



Queensland

# Clean Water Regulation Youth Act 2024

**Youth Act No. 2 of 2024**

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**A Youth Act to amend the Environmental Protection Act 1994 and the Human Rights Act 2019 for particular purposes**

**[Assented to 4 November 2024]**





## Queensland

# Clean Water Regulation Youth Act 2024

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**The Youth Parliament of Queensland enacts—**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Clean Water Regulation Youth Act 2024*.

### **2 Commencement**

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

## **Part 2 Amendment of Environmental Protection Act 1994**

### **3 Act amended**

This part amends the *Environmental Protection Act 1994*.

### **4 Insertion of new ch 8B**

After chapter 8A—

*insert—*

## **Chapter 8B Rights of wetlands**

### **Part 1 Preliminary**

#### **444P Recognition of Aboriginal and Torres Strait Islander rights**

- (1) In enacting this Act, the Queensland Parliament recognises the traditional ownership of wetlands by Aboriginal Peoples and Torres Strait Islander Peoples and their ongoing connection to their ancestral lands and waters.
- (2) This chapter must be implemented, as far as reasonably practicable, having regard to—
  - (a) the culture, spirituality and heritage of custodial and native wetlands in Queensland; and
  - (b) the views, interests, traditions and customs of Aboriginal and Torres Strait Islander Peoples.

#### **444Q Main objects of chapter**

The main objects of this chapter are to—

- (a) protect and promote the rights of wetlands; and
- (b) maintain the chemical, physical and biological integrity of wetlands; and
- (c) prevent, reduce and eliminate water pollution in wetlands by maintaining and meeting applicable wetland water quality standards; and
- (d) ensure all persons have access to sufficient standards and quality of wetlands; and
- (e) ensure water quality control for the survival of future generations; and
- (f) ensure periodically improving standards of water quality.

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#### **444R How main objects of chapter are primarily achieved**

The main objects of this chapter are primarily achieved by—

- (a) recognising the rights of wetlands; and
- (b) providing persons with standing so they can vindicate the rights of wetlands on behalf of wetlands; and
- (c) creating ambient standards for pollutants in wetlands.

#### **444S Meaning of *wetland***

(1) An area is a *wetland* if—

- (a) the area is permanently, periodically or intermittently inundated with water, whether or not the water is—
  - (i) static or flowing; or
  - (ii) fresh, brackish or salt; and
- (b) one or more of the following applies—
  - (i) the land, at least periodically, supports plants or animals that are adapted to and dependent on living in wet conditions for at least part of their life cycle; or
  - (ii) the substratum is predominantly undrained soils that are saturated, flooded or ponded long enough to develop anaerobic conditions in the upper layers of the substratum; or
  - (iii) the substratum is not soil and is saturated with or covered by water at some time; and

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- (c) the area is of a reasonable size and meets the minimum area determined by the chief executive.

#### **444T Other definitions for chapter**

In this chapter—

*alleged failure* see section 444Y.

*desired range* see section 444V.

*harmful bacteria* means bacteria determined by the chief executive to be potentially damaging or negatively impactful to the health of wetland ecosystems.

*heavy metal*—

- (a) means an inorganic metallic toxicant that in large quantities can have detrimental effects on wetlands; and
- (b) includes the following—
  - (i) arsenic;
  - (ii) cadmium;
  - (iii) chromium;
  - (iv) copper;
  - (v) lead;
  - (vi) mercury;
  - (vii) nickel;
  - (viii) zinc.

*responsible entity* means person responsible for compliance with section 444W under section 444X.

*wetland attribute* see section 444V.

*wetland water quality standards* see section 444V.



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## Part 2                      Recognition of rights of wetlands

### 444U Recognition of rights of wetlands

- (1) The Queensland Parliament recognises that wetlands have rights, including—
  - (a) the right to be maintained to appropriate quality and standards; and
  - (b) the right to not be compromised in integrity or longevity.
- (2) This chapter is to be administered having regard to the rights of wetlands.
- (3) Nothing in this section is intended to affect, alter, confer, create or extinguish any right or interest to, in, over, or otherwise in respect of, water.

## Part 3                      Wetland water quality standards

### 444V Wetland water quality standards

- (1) The chief executive must make standards (*wetland water quality standards*) stating the desired value range (*desired range*) a wetland should have for the following attributes (each a *wetland attribute*)—
  - (a) combined concentration of heavy metals;
  - (b) concentration of microplastics;
  - (c) concentration of nitrogen;
  - (d) concentration of phosphorus;
  - (e) concentration of potassium;
  - (f) number of invasive flora and fauna species;

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- (g) oxygen saturation;
  - (h) pH; and
  - (i) concentration of harmful bacteria.
- (2) When creating wetland water quality standards, the chief executive must have regard to—
- (a) research and best practices for wetland quality management; and
  - (b) the views of community groups, environmental organisations and Aboriginal and Torres Strait Islander peoples.
- (3) The chief executive must periodically review wetland water quality standards to ensure the standards meet contemporary understandings of best wetland quality.

#### **444W Ensuring compliance with wetland water quality standards**

- (1) The responsible entity for a wetland must take all reasonable steps necessary to ensure that the wetland attributes for a wetland are within desired ranges for the attributes stated in the wetland water quality standard.
- (2) Without limiting subsection (1), within 30 days after each anniversary day, the responsible entity for a wetland must test whether the wetland attributes for the wetland within desired ranges for the attributes stated in the wetland water quality standard.
- (3) In this section—
- anniversary day***, for a responsible entity, means—
- (a) for a responsible entity other than the Minister—the day that is the yearly anniversary of the day the local government

was delegated responsibility for compliance with this section under section 444X; and

- (b) for the Minister—the day that is the yearly anniversary of the commencement of this chapter.

