



Forestry Act 1959

Reprinted as in force on 1 September 2012

Reprint No. 7L

This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy

Information about this reprint

This Act is reprinted as at 1 September 2012. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

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

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

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Spelling

The spelling of certain words or phrases may be inconsistent in this reprint or with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’). Variations of spelling will be updated in the next authorised reprint.

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, authorised (that is, hard copy) and unauthorised (that is, electronic), are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If an authorised reprint is dated earlier than an unauthorised version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of an authorised reprint is the same as the date shown for an unauthorised version previously published, it merely means that the unauthorised version was published before the authorised version. Also, any revised edition of the previously published unauthorised version will have the same date as that version.

Replacement reprint date If the date of an authorised reprint is the same as the date shown on another authorised reprint it means that one is the replacement of the other.



Queensland

Forestry Act 1959

Contents

		Page
Part 1	Preliminary	
1	Short title	13
5	Definitions.	13
Part 2	Administration and functions	
17	Appointment of officers.	13
18	General powers of forest officers	15
18A	General powers of plantation officers.	18
18B	Powers of plantation officers in relation to fire	20
18C	Plantation operator and plantation officer are persons performing duties under this Act only for particular provisions. . .	20
19	Retention of document produced to forest officer.	21
20	Retention of document produced to plantation officer	22
21	Officers not to trade in timber etc.	23
22	Auctioneer's licence not required by officers	23
Part 3	Classification and reservation of State forests and timber reserves	
23	Classification of lands.	24
25	Power to set apart and declare State forests	24
26	Restriction on alienation etc.	24
27	Amalgamation etc. of State forests.	25
28	Power to set apart and declare timber reserves.	25
32	Land for tourist purposes or use as road	26
32AA	Chief executive to notify chief executive (lands) of change to State forest	27
Part 3A	State plantation forest	
32A	Declaration of land as State plantation forest.	27
32B	Particular areas of conservation value to be removed from State plantation forest	27

Contents

32C	Quarrying in State plantation forest	28
Part 4	Management of State forests, timber reserves and forest entitlement areas	
33	Cardinal principle of management of State forests	29
33A	Management in a wild river area	29
34	Use of State forests	29
34AA	Regulation of use of State forests by notices	31
34AB	Display in State forests of information notices in conjunction with regulatory notices	32
34A	Specialised management within State forests	33
34B	Application of Transport Operations (Road Use Management) Act 1995	34
34C	Feature protection area	34
34D	State forest park	34
34E	Scientific area.	35
34F	Forest drive.	35
34G	Regulating movement of vehicles on feature protection areas etc.	36
34H	Self-registration camping areas	37
35	Granting of permit for land within State forest	38
35A	Permit to camp in State forest taken to have been granted by chief executive	40
36	Dealings with respect to timber reserves	42
37	Particular authorities over State forest, timber reserve or forest entitlement area	42
39	Interfering with forest products on State forests etc.	44
39A	Forest entitlement areas.	44
39B	Rights and liabilities of contracting party in respect of forest entitlement areas	47
39C	Interpretation	48
Part 6	Control and disposal of forest products and quarry material	
43	Application of pt 6 to forest products from a licence area.	49
44	Construction of other Acts etc.	49
44A	Code of practice for getting forest products in wild river areas.	49
44B	Getting forest products in wild river areas	50
45	Forest products etc. which are the property of the Crown	50
45A	Owner of quarry material	52
46	Sale of forest products or quarry material	53

46A	Sale of fossils and quarry materials to fossicker	53
47	Sale of forest products on Crown holdings or mining leases etc..	54
48	Getting or selling forest products	54
49	Power to purchase forest products	55
50	Contracts for the supply of forest products	55
51	Power to purchase etc. plant etc.	55
52	Power to subsidise road works	56
53	Interference with forest products on Crown holdings and particular entitlements	56
54	Interfering with forest products on Crown lands etc.	57
54A	Interfering with quarry material in deeds of grant or freeholding leases	58
55	Licences to get forest products etc.	58
56	Permits etc.	59
57	Power of entry under licence or permit.	60
58	Power to cancel, suspend, permit, licence etc.	62
59	Transfer of permits etc.	65
60	Failure to comply with provisions of lease etc.	65
61	Removal of forest products.	66
Part 6A	Quarry material in deed of grant or freeholding lease	
61B	Interpretation	67
61C	Entitlement under permit	67
61D	Withdrawal of consent	68
61E	Provision of security	68
61F	Compensation	70
61G	Prior notice of entry to be served	71
61H	Appeal to Land Court	71
61I	Appeal against Land Court's determination	71
Part 6B	Natural resource products	
61J	Agreement about natural resource products	72
Part 6D	Plantation forestry	
Division 1	Preliminary	
61Q	Definitions for pt 6D	73
Division 2	Plantation licences	
61QA	Agreements to deal with natural resource product etc.	74
61QB	Related agreements	75

Contents

61QC	Plantation licence is an interest in land	76
61QD	Sale of natural resource product	76
61QE	Statutory obligations.	76
61QF	Rights under a plantation licence	77
61QG	Appointment of plantation manager	77
61QH	Acts and omissions of plantation sublicensee or plantation manager etc.	77
61QI	Plantation licence may be transferred	78
61QJ	Related agreements may be transferred	78
61QK	Amending a plantation licence	79
61QL	Plantation licensee's rights of access over relevant State land . .	79
61QM	Unformed plantation forest roads	81
61QN	Chief executive to identify unformed plantation forest roads for s 61QM	82
Division 3	Plantation sublicences	
61QO	Approval	83
61QP	Rights under the plantation sublicense.	84
61QQ	Appointment of plantation manager	84
61QR	Plantation sublicense may be transferred.	84
61QS	Related agreements may be transferred	85
61QT	Amending a plantation sublicense	85
Division 4	Mortgages	
61QV	Mortgages require Ministerial approval	86
Division 5	Ownership of improvements	
61QW	Application of division.	87
61QX	Ownership of equipment and improvements	87
Division 6	Cancellation	
61QY	Show cause notice for cancellation of plantation licence	88
61QZ	Representations about show cause notice.	88
61R	Ending show cause process without further action	89
61RA	Cancellation of plantation licence for licence area or part	89
Division 7	Surrender or division of plantation licence	
61RB	Surrender of plantation licence or part of a plantation licence . . .	90
61RC	Application for division	91
61RD	Deciding the application	92
61RE	Approving the application	92

61RF	Notice of decision	93
61RG	Minister and the plantation licensee may enter into new plantation licence etc.	93
Division 8	Compensation	
61RH	Events that are compensation events.	94
61RI	Events that are not compensation events.	95
61RJ	Chief executive to give notice of compensation events to the plantation licensee	96
61RK	Compensation to be assessed under applied provisions of the Acquisition of Land Act 1967 in absence of agreement	96
Part 6E	Registration of interests in State plantation forests	
Division 1	Preliminary	
61RL	Definitions for pt 6E	98
Division 2	Register	
61RM	Register of plantation licences	98
61RN	Form of register	98
61RO	Registration of documents	98
61RP	Particulars that must be recorded	100
61RQ	Particulars that may be recorded	100
61RR	Procedures on lodgement and registration of document	101
61RS	Chief executive (lands) may correct registers.	101
61RT	Documents form part of the register.	102
Division 3	General requirements for documents in the register	
61RU	Form of documents	102
61RV	Execution of documents	102
61RW	Registered documents to comply with particular requirements . .	103
61RX	Power of the chief executive (lands) when fraud suspected.	104
Division 4	Registration of documents	
61RY	Right to have interest registered.	104
61RZ	Registered document operates as a deed	105
61S	Order of registration of documents.	105
61SA	Priority of registered documents.	105
61SB	How a document is registered	106
61SC	When a document is registered	106
61SD	No registration in absence of required approval or consent of Minister	106

Contents

Division 5	Consequences of registration	
61SE	Benefits of registration	107
61SF	Effect of registration on interest	107
61SG	Evidentiary effect of recording particulars in the register	107
Division 6	Transfers	
61SH	Registering a transfer	108
Division 7	Mortgages	
61SI	Registering a mortgage	108
61SJ	Original mortgagee to confirm identity of mortgagor	109
61SK	Mortgagee transferee to confirm identity of mortgagor	110
61SL	Releasing a mortgage	111
61SM	Amending or transferring a mortgage.	111
61SN	Amending priority of mortgages	112
61SO	Priority of advances	112
61SP	Transfer of mortgage does not affect priority	112
61SQ	Powers of registered mortgagee	112
61SR	Mortgagee exercising power of sale.	113
61SS	Effect of transfer after sale under mortgage.	114
Division 8	Trusts	
61ST	Details of trust must be given	114
Division 9	Enforcement warrants	
61SU	Definition for division	115
61SV	Registering an enforcement warrant	115
61SW	Effect of registering an enforcement warrant	115
61SX	Cancellation of registration of an enforcement warrant	116
61SY	Discharging or satisfying an enforcement warrant	116
61SZ	Transfer of plantation licence or plantation sublicense sold in execution	116
61T	Effect on enforcement warrant of transfer after sale by mortgagee	116
Division 10	Powers of attorney	
61TA	Power of attorney	117
Division 11	Caveats	
Subdivision 1	Caveats—general	
61TB	Requirements of caveats	118
61TC	Lodging caveat	118

