habitat or area of major interest.²⁵

173H Court's powers about orders

- (1) The court's power to make an enforcement order or interim enforcement order to stop, or not to start, an activity may be exercised—
 - (a) whether or not it appears to the court that the person against whom the order is made intends to engage, or to continue to engage, in the activity; and

23 See section 62 (Restriction on taking etc. of cultural and natural resources of protected areas).

24 See sections 88 (Restrictions on taking protected animal and keeping or use of unlawfully taken protected animal) and 89 (Restriction on taking etc. particular protected plants).

25 See section 97 (Restriction on taking etc. of native wildlife in areas of major interest and critical habitats).

- (b) whether or not the person against whom the order is made has previously engaged in an activity of the kind; and
 - (c) whether or not there is danger of substantial damage to nature or injury to another person if the person against whom the order is made engages, or continues to engage, in the activity.
- (2) The court's power to make an enforcement order or interim enforcement order to do anything may be exercised—
 - (a) whether or not it appears to the court that the person against whom the order is made intends to fail, or to continue to fail, to do the thing; and
 - (b) whether or not the person against whom the order is made has previously failed to do a thing of the kind; and
 - (c) whether or not there is danger of substantial damage to nature or injury to another person if the person against whom the order is made fails, or continues to fail, to do the thing.
- (3) The court may make an order to cancel or change an enforcement order or interim enforcement order.
- (4) The court's power under this section is in addition to its other powers.

173I Effect of enforcement order requiring restoration or rehabilitation of land

- (1) This section applies if—
 - (a) the court makes an enforcement order directing a person (the ***declared person***) to restore or rehabilitate land; and
 - (b) the declared person has an interest in the land; and
 - (c) the order states that this section applies to the land.
- (2) The person who started the proceeding for the enforcement order must, as soon as practicable after the enforcement order is made, give the chief executive—
 - (a) written notice stating that the order has been made; and
 - (b) a copy of the order.

Maximum penalty—20 penalty units.

- (3) Subsection (4) applies if the declared person transfers to another person (the *transferee*), in any way, all or part of the declared person's interest in the land.
- (4) To the extent the land is the subject of the enforcement order, on the transfer—
 - (a) a reference in the enforcement order to the declared person is taken to be a reference to the transferee; and
 - (b) the enforcement order is taken to have been made against the transferee on the transfer of the interest; and
 - (c) any outstanding liability, other than criminal liability, of the declared person becomes a liability of the transferee.
- (5) If it is not reasonably practical for the transferee to comply with the enforcement order within the time stated in the order, the transferee may apply to the court, under section 173D(1)(c), for an order to change the enforcement order by extending the time for compliance with the enforcement order.
- (6) To remove any doubt, it is declared that on the transfer of the interest, the declared person is not criminally liable for any contravention of the enforcement order that happens on or after the transfer of the interest.
- (7) Subsections (4) to (6) have effect in relation to each successor in title to the transferee's interest in the same way the subsections had effect in relation to the transferee.

173J Record in land registry of enforcement order requiring restoration or rehabilitation of land

- (1) As soon as practicable after receiving a notice under section 173I(2) that the enforcement order has been made, the chief executive must give the registrar written notice of the making of the order.
- (2) The registrar must keep records showing the enforcement order has been made.
- (3) The registrar must keep the records in a way that a search of the register kept by the registrar under any Act relating to title

to the land the subject of the enforcement order will show the enforcement order has been made.

173K Application for removal of particulars of enforcement order from registrar's records

- (1) This section applies to a person who—
 - (a) has an interest in land that is the subject of an enforcement order to which section 173I applies; and
 - (b) wishes to have the particulars of the enforcement order removed from the registrar's records because—
 - (i) the enforcement order has been cancelled by the court; or
 - (ii) the enforcement order has been substantially complied with; or
 - (iii) the person proposes alternative measures for ensuring the land is restored or rehabilitated.

Example of alternative measures—

a covenant registered under the *Land Title Act 1994*

- (2) The person may apply to the chief executive for the particulars of the enforcement order to be removed from the registrar's records.
- (3) The application must be—
 - (a) in writing; and
 - (b) accompanied by, according to the circumstances—
 - (i) a copy of the order made by the court cancelling the enforcement order; or
 - (ii) the information or documents the person relies on to establish the enforcement order has been substantially complied with; or
 - (iii) details of the alternative measures proposed by the person to ensure the land will be restored or rehabilitated.