#### **444X Responsibility for compliance with section 444W**

- (1) The Minister is responsible for ensuring compliance with section 444W.
- (2) However, the Minister may delegate their responsibility for compliance with section 444W in relation to a wetland to a local government or the chief executive.
- (3) Further, a local government may delegate their responsibility for compliance with section 44W in relation to a wetland to—
  - (a) a standing committee of the local government;
  - (b) the chairperson of a standing committee of the local government;
  - (c) the local government’s chief executive officer;
  - (d) an employee of the local government who is appropriately qualified, experienced and known within the community.

#### **444Y Consultation with Aboriginal and Torres Strait Islander People**

The chief executive must, as far as reasonably practicable, involve Aboriginal and Torres Strait Islander people in processes under this chapter including, for example, by—

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- (a) consulting with Aboriginal and Torres Strait Islander peoples to ensure their knowledge and practices are incorporated into wetland water quality management; and
- (b) collaborating with Aboriginal and Torres Strait Islander peoples to develop culturally appropriate methods for wetland water quality testing;
- (c) providing appropriate support and resources to Aboriginal and Torres Strait Islander communities to facilitate active participation in wetland water quality management processes; and
- (d) establishing ongoing mechanisms for feedback and consultation with Aboriginal and Torres Strait Islander people to ensure concerns are addressed.

#### **444Z Reporting and public access to information**

- (1) The purpose of this section is to ensure public access to information about wetland water quality reports and to promote transparency and accountability of compliance with this chapter.
- (2) The chief executive must report annually to the Queensland Parliament about
  - (a) the status of any testing under section 444W to ensure compliance with wetland water quality standards; and
  - (b) the outcomes of consultations and agreements with Aboriginal and Torres Strait Islander peoples in relation to water quality testing and management.

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## Part 4                      Enforcement of wetland water quality standards by the public

### 444AA Certain members of the public may take action

- (1) A person aggrieved by another person's alleged failure to comply with section 444U, 444V or 444W (*alleged failure*) may commence proceedings in the Supreme Court seeking—
  - (a) a mandatory or prohibitory injunction requiring that the other person do or not do a thing to ensure wetland attributes for a wetland are within desired ranges for the attributes stated in the wetland water quality standard; or
  - (b) a declaration that the other person has failed to fulfil their obligations under section 444U, 444V or 444W.
- (2) Proceedings commenced under subsection (1)—
  - (a) are taken to be commenced on behalf of the wetlands whose rights are infringed by the alleged failure; and
  - (b) are to be entitled '[Name of Wetlands], represented by [Names of Persons Aggrieved] v [Name of Responsible Entity]'.
- (3) An individual is taken to be a person aggrieved by an alleged failure if—
  - (a) the individual is—
    - (i) an Australian citizen; or
    - (ii) resides in Australia; and

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- (b) at any time in the 2 years immediately before the alleged failure, the individual has engaged in a series of activities in Australia for the protection or conservation of, or research into, wetlands.
- (4) An organisation or association (whether incorporated or not) is taken to be a person aggrieved by an alleged failure if—
  - (a) the organisation or association is incorporated, or was otherwise established, in Australia; and
  - (b) either—
    - (i) at any time in the 2 years immediately before the alleged failure, the organisation or association has engaged in Australia for protection or conservation of, or research into, wetlands; or
    - (ii) at the time of the alleged failure, the objects or purposes of the organisation or association included the protection or conservation of, or research into, wetlands.
- (5) A person's proceedings must be stayed if the Supreme Court is not satisfied that—
  - (a) the ombudsman has made a finding that the wetland does not comply with the wetland water quality standards; and
  - (b) the responsible entity has not taken reasonable steps to remedy the alleged failure within a reasonable time period.
- (6) Nothing in this section limits any other remedies a person may have against another person in relation to the other person's failure to comply with the other person's obligations under this part or another law.

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### **444AB Relief**

In proceedings commenced under section 444Y, the Supreme Court may grant the relief mentioned in section 444Y(1).

## **Part 3**

# **Amendment of the Ombudsman Act 2001**

After section 35—

*insert—*

### **35A Additional powers under the *Environmental Protection Act 1994***

- (1) This section applies if the ombudsman is investigating a complaint or matter regarding wetland water quality standards under the *Environmental Protection Act 1994*.
- (2) In addition to the ombudsman's powers under this Act, the ombudsman may also—
  - (a) conduct inspections and assessments of relevant wetlands; and
  - (b) request expert advice or reports to inform an investigation; and
  - (c) investigate other matters, including—
    - (i) the extent to which the methods of Aboriginal and Torres Strait Islander methods and perspectives have been implemented in compliance with wetland water quality standards; and
    - (ii) the effectiveness of remediation actions taken to ensure compliance with

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wetland water quality  
standards.

- (3) When investigating wetland water quality standards, the ombudsman may—
- (a) make a finding that a wetland does not comply with the wetland water quality standards; and
  - (b) recommend the responsible entity for the wetland take reasonable steps of remediation to return the wetland to compliance with the wetland water quality standards.