61TD	Notifying caveat	119
61TE	Effect of lodging caveat	119
61TF	Withdrawing caveat	120
61TG	Lapsing of caveat	120
61TH	Removing caveat	122
61TI	Cancelling caveat	122
61TJ	Further caveat	122
61TK	Notices to the caveator	123
Subdivision 2	Caveats—chief executive (lands)	
61TL	Chief executive (lands) may prepare and register caveat.	123
Division 12	Relationship with other laws	
61TM	Relationship with Property Law Act 1974.	124
61TN	Relationship with Personal Property Securities Act 2009 (Cwlth)	125
Division 13	General	
61TO	Withdrawing lodged document before registration	126
61TP	Chief executive may call in document for correction or cancellation	127
61TQ	Requisitions	127
61TR	Rejecting document for failure to comply with requisition.	127
61TS	Entitlement to search the register.	128
61TT	Evidentiary effect of certified copies of documents	129
61TU	Service	130
61TV	Protection from liability	130
Part 7	Fires on State forests, timber reserves and forest entitlement areas	
62	Control of fires on State forests etc.	131
63	Duty of lessee of State forest etc.	132
63A	Duty of plantation licensee etc.	134
64	Certain person to be incapable of holding permits etc.	134
65	Control of fires on lands adjoining State forest etc.	135
65A	Recovery of expenses incurred in extinguishing fires on State forests	137
65B	Recovery of expenses incurred in extinguishing fires on State forests within licence areas	138
66	Lighted match etc. not to be dropped near flammable material . .	139
67	Lighting of small fires on State forests etc.	139
68	Cooperative burnings	139

Contents

69	Forfeiture of leases and the like and cancellation of agreements.	140
Part 8	Miscellaneous	
69E	Chief executive must consult with plantation licensee or plantation sublicensee if considering exercising power in relation to a licence area	141
70	Destruction of trees on roads	142
72	Wild stock	142
73	Unlawfully using State forests etc.	145
73A	Display of camping form if permit to camp granted	146
73B	Offence to display camping form if no permit to camp	147
74	Unauthorised building etc. within State forest etc.	147
75	Removal of trespassers	148
76	Entry on to reserves may be prohibited	148
77	Persons found in possession of forest products	149
78	Receiving forest products	150
79	Subpurchase	150
80	Accounts of forest products	150
81	Power to enter land	151
82	Powers for seized timber etc.	151
82A	Seizure and forfeiture of vehicles	153
82B	Receipt to be given.	154
82C	Forest officer to allow inspection etc.	154
82D	Chief executive may return seized thing.	155
82E	Chief executive's obligation to return seized things	155
82F	Chief executive may order forfeiture of unclaimed seized things	156
82G	Forfeiture of seized things on conviction	156
82H	Where and how to start appeal	156
82I	Hearing procedures	157
82J	Powers of Magistrates Court on appeal	157
82K	Appeal to District Court on questions of law only.	158
82L	Seized forest products and quarry material become State's property	158
82M	Forfeited things seized become State's property	158
83	Dealing with forfeited forest products etc.	158
83A	Particular decisions subject to review.	159
84	Matters may be completed by different officers	160
84A	Officer may direct person to leave State forest or timber reserve	160

85	Owners and occupiers to give all reasonable assistance	161
86	Obstruction of officer etc.	161
87	Forgery of licence etc. and other offences	163
88	Offences generally	164
88A	Recovery of moneys by plantation licensee or plantation sublicensee	167
89	Recovery of moneys due	167
91	Power to waive proceedings	168
92	All moneys to be property of Crown	170
93	Judicial notice	171
94	Mistaken belief as to boundaries	171
95	Facilitation of proof	172
96	Acknowledgment of service	174
96AA	Delegation by Minister	175
96A	Delegation by chief executive—general	175
96B	Delegation by chief executive—State plantation forests	175
96C	Delegation by chief executive (lands)	178
96D	Delegation by FPQ and head of FPQO	178
96E	Protection from liability	179
97	Regulation-making power	179
98	Misnomer, inaccurate description etc.	180
102	Saving of certain Acts	180
103	Existing orders in council	181
104	Delegations continue until revoked	181
Part 9	Savings and transitional provisions for Primary Industries and Natural Resources Legislation Amendment Act 2000	
Division 1	Preliminary	
104A	Purposes of pt 9	182
105	Definitions for pt 9	182
Division 2	Appointment of replacement corporation	
106	Council must appoint its replacement corporation	183
107	Conditions for appointment	183
108	Notice of appointment	184
Division 3	Transfer to replacement corporation	
109	Application of div 3	185
110	Transfer of council's assets and liabilities	185

Contents

111	Registration of transferred assets	185
112	References to council	186
113	Continuity of proceedings	187
114	Employees	187
115	Minister's directions to give effect to transfer	188
116	Dissolution of council	188
Part 10	Other transitional provisions	
Division 1	Forestry Plantations Queensland Act 2006	
117	Permits and licences etc. relating to State plantation forests	188
Division 2	Natural Resources and Other Legislation Amendment Act 2010	
118	Definitions for div 2	190
119	Provision for s 17 (Appointment of officers)	191
120	Provision for s 34AA or 34AB	192
121	Provision for s 34A (Specialised management within State forests)	192
122	Provision for s 34G (Regulating movement of vehicles on feature protection areas etc.)	192
123	Provision for s 34H (Self-registration camping areas)	193
124	Provision for s 35 (Granting of permit for land within State forest)	193
125	Provision for s 55 (Licences to get forest products etc.)	193
126	Provision for s 56 (Permits etc.)—general	194
127	Provision for s 56 (Permits etc.)—administering party for FPQ sales permits	194
128	Provision for s 56 (Permits etc.)—application of relevant provisions or FPQ sales permits	194
129	Provision for s 73 (Unlawfully using State forests etc.)	196
130	References to FPQ	196
131	Dissolution of corporation sole under the Forestry Plantations Queensland Act 2006	197
132	Amendment of regulations by the 2010 Amendment Act does not affect powers of Governor in Council	197
Schedule 2	Subject matters for regulations	198
1	Officers	198
2	Training of officers	198
3	Mode of action etc.	198
4	State forests	198
4A	State forest parks, feature protection areas and forest drives	199

Contents

5	Use etc. of buildings	199
6	Method of getting and disposal	199
7	Permits etc.	199
8	Deposits etc.	200
9	Auction etc. of forest products	200
10	Auction etc. of grazing permits etc.	200
11	Declarations etc.	200
12	Inspection	201
13	Grading	201
14	Sizes, quantities etc.	201
15	Brands	201
16	Records	202
17	Production of permits etc.	202
18	Fire prevention etc.	202
19	Felling trees	202
20	Prevention of pollution	202
22	Honorary rangers	203
23	Reservation of trees	203
24	Forms	203
25	Fees etc.	203
26	Stock	204
27	Penalties	204
Schedule 3	Dictionary	205
 Endnotes		
1	Index to endnotes	215
2	Date to which amendments incorporated.	215
3	Key	216
4	Table of reprints	216
5	List of legislation.	218
6	List of annotations	225
7	Forms notified or published in the gazette	254

Forestry Act 1959

[as amended by all amendments that commenced on or before 1 September 2012]

An Act to provide for forest reservations, the management, silvicultural treatment and protection of State forests, and the sale and disposal of forest products and quarry material, the property of the Crown on State forests, timber reserves and on other lands; and for other purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Forestry Act 1959*.

5 Definitions

The dictionary in schedule 3 defines particular words used in this Act.

Part 2 Administration and functions

17 Appointment of officers

- (1) Forest officers, plantation officers and other officers may be appointed for the purposes of this Act by the chief executive.
- (1A) The chief executive may make an appointment under subsection (1) only if the chief executive is satisfied that the

[s 17]

person is appropriately qualified to perform the functions and exercise the powers of a forest officer, plantation officer or other officer.