173L How chief executive must deal with application

- (1) If the chief executive receives an application under section 173K, the chief executive must, within 6 weeks after receiving the application—
 - (a) decide whether the chief executive is reasonably satisfied, according to the circumstances—
 - (i) the enforcement order has been cancelled by the court; or
 - (ii) the enforcement order has been substantially complied with; or
 - (iii) the alternative measures proposed by the applicant will ensure the land will be restored or rehabilitated; and
 - (b) either—
 - (i) approve the application, with or without conditions to be complied with before particulars of the enforcement order may be removed from the registrar's records; or
 - (ii) refuse to approve the application.
- (2) As soon as practicable after acting under subsection (1), the chief executive must—
 - (a) give the applicant written notice stating—
 - (i) the decision and the reasons for it; and
 - (ii) if the chief executive refuses to approve the application or approves the application with conditions—
 - (A) that the applicant may appeal against the decision to the court within 28 days after the person receives the notice; and
 - (B) how to appeal; and
 - (b) if the chief executive approves the application without conditions—give written notice of the fact to the registrar.
- (3) If the chief executive approves the application with conditions and the chief executive is reasonably satisfied the conditions

have been complied with, the chief executive must, as soon as practicable, give written notice of the fact to the registrar.

- (4) As soon as practicable after receiving a notice under subsection (2)(b) or (3), the registrar must remove the particulars of the enforcement order from the registrar's records.
- (5) As soon as the particulars of the enforcement order have been removed from the registrar's records, the enforcement order is taken to have been complied with.

173M Appeal against refusal to approve application or approval of application with conditions

- (1) This section applies if—
 - (a) a person who has an interest in land that is the subject of an enforcement order applies, as required under section 173K, for the enforcement order to be removed from the registrar's records; and
 - (b) the chief executive refuses to approve the application or approves the application with conditions.
- (2) The applicant may appeal against the chief executive's decision to the court within 28 days after the applicant receives notice of the decision under section 173L.
- (3) If the applicant appeals against the decision, the court may make any order it considers appropriate, including, for example, an order directing the registrar to remove the particulars of the enforcement order from the registrar's records.

Subdivision 4 General procedural provision

173N Proceeding brought in representative capacity

- (1) A proceeding under this division may be brought by a person on behalf of an entity with the entity's consent.
- (2) The person who brings the proceeding is a party to the proceeding, despite the proceeding being brought on behalf of another entity.

- (3) The entity on whose behalf the proceeding is brought is not a party to the proceeding.
- (4) If the entity on whose behalf the proceeding is brought is an unincorporated body, the body's committee or other controlling or governing body must give the consent.
- (5) The entity on whose behalf the proceeding is brought may contribute to, or pay, the legal costs incurred by the person bringing the proceeding.

Division 3 Judicial review of administrative decisions

1730 Extended standing for judicial review

- (1) This section applies, for the *Judicial Review Act 1991*, to any of the following—
 - (a) a decision made under this Act;
 - (b) a failure to make a decision under this Act;
 - (c) conduct engaged in for the purpose of making a decision under this Act.
- (2) An individual is taken to be a person aggrieved by a decision, failure or conduct mentioned in subsection (1) if—
 - (a) the individual is—
 - (i) an Australian citizen; or
 - (ii) ordinarily resident in Australia; and
 - (b) at any time in the 2 years immediately before the decision, failure or conduct, the individual engaged in a series of activities in Australia for the protection or conservation of, or research into, the environment.
- (3) A corporation or association, whether or not incorporated, and a person acting for an unincorporated association, is taken to be a person aggrieved by a decision, failure or conduct mentioned in subsection (1) if—
 - (a) the corporation or association is incorporated, or was otherwise established, in Australia; and

- (b) at any time in the 2 years immediately before the decision, failure or conduct, the corporation or association engaged in a series of activities in Australia for the protection or conservation of, or research into, the environment; and
 - (c) at the time of the decision, failure or conduct, the objects or purposes of the corporation or association include protection or conservation of, or research into, the environment.
- (4) A term used in this section that is defined in the *Judicial Review Act 1991*²⁶ has the meaning given to it by that Act.

Part 11 Miscellaneous

173P Chief executive's general powers

- (1) The chief executive may do any thing the chief executive reasonably considers is necessary to administer, or achieve the object of, this Act,²⁷ including, for example—
 - (a) take, keep, use, or interfere with, any wildlife in a protected or other area; or
 - (b) interfere with the cultural or natural resources of a protected area or forest reserve.
- (2) To remove any doubt, it is declared that the chief executive does not require a licence, permit or authority under this Act to carry out an activity authorised under subsection (1).

173Q Publication of notice for revocation under s 30, 32, 56 or 70E or particular amalgamations under s 33

- (1) This section applies for—

26 See, for example, the *Judicial Review Act 1991*, sections 5 (Meaning of *making of a decision* and *failure to make a decision*) and 8 (Conduct engaged in for making decision—preparatory acts).