- (2) The chief executive may, in writing, appoint a person to act as a forest officer or plantation officer either generally or in relation to specified functions and powers of a forest officer or plantation officer.
- (2A) However, a person appointed as a plantation officer must be—
 - (a) an employee of a plantation operator; and
 - (b) appointed for a specified licence area.
- (3) A person appointed to act as a forest officer or plantation officer may resign by written notice given to the chief executive.
- (4) A person appointed as a plantation officer stops being a plantation officer if—
 - (a) the person stops being an employee of a plantation operator; or
 - (b) the delegation of power under section 96B to the plantation operator who employs the plantation officer is ended by the chief executive by written notice given to the plantation operator.
- (5) Nothing in subsection (4)(b) stops the person being reappointed as a plantation officer by the chief executive or someone other than the plantation operator exercising delegated power.
- (6) The appointment of a person as a plantation officer is an appointment under this Act and not under the *Public Service Act 2008*.
- (7) In this section—

appropriately qualified includes having appropriate training or experience.

18 General powers of forest officers

- (1) Any forest officer, in addition to such other powers and duties as from time to time devolve upon the forest officer under this Act, may—
 - (b) be accompanied and aided by any person the forest officer may think competent to assist the forest officer in making any inspection or examination; and
 - (c) make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act have been or are being complied with by any person or in respect of any State forest, timber reserve, forest entitlement area, or any forest products or quarry material, the property of the Crown; and
 - (d) question, with respect to matters under this Act, the owner or occupier of any place, every person whom the forest officer finds in any place, and every person who has been within the preceding 6 months employed in or on any place to ascertain whether this Act has been or is being complied with, and require any such person to answer the questions put and to sign a declaration of the truth of the person's answers; and
 - (e) require the production of any licence, permit, or other authority granted or agreement or contract made under and for the purposes of this Act and of any book, notice, record, list, or writing which by this Act is required to be had or kept or which, in the forest officer's reasonable opinion, may be material to an inquiry under paragraph (c), and inspect, examine, and take copies of or extracts from the same; and
 - (f) at any time, search and examine all containers, vehicles, vessels, or other receptacles for holding or transporting any forest products or quarry material or reasonably suspected so to be, and for that purpose the forest officer may require the owner or person in charge thereof to open any such container, vehicle, vessel, or other receptacle, as the case may be, and expose its contents to view; and

[s 18]

- (g) subject to subsections (1A) and (3), enter and inspect a place in which the forest officer reasonably suspects are forest products or quarry material got or interfered with or that the forest officer reasonably suspects have been got or interfered with in contravention of this Act; and
 - (ga) if the forest officer finds forest products or quarry material mentioned in paragraph (g) in a place entered under that paragraph—
 - (i) seize, take away and detain the forest products or quarry material together with anything (an *incidental thing*) including any document, equipment, gear, machinery, plant, vehicle or vessel, the officer reasonably suspects has been used or is intended to be used, in or in connection with, or is evidence of, the getting or interfering with the forest products or quarry material; and
 - (ii) subject to sections 82D to 82F, secure anything seized until the end of proceedings for a contravention of this Act; and
 - (h) exercise such other powers, functions and authorities as may be prescribed.
- (1A) The power to enter a place under subsection (1)(g) may be exercised—
- (a) for a place that is occupied land—only between sunrise and sunset or at any time with the consent of the owner or an agent or employee of the owner; or
 - (b) otherwise—at any time.

Forest officer may require name and address

- (2) Any forest officer who—
- (a) finds any person committing or who reasonably suspects any person of having committed an offence against this Act; or
 - (b) is making inquiries or investigations with a view to establishing whether or not an offence against this Act has been committed by any person; or

- (c) is of the opinion that the name and address of any person is required for the purpose of giving effect to any provision of this Act, or for the purpose of enabling the forest officer to carry out his or her powers and duties under this Act;

may require such person to state the person's name and address, or name or address, and, if the forest officer has reasonable ground to suppose that the name and address, or name or address, given is false, may require evidence of the correctness thereof.

Entry into dwelling

- (3) Before a forest officer enters any part of a place, which part is being used as a dwelling at the time the entry is to be made, the forest officer shall, save where the forest officer has permission of the occupier of that part to the entry, obtain from a justice a warrant to enter.
- (3A) Subsection (3) does not apply in respect of the curtilage of any premises.
- (4) A justice who is satisfied upon the complaint of a forest officer that there is reasonable cause to suspect—
- (a) that there are in any place forest products or quarry material; and
 - (b) that such forest products or quarry material have been got or interfered with contrary in any respect to this Act;
- may issue a warrant directed to the forest officer to enter the place specified in the warrant for the purpose of the forest officer's exercising therein and with respect thereto the powers conferred on a forest officer by this section.
- (5) A warrant issued under subsection (4) shall be, for a period of 1 month from its issue, sufficient authority—
- (a) to the forest officer to whom it is directed and to all persons acting in aid of the forest officer to enter the place specified in the warrant; and

[s 18A]

- (b) to the forest officer to whom it is directed to exercise in respect of the place specified in the warrant all the powers conferred on a forest officer by this section.
- (6) In this section—
- occupied land* means land on which the owner is lawfully residing.
- owner*, of land, includes—
- (a) the lessee or licensee from the State of the land; or
 - (b) the person who has lawful control of the land, on trust or otherwise; or
 - (c) the person who is entitled to receive the rents and profits of the land.

18A General powers of plantation officers

- (1) A plantation officer may exercise power under this Act, including under a delegation, only for the licence area for which the plantation officer is appointed.
- (2) A plantation officer may—
 - (a) take away and dispose of a notice in the licence area that has not been authorised by the chief executive for the licence area; and
 - (b) require the production of any licence, permit, or other authorisation under which a person claims to be entitled to conduct an activity in the licence area that the person is conducting and inspect, examine, and take copies of the authorisation; and
 - (c) require the name and address of a person the plantation officer finds committing, or whom the plantation officer reasonably suspects of having committed, an offence against this Act in the licence area; and
 - (d) direct a person the plantation officer finds committing an offence against this Act in the licence area to stop committing the offence; and

-
- (e) direct a person mentioned in paragraph (d) to leave the licence area; and
- (f) if the plantation officer reasonably believes, having regard to particular circumstances or prevailing conditions, that a person's presence in or near the licence area involves a risk to the person's health or safety or the health or safety of someone else, direct the person to leave the licence area or the State forest.

Examples of particular circumstances or prevailing conditions for paragraph (f)—

- tree felling
- fire
- storm

- (3) A person who fails to comply with a direction or requirement lawfully given or made by a plantation officer under subsection (2) without a reasonable excuse commits an offence.

Maximum penalty—100 penalty units.

- (4) A person who is required under subsection (2)(c) to state the person's name or address must not, without a reasonable excuse, state a false name or address.

Maximum penalty—100 penalty units.

- (5) A person does not commit an offence against subsection (4) if the person is not proved to have committed the offence he or she was allegedly found committing or suspected of having committed.

- (6) Subsections (1) and (2) do not limit the powers of a forest officer under this Act.

- (7) In this section—

commit, an offence, includes attempt to commit an offence.

licence area includes part of the licence area.

State forest includes part of the State forest.

[s 18B]

18B Powers of plantation officers in relation to fire

- (1) If a plantation officer reasonably believes that a fire lit on a licence area is, or is likely to be, a hazard to the licence area or to a person or property in the licence area, the plantation officer may—
 - (a) put out the fire; or
 - (b) direct the person appearing to the plantation officer to be in charge of the fire—
 - (i) to put out the fire; or
 - (ii) to reduce the intensity of the fire in the way reasonably required by the plantation officer.
- (2) If the plantation officer puts out a fire or directs a fire to be put out, the plantation officer may also give a direction that another fire must not be lit to replace the fire that is put out.
- (3) A person must not contravene a direction given under subsection (1) or (2) without a reasonable excuse.

Maximum penalty—10 penalty units.
- (4) Subsections (1) and (2) do not limit the powers of a forest officer under this Act.
- (5) In this section—

licence area includes part of the licence area.

18C Plantation operator and plantation officer are persons performing duties under this Act only for particular provisions

In this Act, a reference to a person performing duties under this Act includes a reference to a plantation operator or plantation officer when performing duties under this Act only in the following provisions—

- (a) section 39(2)(a);
- (b) section 84(4);
- (c) section 86(1)(a) or (h);

- (d) section 95(a) or (b);
- (e) section 96.