27 See section 5 (How object is to be achieved).

- (a) a revocation under section 30, 32, 56 or 70E; or
 - (b) an amalgamation under section 33 that involves a change in the class, or the boundaries, of a protected area.
- (2) Within 10 days after the notice of motion for the revocation or amalgamation is given, the chief executive must publish notice of the proposed revocation or amalgamation in—
 - (a) a newspaper circulating in the locality of the relevant area; and
 - (b) a newspaper circulating generally throughout the State.
- (3) The notice must state—
 - (a) the name of the relevant area; and
 - (b) for a revocation—
 - (i) whether all or part of the relevant area is proposed to be revoked; and
 - (ii) if only part of the relevant area is proposed to be revoked—a description, by map or otherwise, of the part of the relevant area proposed to be revoked; and
 - (c) for an amalgamation—the proposed change in the class, or the boundaries, of a protected area.
- (4) In this section—

relevant area means the State forest, timber reserve, protected area, World Heritage management area or forest reserve the subject of the motion.

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 52.²⁸

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 51²⁹ 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;
 - (b) the use of land, and activities, in protected areas;

28 *Statutory Instruments Act 1992*, section 52 (Other notification, gazettal, tabling or disallowance provisions of no effect)

29 *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)

- (c) providing for the safety of persons in protected areas, including the regulation of access to, and activities in, protected areas by persons or classes of persons;

Example for paragraph (c)—

A regulation might regulate camping in a protected area by children, or adults accompanying children, to protect children from injury by animals.

- (d) the removal from protected areas of—
 - (i) trespassers; or
 - (ii) persons who are believed on reasonable grounds to have contravened this Act;
- (e) the presence and use of vehicles and boats in, and the flight of aircraft over, protected areas;
- (f) 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;
- (g) 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;
- (h) the removal and disposal of seized vehicles, boats, aircraft property and appliances;
- (i) 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;
- (j) giving effect to, and enforcing compliance with, management and conservation plans or codes of practice approved or made under section 174A;
- (k) the taking, keeping or use of wildlife, the moving of wildlife into, in and out of the State, the release of wildlife into the wild and other dealing with wildlife;
- (l) 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;

- (m) the disqualification of persons from holding a licence, permit or other authority;
- (n) 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;
- (o) the institution and conduct of appeals against decisions under a regulation;
- (p) authorising the taking, keeping or use of a protected animal;
- (q) exemption from compliance with provisions of a regulation or a conservation plan;
- (r) 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

Division 1

Savings and transitional provisions for Act No. 20 of 1992

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.³⁰
- (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*.

³⁰ Most of the provisions of this Act commenced on 19 December 1994. Former Act, sections 33 (Power to grant special leases and permits) and 35 (Permits, etc.)

Division 2 Savings and transitional provisions for Nature Conservation and Other Legislation Amendment Act 2000

184 Provision to allow beekeeping in particular former forest reserves until 2025

- (1) This section applies if a forest reserve prescribed under a regulation is dedicated as a national park or national park (recovery).
- (2) Despite sections 15 and 34,³¹ a regulation may, until 31 December 2024, authorise a person to take, use, keep or interfere with cultural or natural resources for an apiary in the national park or national park (recovery).
- (3) This section expires at the beginning of 1 January 2025.

184A Provision to allow horse riding in particular former forest reserves until 24 November 2013

- (1) This section applies if a forest reserve prescribed under a regulation is dedicated as a national park (recovery).
- (2) Despite sections 15, 19A and 34,³² a regulation may, until 23 November 2013, authorise a person to carry out horse riding in the national park (recovery).
- (3) This section expires on 23 November 2013.

184B Provision for stock grazing permits for former SEQFA forest reserves

- (1) This section applies if—
 - (a) land in an SEQFA forest reserve is, after the commencement of this section, dedicated as a national park or national park (recovery); and

31 Sections 15 (Management of protected areas) and 34 (Leases etc. over protected areas)

32 Sections 15 (Management of protected areas), 19A (Management principles of national parks (recovery)) and 34 (Leases etc. over protected areas)

- (b) immediately before the dedication, a stock grazing permit (the ***former permit***) under the *Forestry Act 1959*, section 35,³³ was in force for the land.
- (2) On the dedication—
 - (a) the former permit ends; and
 - (b) the chief executive is taken to have granted the holder of the former permit a previous use authority under section 36.³⁴
- (3) The previous use authority is taken to—
 - (a) allow the use of the land, as provided for under the former permit, to continue only for the rest of the term stated in the permit; and
 - (b) require its grantee to continue to comply with all conditions of the former permit and requirements under the *Forestry Act 1959*, or of the chief executive of the department in which that Act is administered, that relate to stock grazing permits or the use as if—
 - (i) the former permit had continued in force; and
 - (ii) the land were land in an SEQFA forest reserve.
- (4) In this section—

SEQFA forest reserve means a forest reserve the dedication of which was in force immediately before the commencement of this definition.

185 Provision for commercial activity permits for former forest reserves

- (1) This section applies if—
 - (a) land in a forest reserve is dedicated as a protected area; and
 - (b) immediately before the dedication, a person was, under a commercial activity permit (the ***former permit***)

³³ *Forestry Act 1959*, section 35 (Granting of permit for land within State forest)

³⁴ Section 36 (Authorities for new national park or national park (recovery))

granted under the *Forestry Act 1959*, carrying out commercial activities on the land.

- (2) On the dedication—
 - (a) the former permit ceases to be a permit under the *Forestry Act 1959* and becomes a commercial activity permit under this Act to carry out the activities in the protected area; and
 - (b) the holder of the former permit becomes the holder of the commercial activity permit; and
 - (c) the commercial activity permit continues, subject to this Act, for the balance of the term of the former permit.
- (3) To remove any doubt, it is declared that subsection (2) applies even if the carrying out of the commercial activities under the former permit is not consistent with the management principles for the protected area.
- (4) However, the grounds on which the chief executive may refuse an application to renew the commercial activity permit include the ground that the carrying out of the commercial activities under the permit is not consistent with the management principles or a management plan for the protected area.

Division 3 Transitional provision for the Nature Conservation Amendment Act 2004

186 Abolition of class of rare wildlife

After section 78A expires—

- (a) the class of rare wildlife is abolished; and
- (b) a reference in an Act or document to rare wildlife is, if the context permits, redundant.

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
- (f) a torch or other artificial light; and

Schedule (continued)

- (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 person means any of the following—

- (a) the chief executive, performing functions under this Act;
- (b) a public service employee of the department performing functions under this Act for the chief executive;
- (c) a conservation officer who is not an employee of the department and who is performing functions under this Act for the chief executive.

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.

Schedule (continued)

captive breeding agreement see section 100B(1).

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 1973.³⁵

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.

court, for part 10, division 2, see section 173A.

35 The English text of the convention is set out in Australian Treaty Series 1976 No. 29.

Schedule (continued)

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.

enforcement order see section 173D(1)(a).

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.

extinct in the wild wildlife means native wildlife prescribed under this Act as extinct in the wild wildlife.

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.

interest, in relation to land, includes a mining interest.

Schedule (continued)

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.

interim enforcement order see section 173D(1)(b).

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.

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; and
- (c) for a conservation agreement under section 45 in relation to transferred land as defined under the *Aboriginal Land Act 1991*—includes the grantees of the transferred land under that Act.

least concern wildlife means native wildlife prescribed under this Act as least concern wildlife.

management plan means a management plan approved under part 7.

Schedule (continued)

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
 - (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, recreational and biodiscovery under the *Biodiscovery Act 2004*.

nature refuge means an area declared under this Act as a nature refuge.

near threatened wildlife means native wildlife prescribed under this Act as near threatened wildlife.

Schedule (continued)

nominated offence, for part 10, division 2, see section 173A.

official name of trustees of a protected area means trustees of (*name of the area*).

person, for part 10, division 2, see section 173A.

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.

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.

procaryote means a unicellular organism lacking a true nucleus, and includes bacteria and cyanobacteria.

Schedule (continued)

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, near threatened or least concern 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, near threatened or least concern 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 prescribed under this Act as—

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

Schedule (continued)

registrar means the registrar of titles under the *Land Title Act 1994*.

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.

service facility means any of the following—

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

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 includes Territory.

Schedule (continued)

State land means all land in the State 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
- (c) subject to a lease or licence under the *Land Act 1994*, unless the land is in a forest reserve; 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) extinct in the wild 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.

Schedule (continued)

use, in relation to a cultural or natural resource or wildlife, includes buy, sell, give away, 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.

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.

wild river declaration see the *Wild Rivers Act 2005*, schedule 2.

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

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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 10 November 2006. 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)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	1994 Act No. 42	19 December 1994	23 December 1994
2	1995 Act No. 57	28 November 1995	21 December 1995
2A	1997 Act No. 80	12 December 1997	17 December 1997
2B	1998 Act No. 13	30 March 1998	9 July 1998
2C	1999 Act No. 15	11 June 1999	19 August 1999
2D	2000 Act No. 5	1 July 2000	4 July 2000
3	2000 Act No. 64	1 January 2001	9 February 2001
3A rv	2000 Act No. 44	26 October 2001	26 October 2001

Reprint No.	Amendments included	Effective	Notes
3B	2002 Act No. 72	13 December 2002	
3C	2003 Act No. 96	19 December 2003	
3D	2003 Act No. 79	16 April 2004	
3E	2003 Act No. 96	3 October 2004	
3F	2004 Act No. 19	12 November 2004	
3G	2004 Act No. 53	29 November 2004	

Reprint No.	Amendments included	Effective	Notes
3H rv	2003 Act No. 96	4 December 2004	
3I	2004 Act No. 48	17 December 2004	
3J	2004 Act No. 26	31 December 2004	
3K	2005 Act No. 8	18 March 2005	
3L	2004 Act No. 14 (amd 2004 Act No. 48)	25 June 2005	R3L withdrawn, see R4
4	—	25 June 2005	
4A	2005 Act No. 53	18 November 2005	
4B	2005 Act No. 42	2 December 2005	
4C	2006 Act No. 11	30 March 2006	
4D	—	1 April 2006	prov exp 31 March 2006
4E	2006 Act No. 47	10 November 2006	