19 Retention of document produced to forest officer

- (1) This section applies if a forest officer makes a requirement under section 18(1)(e) (the *requirement*) for the production of a document.
- (2) The document must be produced at the place and time stated in the requirement.
- (3) The place stated in the requirement—
 - (a) may be other than the place where the document is ordinarily kept; but
 - (b) must be reasonable in the circumstances of the making of the requirement.
- (4) The time stated in the requirement must be reasonable in the circumstances of the making of the requirement.
- (5) To avoid any doubt, it is declared that—
 - (a) the document must be produced in its original form; and
 - (b) the forest officer may keep possession of the document for the time the forest officer reasonably requires to exercise the forest officer's powers under section 18(1)(e).
- (6) The forest officer may continue to keep possession of the document after the forest officer has finished exercising the forest officer's powers under section 18(1)(e) if the forest officer is satisfied on reasonable grounds that continued retention of the document is necessary—
 - (a) for the purpose of an inquiry under section 18(1)(c); or
 - (b) to preserve the document as evidence for a prosecution for a contravention of this Act.
- (7) Subsection (6)(a) does not authorise retention of the document after the end of—

[s 20]

- (a) the time reasonably necessary to complete the inquiry;
or
 - (b) the first 6 months after the production of the documents.
- (8) Subsection (6)(b) does not authorise retention of the document after the end of—
- (a) if a prosecution for the contravention mentioned in subsection (6)(b) is started within the first 6 months after the production of the document—the prosecution for the contravention and any appeal from the prosecution; or
 - (b) if paragraph (a) does not apply—the 6 months mentioned in paragraph (a).
- (9) Until the document is returned, the forest officer must allow a person who would be entitled to possession of it, if it had not been retained by the forest officer, to inspect it and make copies of it.

20 Retention of document produced to plantation officer

- (1) This section applies if a plantation officer makes a requirement under section 18A(2)(b) (the *requirement*) for the production of a document.
- (2) The document must be produced at the place and time stated in the requirement.
- (3) The place stated in the requirement—
 - (a) may be other than the place where the document is ordinarily kept; but
 - (b) must be reasonable in the circumstances of the making of the requirement.
- (4) The time stated in the requirement must be reasonable in the circumstances of the making of the requirement.
- (5) To avoid any doubt, it is declared that—
 - (a) the document must be produced in its original form; and

- (b) the plantation officer may keep possession of the document for the time the plantation officer reasonably requires to exercise the plantation officer's powers under section 18A(2)(b).
- (6) Until the document is returned, the plantation officer must allow a person who would be entitled to possession of it, if it had not been retained by the plantation officer, to inspect it and make copies of it.

21 Officers not to trade in timber etc.

- (1) No officer in the officer's personal capacity shall become in any way concerned or interested in any lease, permit, or licence, or other similar right or authority granted under this Act or under any enactment repealed by this Act or in any contract or agreement made under or for any of the purposes of this Act or in anywise participate or claim to be entitled to participate in the profit thereof or in any benefit or emolument arising therefrom.
- (2) However, an officer may, with the consent in writing of the chief executive first had and obtained, purchase, on such terms as the chief executive deems fit, forest products and quarry material the property of the Crown for the officer's own personal use and enjoyment.
- (3) In this section—
officer includes plantation officer.

22 Auctioneer's licence not required by officers

Any officer holding any auction under or for the purposes of this Act may hold that auction without an auctioneer's licence under the *Property Agents and Motor Dealers Act 2000*.

Part 3 Classification and reservation of State forests and timber reserves

Classification of forest lands

23 Classification of lands

The chief executive shall from time to time cause to be made inspections and surveys of any lands within the State for the purpose of ascertaining whether or not such lands are suitable to be set apart under and for the purposes of this Act.

State forests

25 Power to set apart and declare State forests

The Governor in Council may, by regulation, set apart and declare as a State forest any Crown land, or any land or part thereof which may then be a timber reserve.

Editor's note—

See the *Nature Conservation Act 1992*, section 70G (State forest or timber reserve dedicated as a forest reserve).

26 Restriction on alienation etc.

- (1) The setting apart and declaration of a State forest by or under this Act shall not be revoked in whole or in part except under the authority of and in accordance with the provisions of subsection (2) or section 32.
- (1A) No land comprised in a State forest shall be excluded therefrom, leased, or dealt with otherwise howsoever except under the authority of and in accordance with the provisions of this Act.

Revocation of declaration

- (2) The setting apart and declaration by or under this Act of land as a State forest may be revoked in whole or in part in the following manner—
 - (a) the Governor in Council shall cause to be laid on the table of the Legislative Assembly a proposal for such revocation;
 - (b) after such proposal has been laid before the Legislative Assembly, the Governor in Council, on a resolution whereof not less than 14 days notice shall have been given being passed by the Legislative Assembly that such proposal be carried out, shall, by regulation, revoke such setting apart and declaration in accordance with that resolution.
- (3) Subsection (2) does not apply to a regulation that merely—
 - (a) sets apart and declares a State forest and an area of Crown land, or a timber reserve, as a State forest; or
 - (b) sets apart and declares contiguous State forests as a single State forest; or
 - (c) divides a State forest into 2 or more State forests.

27 Amalgamation etc. of State forests

The Governor in Council may, by regulation—

- (a) set apart and declare a State forest and an area of Crown land, or a timber reserve, as a State forest; or
- (b) set apart and declare contiguous State forests as a single State forest; or
- (c) divide a State forest into State forests.

28 Power to set apart and declare timber reserves

- (1) The Governor in Council may, by regulation—
 - (a) set apart any Crown land as a timber reserve; or

[s 32]

- (b) set apart a timber reserve and an area of Crown land as a timber reserve; or
 - (c) set apart contiguous timber reserves as a single timber reserve.
- (3) The setting apart by or under this Act of any land as a timber reserve shall not be rescinded or amended, in whole or in part, except under the authority and in accordance with the provisions of subsection (4) or section 32.
- (3A) However, the setting apart of a timber reserve or part thereof under this Act as a State forest, shall without further or other authority revoke accordingly the whole or that part of the setting apart under this Act of the land as a timber reserve.

Revocation of timber reserves

- (4) Where the Governor in Council is satisfied that, having due regard to the objects and purposes of this Act, it is expedient to revoke in whole or in part the setting apart of any land as a timber reserve, then the Governor in Council may, by regulation, revoke wholly or in part such setting apart as a timber reserve.

32 Land for tourist purposes or use as road

- (1) A regulation may revoke, in whole or in part, the setting apart and declaration of land as a State forest or timber reserve.
- (2) In recommending the Governor in Council make the regulation, the Minister must—
- (a) be satisfied, having regard to the purposes of this Act and the public interest, it is desirable to make land in the State forest or timber reserve available for—
 - (i) providing accommodation or recreational facilities for encouraging or promoting the tourist industry; or
 - (ii) opening as a road, or applying the land for use as a road, for public use; and
 - (b) have regard to access and other matters relating to the

proper management of the remaining land in the State forest or timber reserve.

- (3) Land excluded from a State forest or timber reserve under subsection (1)—
- (a) is unallocated State land; and
 - (b) must be dealt with in a way consistent with the purpose for which the land was excluded.

32AA Chief executive to notify chief executive (lands) of change to State forest

The chief executive must notify the chief executive (lands) of any change to the State forest under section 25, 27 or 32.

Part 3A State plantation forest

32A Declaration of land as State plantation forest

- (1) A regulation may declare a stated area of land that is a State forest to be a State plantation forest.
- (2) If land that is State plantation forest stops being a State forest or part of a State forest, the declaration of the land as a State plantation forest is taken to have been revoked.
- (3) To remove any doubt, it is declared that the declaration of land as a State plantation forest does not affect the status of the land as State forest.

32B Particular areas of conservation value to be removed from State plantation forest

Each area of land in the State plantation forest specified for a locality mentioned in column 1 of the following table in a plan mentioned in column 2 of the table stops being State

[s 32C]

plantation forest on the day specified for the area in column 3 of the table.

Column 1 Locality	Column 2 Plan	Column 3 Day area stops being State plantation forest
Palen Creek	Lots A,B,C,D & E on PLP0200	1 July 2030
Palen Creek	Lot A & B on PLP0359	1 July 2030
Mount Mee	Lot J on PLP0893	1 July 2040
Yurol	Lots D,E & I on PLP0952	1 July 2030
Oakview	Lots B & C on PLP0220	1 July 2020
Brooweena	Lot N on PLP1924	1 July 2030
Watalgan	Lot A on PLP0898	1 July 2020
Bulburin	Lot A on PLP0391	1 July 2030
Wongabel	Lots A,B,C & D on PLP0191	1 July 2050
Goodnight Scrub	Lots A,B,C,D,E,F,G & H on PLP0169	1 July 2030

Editor's note—

Copies of plans mentioned in this table may be obtained for a fee at the head office of the department in Brisbane when it is open for business.