5 Tables in earlier reprints

Name of table	Reprint No.
Changed citations and remade laws	2
Changed names and titles	1
Corrected minor errors	1, 3
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)

amending legislation—

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) commenced 26 October 2001 (automatic commencement under AIA s 15DA(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)

Environmental Legislation Amendment Act 2002 No. 72 s 1, pt 5

date of assent 13 December 2002

commenced on date of assent

Aboriginal Cultural Heritage Act 2003 No. 79 ss 1–2, 170 sch 1

date of assent 6 November 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 16 April 2004 (2004 SL No. 36)

Environmental Legislation Amendment Act 2003 No. 96 pts 1, 3, s 28 sch

date of assent 3 December 2003

ss 1–2 commenced on date of assent

pt 3 hdg, ss 16–17, 21, 23, 25 (other than s 25(2) to the extent it ins the def “service facility” and s 25(3)), 28 commenced 19 December 2003 (2003 SL No. 363)

sch (other than item 5) commenced 3 October 2004 (2004 SL No. 206)

remaining provisions commenced 4 December 2004 (automatic commencement under AIA s 15DA(2))

Nature Conservation Amendment Act 2004 No. 14 (this Act is amended, see amending legislation below)

date of assent 24 June 2004

ss 1, 3 commenced on date of assent

remaining provisions commenced 25 June 2005 (automatic commencement under AIA s 15DA(2))

amending legislation—

Environmental Protection and Other Legislation Amendment Act 2004 No. 48 pts 1, 10 (amends 2004 No. 14 above)

date of assent 18 November 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 17 December 2004 (2004 SL No. 315)

Biodiscovery Act 2004 No. 19 ss 1–2, 134–135

date of assent 24 August 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 12 November 2004 (2004 SL No. 244)

Petroleum and Other Legislation Amendment Act 2004 No. 26 ss 1, 2(2), pt 6

date of assent 12 October 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 31 December 2004 (see s 2(2) and 2004 SL No. 308)

Environmental Protection and Other Legislation Amendment Act 2004 No. 48 pts 1, 9

date of assent 18 November 2004

ss 1–2 commenced on date of assent
 remaining provisions commenced 17 December 2004 (2004 SL No. 315)

Statute Law (Miscellaneous Provisions) Act 2004 No. 53

date of assent 29 November 2004
 commenced on date of assent

Mineral Resources and Other Legislation Amendment Act 2005 No. 8 pts 1, 8

date of assent 18 March 2005
 commenced on date of assent

Wild Rivers Act 2005 No. 42 ss 1–2, 52 sch 1

date of assent 14 October 2005
 ss 1–2 commenced on date of assent
 remaining provisions commenced 2 December 2005 (2005 SL No. 287)

Environmental Protection and Other Legislation Amendment Act 2005 No. 53 s 1, pt 9, s 159 sch

date of assent 18 November 2005
 commenced on date of assent

Integrated Planning and Other Legislation Amendment Act 2006 No. 11 s 1, pt 9

date of assent 30 March 2006
 commenced on date of assent

Nature Conservation Amendment Act 2006 No. 47

date of assent 10 November 2006
 commenced on date of assent

7 List of annotations

Commencement

s 2 om R2 (see RA s 37)

Act binds all persons

s 3 sub 2004 No. 48 s 158

Territorial application of Act

s 3A ins 2003 No. 96 s 17
 amd 2004 No. 48 s 159

How object is to be achieved

s 5 amd 1994 No. 42 ss 3, 2 sch; 2004 No. 48 s 160

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

Management principles of nature refuges

- s 22** amd 2002 No. 72 s 26

Prohibition on mining

- s 27** amd 2000 No. 44 s 10; 2004 No. 26 s 274; 2005 No. 53 s 159 sch

Division 2—Protected areas (State land)**Subdivision 1—Preliminary**

- sdiv hdg** ins 2000 No. 44 s 11

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- s 28** amd 2000 No. 44 s 12

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- 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; 2004 No. 48 s 161

Revocation of State forests and timber reserves

- s 30** amd 1994 No. 42 s 2 sch; 2000 No. 44 s 42 sch; 2004 No. 48 s 162

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; 2004 No. 48 s 163

Amalgamation etc. of protected areas

s 33 amd 1994 No. 42 s 2 sch; 2000 No. 44 s 16; 2004 No. 48 s 164

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 amd 2000 No. 44 s 18; 2005 No. 53 s 131

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; 2003 No. 96 s 18

Authorities for new national park or national park (recovery)

s 36 ins 1994 No. 42 s 7
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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

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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

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s 39 ins 1994 No. 42 s 9

Subdivision 4—Environmental impact statements

sdiv hdg ins 2000 No. 44 s 21

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s 39A ins 2000 No. 44 s 21

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s 39B ins 2000 No. 44 s 21
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s 39C ins 2000 No. 44 s 21