32C Quarrying in State plantation forest

The chief executive may not get or authorise a person (other than a plantation licensee or plantation sublicensee) to get a total of 5000t or more of quarry material, in a year, from an area within a State plantation forest.

Part 4 Management of State forests, timber reserves and forest entitlement areas

33 Cardinal principle of management of State forests

- (1) The cardinal principle to be observed in the management of State forests shall be the permanent reservation of such areas for the purpose of producing timber and associated products in perpetuity and of protecting a watershed therein.
- (2) The chief executive must ensure each State forest is used and managed in the way the chief executive considers appropriate to achieve the purposes of this Act, having regard to—
 - (a) the benefits of permitting grazing in the area;
 - (b) the desirability of conservation of soil and the environment and of protection of water quality;
 - (c) the possibility of applying the area to recreational purposes.

33A Management in a wild river area

- (1) The chief executive must prepare a management plan for the management of State forests, timber reserves and forest entitlements areas in wild river areas.
- (2) In preparing the plan, the chief executive must—
 - (a) have regard to any relevant code of practice approved under section 44A; and
 - (b) ensure the plan is not inconsistent with the wild river declarations for the areas.

34 Use of State forests

- (1) The chief executive in addition to all other powers conferred by this Act may from time to time for the purposes of the use and management of State forests—

[s 34]

- (a) determine and cause to be put into operation the silvicultural system most suitable to the circumstances of any State forest;
 - (b) make surveys including aerial and assessment surveys;
 - (c) subject to the provisions of subsection (2), determine, in relation to the period specified in the determination, the maximum quantities of forest products of any kind or description which may be removed from any State forest or State forests during such period without impairing the permanent productive capacity of the State forest or State forests in question, and any such determination may from time to time be altered, varied or rescinded;
 - (d) make roads and tracks thereon;
 - (e) undertake and carry out nursery operations thereon;
 - (f) undertake, carry out and maintain thereon protection works of every kind and description whatsoever;
 - (g) purchase, hire or rent plant, equipment, means or rights of access, or any other thing which the chief executive deems necessary;
 - (h) construct, build, erect, operate, or place thereon buildings, structures and other improvements (including but without limiting the generality hereof bridges, fences, fire lookouts, fire sheds, garages, houses, jetties, nurseries, offices, ranches, radio stations, storerooms, water supplies, wharves, workshops, workers' accommodation and telephone lines) and may furnish, equip, repair, improve and maintain the same;
 - (i) let or lease any buildings, structures or other improvements thereon on such terms and conditions as the chief executive deems fit;
 - (j) promote and encourage the use of a State forest or any part or parts thereof for recreational purposes.
- (2) Any determination thereof by the chief executive of the maximum quantities of forest products of any kind or description which may be removed from any State forest or

State forests during any specified period or any alteration, variation or rescission of any such determination shall be subject to the approval of the Minister.

- (2A) Upon the approval of any such determination, or any alteration or variation thereof, forest products of any kind or description specified in the determination shall not during the period specified therein be removed from the State forest or State forests in question in excess of the maximum quantities thereof specified in the determination or, in the case of any alteration or variation thereof as aforesaid, in the determination as so altered or varied.
- (2B) Subsections (1)(a) and (c), (2) and (2A) do not apply to natural resource product in a licence area.
- (3) Notwithstanding any lease, licence, permit or other right or authority (other than a plantation licence) granted under this or any other Act, the chief executive may within any State forest from time to time construct, carry out, improve, maintain, operate, protect, control, and otherwise manage any silvicultural or other works of any description whatsoever which the chief executive considers necessary or desirable for the proper utilisation and management of the State forest or to carry out the objects and purposes of this Act (whether in relation to the State forest or not).

34AA Regulation of use of State forests by notices

- (1) The chief executive may authorise the erection or display in relation to a State forest or a part of a State forest of notices for the purpose of regulating or prohibiting—
- (a) the use of the State forest or that part of the State forest by persons; or
 - (b) the use in the State forest or that part of the State forest of vehicles or vehicles included in a specified class of vehicles; or
 - (c) the bringing into the State forest or that part of the State forest of animals or animals included in a specified class of animals.

[s 34AB]

- (2) Without limiting the generality of subsection (1), the chief executive may authorise the erection or display of regulatory notices in the form of official traffic signs.
- (3) A regulatory notice—
 - (a) may be erected or displayed within, or at or near the entrances to, the State forest or the part of the State forest to which the notice relates; and
 - (b) must specify or indicate a particular requirement or particular requirements to be complied with by persons entering, or in, the State forest or that part of the State forest; and
 - (c) may expressly state that a contravention of a requirement contained on the notice constitutes an offence against this Act.
- (4) A regulatory notice referred to in subsection (2) is, for the purposes of subsection (3)(b), taken to contain the direction or indication given by the corresponding official traffic sign.
- (5) A person must not knowingly or recklessly contravene or fail to comply with a requirement contained on a regulatory notice.
- (6) Evidence that a regulatory notice was erected or displayed at a place referred to in subsection (3)(a) is evidence that the notice was so erected or displayed with the authority of the chief executive.

34AB Display in State forests of information notices in conjunction with regulatory notices

- (1) Where a regulatory notice is erected or displayed in relation to a State forest or a part of a State forest and the notice does not contain the statement referred to in section 34AA(3)(c), the chief executive—
 - (a) must cause to be erected or displayed at or near the entrances to the State forest or that part of the State forest; and

-
- (b) may cause to be erected or displayed at such other places within the State forest as the chief executive considers appropriate;

notices that expressly state that a contravention of a requirement contained on the regulatory notice constitutes an offence against this Act.

- (2) The chief executive must take reasonable steps to ensure that, while regulatory notices of the kind referred to in subsection (1) continue to apply in relation to a State forest or a part of a State forest, State forest information notices—

- (a) continue to be erected or displayed under subsection (1)(a); and

- (b) are properly maintained.

- (3) A State forest information notice, in addition to containing the statement referred to in subsection (1), may contain such other information relating to the State forest or the use of the State forest by persons as the chief executive considers appropriate.

- (4) In this section—

regulatory notice means—

- (a) a notice referred to in section 34AA(1); and

- (b) a notice referred to in section 34G(1);

other than a notice in the form of an official traffic sign.

34A Specialised management within State forests

The Governor in Council may, by regulation—

- (a) declare the whole or a part of a State forest, other than a State plantation forest, to be a feature protection area, scientific area or State forest park; or

- (b) declare a part of a State forest, other than a State plantation forest, to be a forest drive.

[s 34B]

34B Application of Transport Operations (Road Use Management) Act 1995

For the *Transport Operations (Road Use Management) Act 1995*, a feature protection area, scientific area, State forest park or forest drive is taken not to be a public place.

34C Feature protection area

The chief executive—

- (a) must ensure a feature protection area is used and managed so that the features thereof which gave rise to its declaration as such under this Act continue to exist;
- (b) may provide roads and paths for the purpose of enabling persons generally to travel to, within and from a feature protection area;
- (c) may provide picnic and other facilities for the use of persons generally within a feature protection area.

34D State forest park

The chief executive—

- (a) must ensure a State forest park is used and managed with a view to maintaining its forest setting;
- (b) shall provide roads and paths for the purpose of enabling persons generally to travel to, within and from a State forest park;
- (c) shall provide such recreational facilities as to the chief executive seem appropriate in a State forest park;
- (d) may cause to be erected and maintained at each entrance to and also within a State forest park such number of signs as to the chief executive seem desirable showing details of the recreational activities for which facilities are available within the park.

34E Scientific area

- (1) The chief executive—
 - (a) must ensure a scientific area is used and managed to preserve it as a sample of the natural environment of the State forest concerned;
 - (b) may permit persons, who in the chief executive's opinion are suitably qualified, to study the nature and environment of a scientific area;
 - (c) may carry out or allow to be carried out in any scientific area any works which the chief executive considers necessary or desirable.
- (2) Permission given pursuant to subsection (1)(b) shall be in writing and may be given subject to such provisions, reservations and conditions as the chief executive considers appropriate.
- (3) A person who contravenes or fails to comply with a provision, reservation or condition of a permit given to the person pursuant to subsection (1)(b) commits an offence.