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s 40 amd 1994 No. 42 s 2 sch

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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)****div 3A (ss 42A–42F)** ins 2000 No. 44 s 22**Conservation agreements****s 45** amd 1994 No. 42 s 2 sch; 2005 No. 53 s 132**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; 2004 No. 48 s 165**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; 2004 No. 48 s 166**Proposal to declare international agreement area****s 57** amd 1994 No. 42 s 2 sch; 2004 No. 48 s 167**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; 2003 No. 79 s 170 sch 1**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; 2004 No. 14 s 4;
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s 64 amd 1994 No. 42 s 2 sch

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s 65 amd 1994 No. 42 s 2 sch

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s 66 amd 1994 No. 42 s 13

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s 67 sub 1994 No. 42 s 14
amd 2000 No. 44 s 39

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s 69 amd 1994 No. 42 s 2 sch

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s 70 sub 1994 No. 42 s 15
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Division 2—Dedication and revocation

div hdg ins 2000 No. 44 s 25
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Dedication of forest reserves

s 70C ins 2000 No. 44 s 25
amd 2002 No. 72 s 27
exp 31 December 2025 (see s 70R)

Naming of forest reserves

s 70D ins 2000 No. 44 s 25
exp 31 December 2025 (see s 70R)

Revocation of forest reserves

s 70E ins 2000 No. 44 s 25
amd 2004 No. 48 s 168
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Division 3—Management of forest reserves

div 3 (ss 70F–70I) ins 2000 No. 44 s 25
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div 4 (ss 70J–70O) ins 2000 No. 44 s 25
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s 70QA ins 2004 No. 26 s 275
exp 31 December 2025 (see s 70R)

Division 6—Expiry of pt 4A

div 6 (s 70R) ins 2000 No. 44 s 25
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exp 31 December 2025 (see s 70R)

Classes of wildlife to which Act applies

s 71 amd 2004 No. 14 s 5

Management principles of international wildlife

s 74 amd 2004 No. 48 s 169

Native wildlife may be prescribed as extinct in the wild wildlife

s 76 sub 2004 No. 14 s 6

Native wildlife may be prescribed as endangered wildlife

s 77 sub 2004 No. 14 s 6

Native wildlife may be prescribed as vulnerable wildlife

s 78 sub 2004 No. 14 s 6

Native wildlife may be prescribed as rare wildlife

s 78A ins 2004 No. 14 s 6
exp 25 June 2010 (see s 78A(3))

Native wildlife may be prescribed as near threatened wildlife

s 79 sub 2004 No. 14 s 6

Native wildlife may be prescribed as least concern wildlife

s 80 sub 2004 No. 14 s 6

Property in protected animals

s 83 amd 1994 No. 42 s 2 sch; 2000 No. 44 s 39; 2004 No. 48 s 170

Property in protected plants

s 84 amd 1994 No. 42 s 2 sch; 2000 No. 44 s 39; 2004 No. 48 s 171; 2004 No. 14 s 7

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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

Restrictions on taking protected animal and keeping or use of unlawfully taken protected animal

s 88 amd 1994 No. 42 s 17; 2000 No. 44 s 26
 sub 2004 No. 48 s 172
 amd 2004 No. 14 s 7A (amd 2004 No. 48 s 191); 2005 No. 53 s 135

Restriction on keeping or use of lawfully taken protected animal

s 88A ins 2004 No. 48 s 172
amd 2005 No. 53 s 136

Offence to keep or use native wildlife reasonably suspected to have been unlawfully taken

s 88B ins 2004 No. 48 s 172
amd 2005 No. 53 s 137

Restriction on taking etc. particular protected plants

prov hdg amd 2004 No. 14 s 8(1)
s 89 amd 1994 No. 42 s 18; 2000 No. 44 s 27; 2003 No. 96 s 28 sch; 2004 No. 14 s 8(2); 2005 No. 53 s 138

Restriction on using particular protected plants

prov hdg amd 2004 No. 14 s 9(1)
s 90 ins 1994 No. 42 s 19
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Restriction on release etc. of international and prohibited wildlife

prov hdg amd 2004 No. 53 s 2 sch
s 91 amd 2000 No. 44 s 29; 2004 No. 48 s 173; 2005 No. 53 s 140

Restriction on breeding etc. hybrids of protected animals

prov hdg amd 2004 No. 53 s 2 sch
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

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s 95 amd 2004 No. 48 s 174

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s 97 amd 2000 No. 44 s 30; 2005 No. 53 s 141

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s 97A ins 2006 No. 47 s 3

Division 7—Provisions for land-holders

div hdg sub 2004 No. 48 s 175

Offence to trespass—general

s 99 amd 2000 No. 44 s 31

Division 8—Captive breeding agreements and captive breeding for conservation

div 8 (ss 100A–100H) ins 2004 No. 48 s 176

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s 101 sub 1993 No. 50 s 86 sch 3