34F Forest drive

The chief executive—

- (a) shall provide upon a forest drive a road for the purpose of enabling persons generally to travel along the route of the forest drive;
- (b) may provide on a forest drive such facilities as to the chief executive seem desirable for the use and enjoyment of persons generally;
- (c) may cause to be erected and maintained within a State forest such number of signs as to the chief executive seem desirable with a view to informing persons generally of the existence and route of a forest drive.

34G Regulating movement of vehicles on feature protection areas etc.

- (1) The chief executive may, by erecting a notice or notices on or adjacent to any feature protection area, State forest park or forest drive, regulate and prohibit the movement of vehicles thereon.
- (1A) A notice erected under subsection (1) may be in the form of an official traffic sign and, in such a case, is taken to contain a provision that is the same as the direction or indication given by the corresponding official traffic sign.
- (2) A person who fails to comply with or contravenes a provision of a notice mentioned in subsection (1) commits an offence.
- (2A) Evidence that a notice was erected on or adjacent to a place referred to in subsection (1) is evidence that the notice was so erected by the chief executive.
- (3) Section 73(1)(e) does not apply to a person who traverses a State forest or part thereof that is a feature protection area, State forest park or forest drive.
- (4) A person shall not on any feature protection area, State forest park or forest drive—
 - (a) drive or ride a vehicle—
 - (i) in any manner that would cause that vehicle to swerve, veer or turn violently without reasonable cause;
 - (ii) at such speed or in such other manner as may endanger himself or herself or endanger or inconvenience any other person;
 - (iii) in such a manner that an unreasonable amount of damage (having regard to the conditions existing at the time) is caused to any part of the feature protection area, State forest park or, as the case may be, forest drive;
 - (b) use a vehicle in such a manner as is likely to cause annoyance to any person.

34H Self-registration camping areas

- (1) The chief executive may authorise the erection or display in, or at or near the entrances to, a State forest of a notice or notices indicating that the State forest, or the specified part of the State forest, is, during the specified period or periods, a self-registration camping area.
- (1A) A State plantation forest, or part of a State plantation forest, can not be a self-registration camping area.
- (2) A self-registration camping notice—
 - (a) must, in relation to the use of camping forms, indicate, in general terms, the procedures to be followed by persons proposing to camp in the self-registration camping area; and
 - (b) must, if applicable, specify the maximum number of persons authorised to camp in the self-registration camping area under the authority of a single permit; and
 - (c) must specify the maximum period for which camping is authorised in the self-registration camping area; and
 - (d) must specify any requirements relating to—
 - (i) the maximum number of persons authorised to camp on; or
 - (ii) the maximum number of permits that may apply in relation to;
a single camp site in the self-registration camping area; and
 - (e) must specify the amount of the camping fee prescribed by the regulations in relation to camping in the self-registration camping area; and
 - (f) must indicate the effects of camping in a State forest without a permit; and
 - (g) may contain such other information relating to camping in the self-registration camping area as the chief executive considers appropriate.

[s 35]

- (3) The chief executive is to make available in a self-registration camping area in a prominent position and at a place that is readily accessible, and take reasonable steps to ensure that there continues to be so available—
 - (a) forms for use in relation to self-registration camping areas; and
 - (b) a sealed, secure container for the deposit of—
 - (i) the appropriate completed parts of camping forms; and
 - (ii) camping fees.
- (4) A form for use in relation to a self-registration camping area—
 - (a) is to be in a form approved by the chief executive; and
 - (b) is to comprise 2 detachable parts, one part being an envelope that is designated as the part required to be dealt with in the manner referred to in section 35A(1)(b) and the other part being designated as the part required to be dealt with in the manner referred to in section 73A; and
 - (c) must indicate the procedures to be followed by a person in relation to the use of the form; and
 - (d) must contain on the part of the form comprising the envelope a section for use for credit card payments of camping fees; and
 - (e) may contain such other information relating to—
 - (i) the use of the form; or
 - (ii) camping in a self-registration camping area; as the chief executive considers appropriate.

35 Granting of permit for land within State forest

- (1) With respect to any land comprised in any State forest the chief executive may from time to time grant, subject to such

provisions, reservations and conditions as the chief executive thinks fit—

- (a) permits to occupy for a term fixed by the chief executive but not exceeding 7 years (*occupation permits*), but so that the area in respect whereof any such occupation permit is granted shall not exceed 10ha; or
 - (b) permits to camp; or
 - (c) permits to graze stock (*stock grazing permits*) for a term fixed by the chief executive that—
 - (i) generally—is no more than 7 years; or
 - (ii) if the permit is for land in an SEQFA forest reserve—ends no later than 31 December 2024; or
 - (d) permits for apiary sites for a term fixed by the chief executive (*apiary permits*).
- (2) If the term of an occupation permit or stock grazing permit, other than a stock grazing permit for land in an SEQFA forest reserve, has been fixed at less than 7 years the chief executive may, from time to time, extend the same for such term as the chief executive thinks fit but so that the term originally fixed and any extension or extensions thereof shall not, in the aggregate, exceed 7 years.
- (2A) If a plantation licensee, plantation sublicensee, plantation manager or plantation officer (the *decision maker*) exercising power delegated to the decision maker under section 96B makes a decision under subsection (1) or (2), the decision maker must advise the applicant for the permit or the extension of the permit that the applicant may apply for a review of the decision under section 83A within 28 days if the applicant is dissatisfied with the decision.
- (3) The chief executive may extend the term of a stock grazing permit granted over land in an SEQFA forest reserve for a term that ends no later than 31 December 2024.
- (4) Despite subsections (1) to (3), no permit to which this section relates shall be granted or extended or subjected to any provision or condition unless the chief executive is satisfied

[s 35A]

that the objects of this Act would not be thereby prejudiced or opposed.

Special leases of land within State forests

- (5) A term lease under the *Land Act 1994* may be granted over land in a State forest and for the purpose of this subsection such land shall be deemed to be land reserved and set apart for public purposes, and the provisions of that Act so far as they are not inconsistent with so much of this Act as relates to State forests shall extend and apply to all such special leases accordingly.
- (6) However, no such lease shall be granted or subjected to any condition unless the Governor in Council is satisfied that the objects of this Act would not be thereby prejudiced or opposed.
- (7) In this section—

SEQFA forest reserve means a forest reserve under the *Nature Conservation Act 1992* the dedication of which was in force immediately before the commencement of this definition.

35A Permit to camp in State forest taken to have been granted by chief executive

- (1) Where, in relation to a self-registration camping area, a person—
 - (a) completes a camping form in the manner indicated in the form and detaches the relevant part of the form; and
 - (b) deposits in the container provided for the purpose the part of the camping form, duly completed, required to be so deposited; and
 - (c) pays to the chief executive in accordance with subsection (4) the appropriate camping fee calculated in accordance with the details relating to camping fees specified on the self-registration camping notice;

a permit to camp is, subject to this section, taken to have been granted under section 35 in relation to that self-registration camping area for the period specified in the form to—

- (d) the person specified in the form; and
 - (e) each other person accompanying that person for the purpose of camping.
- (2) The permit is not to be taken to have been granted—
- (a) to a number of persons exceeding the number of persons referred to in the camping form; or
 - (b) to a number of persons exceeding the maximum number of persons authorised by the relevant self-registration camping notice; or
 - (c) in relation to any period during which the area is not a self-registration camping area; or
 - (d) for any period exceeding the maximum period for which camping is authorised by the relevant self-registration camping notice; or
 - (e) if payment of the amount of the camping fee relating to the permit was purported to have been made by cheque and the cheque was not honoured on presentation; or
 - (f) if the person completed the credit card payment section of the camping form and the person's financial institution does not authorise the payment.
- (3) The permit is subject to any requirements contained on the relevant self-registration camping notice.
- (4) The camping fee is to be paid—
- (a) by placing in the part of the camping form comprising the envelope the amount of the fee in cash or a cheque for the amount of the fee and depositing the envelope, duly sealed, in the container provided for the purpose; or
 - (b) by properly completing and signing the section of the camping form relating to credit card payments appearing on the part of the form comprising the

[s 36]

envelope and depositing the envelope in the container provided for the purpose.

36 Dealings with respect to timber reserves

- (1) Subject to this Act, a lease or permit may be granted under the *Land Act 1994* with respect to any timber reserve or any part thereof.
- (2) For the purpose of the grant, extension or renewal of any lease authorised by this section the land to be made subject to such lease, extension or renewal shall be deemed to be land reserved and set apart for public purposes and for the purpose of the grant, extension or renewal of any licence authorised by this section the land with respect to which the licence is to be granted, extended or renewed shall be deemed to be Crown land.
- (3) A lease mentioned in subsection (1) may be granted, extended or renewed subject to conditions.