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s 102 amd 2004 No. 14 s 10

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s 104 amd 1994 No. 42 s 2 sch

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s 105 amd 1994 No. 42 s 2 sch

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s 107 amd 1994 No. 42 s 2 sch

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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; 2005 No. 53 s
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Conservation plans

prov hdg sub 1994 No. 42 s 24(1)

s 112 amd 1994 No. 42 s 24(2)–(6); 1995 No. 40 s 15; 2004 No. 48 s 177

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
 amd 2005 No. 42 s 52 sch 1

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s 118 ins 1994 No. 42 s 26

Approval of final plan

s 119 amd 1994 No. 42 s 27

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s 120 amd 1994 No. 42 s 2 sch

Plan replaces interim or declared management intent

s 121 sub 1994 No. 42 s 29

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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

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s 124 amd 1994 No. 42 s 2 sch; 1995 No. 40 s 17

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s 125 amd 1994 No. 42 s 31

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s 126 sub 1994 No. 42 s 32

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s 127 amd 1994 No. 42 s 33; 2000 No. 5 s 373 sch 3

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s 129 ins 1994 No. 42 s 34
amd 2003 No. 96 s 28 sch

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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; 2002 No. 72 s 28; 2004 No. 48 s 178

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s 134 amd 1994 No. 42 s 35

Chief executive may inquire into applications

s 135 amd 2003 No. 96 s 28 sch; 2004 No. 48 s 179; 2005 No. 53 s 143

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

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s 138 ins 1994 No. 42 s 37

Annual report

s 139 amd 2002 No. 72 s 29

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

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s 143 ins 1994 No. 42 s 39

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s 144 amd 1994 No. 42 s 40

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s 146 amd 1994 No. 42 s 2 sch

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s 147 amd 1994 No. 42 s 2 sch; 2000 No. 44 s 39

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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

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s 152 sub 1994 No. 42 s 42

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s 152A ins 2004 No. 48 s 180

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s 152B ins 2004 No. 48 s 180

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s 154 amd 2000 No. 5 s 373 sch 3

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s 156 ins 1994 No. 42 s 43

Acts repealed

s 158 prev s 158 om R1 (see RA s 40)

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s 159 prev s 159 om R1 (see RA s 40)

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div hdg ins 2003 No. 96 s 21

Evidentiary provisions

s 160 amd 1994 No. 42 s 2 sch; 2004 No. 53 s 2 sch; 2004 No. 48 s 181

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
 amd 2003 No. 96 s 22; 2004 No. 48 s 182

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
 amd 2004 No. 48 s 183

Division 2—Protected wildlife

div hdg om R2 (see RA s 37)

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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
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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))

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prov hdg sub 1994 No. 42 s 2 sch
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s 172 ins 1994 No. 42 s 52
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Division 2—Proceedings for declarations and enforcement orders

div hdg ins 2003 No. 96 s 23

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Definitions for div 2

s 173A ins 2003 No. 96 s 23
 def “**nominated offence**” amd 2004 No. 48 s 184

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sdiv 2 (ss 173B–173C) ins 2003 No. 96 s 23

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s 173P ins 2004 No. 48 s 185

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s 173Q ins 2004 No. 48 s 185

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s 174 sub 1994 No. 42 s 46; 1995 No. 57 s 4 sch 1
amd 2000 No. 44 ss 34, 39

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s 174A ins 2000 No. 44 s 35

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exp 31 March 2006 (see s 174AA(3))

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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); 2003 No. 96 ss 24, 28 sch; 2004 No. 48 s 186; 2005 No. 53 s 159 sch

PART 12—SAVINGS AND TRANSITIONAL

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Meaning of “commencing day” in Part

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s 177 ins 1994 No. 42 s 50
exp 19 December 1995 (see s 177(4))

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s 178 om 2000 No. 44 s 42 sch

References to conservation plans

s 179 ins 1994 No. 42 s 52
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s 180 ins 1994 No. 42 s 52
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Division 1—Savings and transitional provisions for Act No. 20 of 1992

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References to repealed Acts

s 181 amd 1995 No. 57 s 4 sch 1

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s 182 ins 1995 No. 57 s 4 sch 1

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s 183 ins 2000 No. 44 s 37

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div hdg prev div hdg exp 19 December 1994 (see s 180(1))
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s 184 ins 2004 No. 48 s 188
exp beginning 1 January 2025

Provision to allow horse riding in particular former forest reserves until 24 November 2013

s 184A ins 2005 No. 53 s 144
exp 23 November 2013

Provision for stock grazing permits for former SEQFA forest reserves

s 184B ins 2005 No. 53 s 144

Provision for commercial activity permits for former forest reserves

s 185 ins 2004 No. 48 s 188

Division 3—Transitional provision for the Nature Conservation Amendment Act 2004

div hdg ins 2004 No. 14 s 12 (amd 2004 No. 48 s 193(2))

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s 186 ins 2004 No. 14 s 12 (amd 2004 No. 48 s 193(3))