37 Particular authorities over State forest, timber reserve or forest entitlement area

- (1) The Governor in Council or the chief executive may impose provisions, reservations or conditions on the grant of a mining lease, exploration permit, mineral development licence, authority to prospect or petroleum lease under the Mining Acts, a geothermal tenure under the Geothermal Act or a GHG authority under the GHG storage Act.
- (2) In the case of any such lease, permit licence or authority over a State forest or any part thereof the lease, permit licence or authority may be so granted subject to such provisions, reservations and conditions (including conditions as to securing payment to the chief executive for any loss and any damage to the State forest and to any works thereon the property of the State) as the Governor in Council or the chief executive, as the case may be, may fix for the purpose of the protection of the State and of the State forest and all works thereon (if any) the property of the State.

-
- (2A) The Governor in Council or the chief executive, as the case may be, may, in addition to or in lieu of fixing any such conditions, require such sum to be deposited with the chief executive as will, in the Governor in Council's or chief executive's opinion, be sufficient to meet all loss or damage to the State forest and to all works thereon (if any) the property of the State by reason of the grant of the lease, permit licence or authority.
- (2B) The lessee or holder of any such lease, permit, licence or authority over a State forest or any part thereof shall be liable to the State for any loss and any damage to the State forest and to any works thereon vested in or under the control of the State by reason of the grant of the lease, permit, licence or authority and such loss or damage or loss and damage may be recovered by the State by action as for a debt in any court of competent jurisdiction or as otherwise prescribed.
- (3) The lessee or holder of any such lease, permit licence or authority over a State forest or any part thereof shall be liable to pay to the chief executive the stumps at the rate prescribed for the time being in respect of any timber cut or interfered with in or on the area of any such lease, permit licence or authority, notwithstanding that such timber may have been utilised for the purposes of such lease, permit licence or authority and notwithstanding any provisions of the Mining Acts, the Geothermal Act and the GHG Storage Act to the contrary.
- (4) The Mining Acts, the Geothermal Act and the GHG Storage Act shall be read subject to the provisions of this section.
- (5) Subsections (2B) and (3) do not limit—
- (a) the matters for which compensation is payable; or
 - (b) the amount of compensation payable; or
 - (c) the persons to whom compensation is payable;
- under the Mining Acts and the GHG Storage Act.

[s 39]

39 Interfering with forest products on State forests etc.

- (1) A person shall not interfere with, or cause to be interfered with, any forest products on any State forest, timber reserve or forest entitlement area except under the authority of and in compliance in every respect with the requirements of—
 - (a) a lease, licence, permit, agreement or contract granted or made under this Act, the *Land Act 1994*, the Mining Acts, the Geothermal Act or the GHG Storage Act; or
 - (b) a permit to light a fire on a licence area under the *Fire and Rescue Service Act 1990*, section 65.

Maximum penalty—

- (a) for a first offence—1000 penalty units; and
 - (b) for a subsequent offence—3000 penalty units.
- (2) This section does not apply to—
 - (a) a person performing duties under this Act acting in the administration of this Act; or
 - (b) a person acting under a plantation licence, plantation sublicense or related agreement or in accordance with an agreement entered into with a plantation licensee or plantation sublicensee.

39A Forest entitlement areas

- (1) The cardinal principle to be observed in the administration of forest entitlement areas shall be the utilisation and management of such areas for the production of indigenous timber and associated products in perpetuity and the chief executive must ensure forest entitlement areas are used and managed in such manner as appears to the chief executive most appropriate to achieve that purpose and, in doing so, the chief executive shall endeavour to have the person with whom there subsists at the material time an agreement made pursuant to this section participate in the protection and silviculture treatment of the timber thereon under the supervision of the chief executive.

-
- (2) In addition to all other powers conferred on the chief executive by this Act, for the purpose of using and managing a forest entitlement area the chief executive—
- (a) shall have free right of access including ingress, egress and regress, for the chief executive or persons performing functions under this Act or persons authorised by the chief executive to and from the area including rights of ingress, egress and regress in, into, over, upon, along, across and out of the area and such other part of the freeholding lease or deed of grant concerned as are agreed to by the lessee or owner of the land or, failing such agreement, as will cause in the opinion of the chief executive as little damage as possible to the land and as little inconvenience as possible to the lessee or owner thereof;
 - (b) may—
 - (i) determine and cause to be put into operation the silvicultural system most suitable in the chief executive's opinion to the circumstances of the area;
 - (ii) make or cause to be made surveys (including aerial surveys and assessment surveys) of the area;
 - (iii) determine the quantities and kinds of forest products that may be got, sold or removed from the area and the times at which the same may be got, sold or removed;
 - (iv) control, manage, work and protect the area and control, manage, work, protect, get, sell and remove forest products therein or thereon, and authorise other persons to do any of such things;
 - (v) determine and implement methods of managing, working, getting, selling or removing forest products in or on the area;
 - (vi) make on the area and on land in respect of which the chief executive has free right of access under paragraph (a) fire breaks and such formed and

[s 39A]

- unformed tracks, bridges, culverts and other works as are necessary for the management, protection and getting of forest products in or on the area;
- (vii) undertake, carry out and maintain on the area fencing and protection works of every kind and description;
- (c) may—
- (i) make an agreement with the lessee or owner of land that is or includes the area or with any person approved by the lessee or owner whereby the contracting party may participate in the protection and silvicultural treatment of the timber on the area, under the supervision of the chief executive, on the terms and conditions agreed to, which terms and conditions may provide for a sharing by the State and the contracting party of the proceeds of the sale of forest products in or on the area;
- (ii) permit the contracting party to make and effect improvements and works of development in the area with the approval of the chief executive first had and obtained and on such terms and conditions as the chief executive considers appropriate;
- (iii) permit the contracting party to do in the area such things as the chief executive approves and on such terms and conditions as the chief executive considers appropriate;
- (iv) permit the destruction by the contracting party of such trees in the area as the chief executive determines on such terms and conditions as the chief executive considers appropriate;
- (d) may, by agreement with the contracting party, cancel an agreement made pursuant to this section and make further such agreements with the person who was such contracting party and with 1 or more other persons being in each case the lessee or owner of land that is or includes the area or any part thereof or a person

approved by the lessee or owner so that each further agreement relates to a part of the area;

- (e) may cancel an agreement made with any person pursuant to this section by notice in writing given to the contracting party or in any other manner authorised by this Act, if the contracting party commits an offence or permits the commission of an offence against any provision of this Act, or fails to perform or comply with any term or condition of the agreement that binds the person whereupon (without prejudice to the operation of section 58) the rights, privileges and liabilities of the contracting party in respect of the area, that attached by reason of the person being a party to the agreement, shall cease, save for a liability on account of anything done or omitted by the person or on the person's behalf before the cancellation of the agreement.
- (3) The rights of a contracting party under an agreement made under this section and the obligation of a contracting party to perform such an agreement—
- (a) shall not attach to the land of which the contracting party is lessee or owner and shall not pass with such land;
 - (b) shall not survive the contracting party;
 - (c) shall not be capable in law of being assigned and any purported assignment thereof shall be void;
 - (d) shall cease upon the contracting party being made bankrupt or otherwise taking advantage of the law relating to bankruptcy.

39B Rights and liabilities of contracting party in respect of forest entitlement areas

A contracting party—

- (a) shall comply with all requirements of the chief executive in respect of the control, management, working and protection of the forest entitlement area, or part thereof,

[s 39C]

to which the agreement made with him or her pursuant to section 39A relates, and of the control, management, working, protection, getting, removal and sale of forest products therein or thereon;

- (b) where the agreement made with the contracting party pursuant to section 39A provides for the contracting party sharing in the proceeds of sale of any forest products in or on the forest entitlement area to which the agreement relates, shall not be entitled to any amount on account of such proceeds until the forest products concerned have been sold and the proceeds of sale are in the hands of the State;
- (c) subject to section 39A(3), shall have the rights and liabilities conferred or imposed on the contracting party by the agreement made with the contracting party pursuant to section 39A for as long as the agreement subsists.

39C Interpretation

In sections 39A and 39B—

contracting party means every party to a subsisting agreement made under section 39A in relation to a forest entitlement area, or any part thereof, or in relation to the management, control or use of such an area or part, or in relation to the forest products therein or thereon, being a person with whom the chief executive has made the agreement.

Part 6 Control and disposal of forest products and quarry material

43 Application of pt 6 to forest products from a licence area

This part does not affect the rights of a plantation licensee or plantation sublicensee to deal with natural resource product, or to get and use quarry material, under part 6D or a plantation licence or plantation sublicense.