Division 4—Updating of references

div hdg ins 1995 No. 57 s 4 sch 1
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SCHEDULE—DICTIONARY

Note— definitions for this Act were originally located in s 7
prev sch 1 om R1 (see RA s 40)
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def “**Aboriginal people**” om 1994 No. 42 s 4(1)
def “**Aboriginal tradition**” om 1994 No. 42 s 4(1)
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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 person”** ins 2005 No. 53 s 145(1)
- 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 **“captive breeding agreement”** ins 2004 No. 48 s 189(2)
- 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)
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- def **“common wildlife”** reloc from s 7 2000 No. 44 s 5(3)
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- def **“conservation”** reloc from s 7 2000 No. 44 s 5(3)
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- 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 **“court”** ins 2003 No. 96 s 25(2)
- 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 **“enforcement order”** ins 2003 No. 96 s 25(2)
- def **“executive officer”** reloc from s 7 2000 No. 44 s 5(3)
- def **“extinct in the wild wildlife”** ins 2004 No. 14 s 13(2)
- 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)
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- 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 **“interim enforcement order”** ins 2003 No. 96 s 25(2)
- 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)
amd 2005 No. 8 s 88
- def **“least concern wildlife”** ins 2004 No. 14 s 13(2)
- def **“management plan”** sub 1994 No. 42 s 4(1)–(2)
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- def **“mining interest”** reloc from s 7 2000 No. 44 s 5(3)
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- def **“national park (Aboriginal land)”** reloc from s 7 2000 No. 44 s 5(3)
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- 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)
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- def **“natural resources”** amd 1994 No. 42 s 2 sch
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- 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)
amd 2004 No. 19 s 135
- def **“nature refuge”** reloc from s 7 2000 No. 44 s 5(3)
- def **“near threatened wildlife”** ins 2004 No. 14 s 13(2)
- def **“nominated offence”** ins 2003 No. 96 s 25(2)
- def **“official name”** ins 1994 No. 42 s 4(2)
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- def **“planning scheme”** amd 1998 No. 13 s 191 sch
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- def **“plant”** reloc from s 7 2000 No. 44 s 5(3)
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- def **“presumed extinct wildlife”** reloc from s 7 2000 No. 44 s 5(3)
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- def **“procaryote”** ins 1994 No. 42 s 4(2)
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- def **“prohibited wildlife”** reloc from s 7 2000 No. 44 s 5(3)
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- def **“protected animal”** amd 1994 No. 42 s 2 sch
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amd 2004 No. 14 s 13(3)
- def **“protected area”** reloc from s 7 2000 No. 44 s 5(3)

- def **“protected plant”** amd 1994 No. 42 s 2 sch
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- def **“protected wildlife”** reloc from s 7 2000 No. 44 s 5(3)
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- def **“protista”** ins 1994 No. 42 s 4(2)
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- def **“rare wildlife”** reloc from s 7 2000 No. 44 s 5(3)
- def **“regeneration plan”** ins 2000 No. 44 s 5(2)
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- 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 **“service facility”** ins 2003 No. 96 s 25(2)
- 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”** ins 2004 No. 48 s 189(2)
- def **“State land”** ins 1995 No. 57 s 4 sch 1
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- def **“take”** reloc from s 7 2000 No. 44 s 5(3)
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- 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)
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- 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)
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- def **“wilderness”** reloc from s 7 2000 No. 44 s 5(3)
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- def **“wildlife”** sub 1994 No. 42 s 4(1)–(2)
 reloc from s 7 2000 No. 44 s 5(3)
- def **“wild river declaration”** ins 2005 No. 42 s 52 sch 1
- 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 s 5(3)

SCHEDULE 2—ACTS AMENDED

- amd 1994 No. 37 s 244 sch 2
- om R1 (see RA s 40)

8 List of forms notified or published in the gazette

(The following information about forms is taken from the gazette. Because failure to notify or publish a form in the gazette does not invalidate the form, it may be necessary to check with the relevant government department for the latest information about forms (see SIA s 58(8)).)

Form FM497 Version 2 February 1995—Licence Application

pubd gaz 24 March 1995 p 1307

Form FM498 Version 2 February 1995—Licence/Permit/Authority Renewal

pubd gaz 24 March 1995 p 1307

Form FM499 Version 2 February 1995—Macropod Commercial Wildlife and Commercial Macropod Harvesting Licence Application

pubd gaz 24 March 1995 p 1307

Form FM500 Version 2 February 1995—Permit/Authority Application

pubd gaz 24 March 1995 p 1307

Form FM534 Version November 1994—Stock permit application

pubd gaz 24 March 1995 p 1307

Form FM535 Version November 1994—Permit application for activities on Protected Areas

pubd gaz 24 March 1995 p 1307

Form FM536 Version November 1994—Commercial activity permit application

pubd gaz 24 March 1995 p 1307

9 Table of renumbered provisions

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