44 Construction of other Acts etc.

- (1) Unless otherwise indicated or provided, the provisions of every other Act or law (except the *River Improvement Trust Act 1940*), and every provision (excepting this part) of this Act shall be read and construed and shall have operation and effect, subject to this part.
- (2) Furthermore every lease, licence, permit or other authority granted under any Act, whether before, on, or after the commencement of this Act, in relation to any Crown holding or any lease or other entitlement granted under the Mining Acts, the Geothermal Act or the GHG Storage Act shall be read and construed so as not to limit the operation and effect of, but so as to be subject to, this part.
- (3) However, no provision of a permit or licence under this part shall authorise or be deemed to authorise the destruction of any tree contrary to any prohibition against its destruction imposed by or pursuant to the *River Improvement Trust Act 1940*.

44A Code of practice for getting forest products in wild river areas

- (1) The chief executive may approve a code of practice for getting forest products, other than quarry material in a watercourse or lake, in a wild river area.

[s 44B]

- (2) The code must state a minimum distance either side of a wild river, or a major tributary of a wild river, within which forest products must be retained.
- (3) The code may state different minimum distances for particular forest products.
- (4) The code must not be inconsistent with achieving the purpose of the *Wild Rivers Act 2005*.

Note—

See the *Wild Rivers Act 2005*, section 3 (Purpose of Act).

44B Getting forest products in wild river areas

- (1) The chief executive must ensure that any lease, licence or permit granted, or any agreement or contract entered, for getting forest products in a wild river area requires the getting of the forest products to be in accordance with—
 - (a) the code approved by the chief executive under section 44A that applies for the area and any other requirement stated to apply in the wild river declaration for the area; or
 - (b) if a code of practice has not been approved—any relevant code stated to apply in the wild river declaration for the area.

Note—

See sections 55(2) and 56(2A).

- (2) However, if the code approved by the chief executive under section 44A for the wild river area is inconsistent with any relevant code stated to apply in the wild river declaration for the area, the code that gives a greater level of protection for the area prevails to the extent of the inconsistency.

45 Forest products etc. which are the property of the Crown

- (1) Except where otherwise expressly provided by some other Act and without prejudice to the powers of any local government had and exercisable in respect of forest products

on any road under its control which powers howsoever shall not be taken to authorise or empower the local government to sell, without the consent of the chief executive, any such forest products, it is hereby declared that in addition to all forest products on State forests and timber reserves, the following shall at all times be presumed to be the absolute property of the Crown, unless and until the contrary is proved—

- (a) all forest products and quarry material on all Crown lands;
 - (b) all forest products and quarry material on all lands granted in trusts or reserved for or dedicated to public purposes (including all roads save State-controlled roads under the *Transport Infrastructure Act 1994*);
 - (d) all quarry material—
 - (i) other than topsoil, in all leases, containing an entitlement to a deed of grant in fee simple, held under the *Land Act 1994* if granted after 31 December 1991, unless the lessee was the owner of that material at that time; and
 - (ii) in all deeds of grant containing a reservation of quarry materials under the *Land Act 1994*;
 - (e) all forest products and quarry material on all forest entitlement areas and on all Crown holdings at all times;
 - (f) all forest products or quarry material on lands the property of the Crown comprised in any lease or other entitlement granted under the Mining Acts, the Geothermal Act or the GHG Storage Act;
 - (g) commercial species of timber on a lease subject to an agreement between the Minister and a lessee for commercial timber on the land under the *Land Act 1994*.
- (2) Subsection (1) does not affect the operation of the *Mineral Resources Act 1989*, section 236.

[s 45A]

45A Owner of quarry material

A lessee is to be taken to be the owner of quarry material in respect of a lease granted under the *Land Act 1962*—

- (a) on an application, under the *Land Act 1962*, section 139 received before 5 February 1990; or
- (b) on an application, under the *Land Act 1962*, section 191 received before—
 - (i) 5 February 1990; or
 - (ii) 3 October 1991, in respect of a lease issued or a lease converted from a special lease issued—
 - (A) under the *Land Act 1962* and under an arrangement under the *Industrial Development Act 1963*, section 9; or
 - (B) before the commencement of the *Industrial Development Act 1963*—under a recommendation of the Minister administering industrial development; or
- (c) on an application, under the *Land Act 1962*, section 207 received before—
 - (i) 5 February 1990; or
 - (ii) 3 October 1991, in respect of a lease issued—
 - (A) under the *Land Act 1962* and under an arrangement under the *Industrial Development Act 1963*, section 9; or
 - (B) before the commencement of the *Industrial Development Act 1963*—under a recommendation of the Minister administering industrial development; or
 - (C) subject to a condition relating to the freeholding of the lease.

46 Sale of forest products or quarry material

- (1) The chief executive may from time to time under, subject to, and in accordance with the provisions of this part sell, on behalf of the Crown, any forest products or quarry material the absolute property of the Crown save forest products on protected areas.
- (1A) Such a sale may be made to such persons at such prices or at such rates and on such terms and subject to such conditions and reservations as the chief executive thinks fit, and unless otherwise prescribed the sale may be by auction, tender, or otherwise.
- (2) It shall be deemed to be a condition of every sale by the chief executive on behalf of the Crown of any forest products or quarry material on any land that the purchaser shall not get from the land the forest products or quarry material the subject of the sale, or any part thereof, except under the authority of and in compliance in every respect with the requirements of a sales permit for getting the forest products or quarry material.
- (3) Without limiting subsection (2), a sales permit for getting native forest hardwood sawlogs under the native forest sawlog allocation system for south-east Queensland may—
 - (a) be granted for a period of not more than 25 years; and
 - (b) provide for compensation payable to the permittee in stated circumstances; and
 - (c) require the permittee to give the State the first right of refusal to an assignment or transfer of the permit.

46A Sale of fossils and quarry materials to fossicker

- (1) This section applies to a person fossicking under a licence under the *Fossicking Act 1994* on a State forest, timber reserve or forest entitlement area (*forest land*) where fossicking is permitted under the Act.

[s 47]

- (2) If the person collects not more than 1m³ of fossils or quarry materials in a year, the State is taken to have sold the fossils or quarry materials to the person at no cost.
- (3) No royalty is payable for fossils or quarry materials mentioned in subsection (2).

47 Sale of forest products on Crown holdings or mining leases etc.

The Minister may give directions to the chief executive with respect to the selling or getting of—

- (a) forest products or quarry material on or in any Crown holding; or
- (b) forest products on or in any lease granted under the Mining Acts, the Geothermal Act or the GHG Storage Act; or
- (c) quarry material reserved in a deed of grant; or
- (d) quarry material in a freeholding lease; or
- (e) commercial species of timber subject to an agreement between the Minister and a lessee for commercial timber on the land under the *Land Act 1994*.

48 Getting or selling forest products

The chief executive may cause to be got and sold or otherwise disposed of, any forest products which are the absolute property of the Crown, other than forest products situate on a protected area, and for these purposes a person performing duties under this Act—

- (a) may enter and re-enter the land on which such forest products are situate; and
- (b) establish and carry on thereon such operations and works as the chief executive thinks fit; and

- (c) convey or cause to be conveyed any forest products to any place the chief executive considers suitable for their better disposal.

49 Power to purchase forest products

The chief executive may from time to time enter into contracts with owners of land whereon forest products or quarry material are not the absolute property of the Crown for the purchase by the chief executive of any forest products or quarry material on that land and may get, or enter into such contracts or other arrangements as the chief executive thinks fit for the getting of, such forest products or quarry material on and from that land by such means as the chief executive considers proper.

50 Contracts for the supply of forest products

The chief executive may from time to time enter into contracts, subject to such provisions and conditions as the chief executive thinks fit, for the supply by the chief executive of any forest products or quarry material.

51 Power to purchase etc. plant etc.

- (1) The chief executive may from time to time purchase, hire or rent any plant, equipment, means or rights of access, or other thing the chief executive deems necessary for the purpose of the getting and proper marketing of any forest products or quarry material, and, subject to any contract in respect thereof, may hire or otherwise make any such thing available for public use.

Power to construct roads

- (2) The chief executive may from time to time construct, improve, maintain or protect, or cause to be constructed, improved, maintained or protected, roads or other means of access necessary for the proper marketing of forest products or quarry material.

52 Power to subsidise road works

- (1) The chief executive may from time to time authorise the subsidisation of any department of the government, any local government, or any person, to the extent the chief executive thinks fit in the construction, improvement, maintenance, operation, or protection of roads or other means of access necessary for the proper marketing of any forest products or for the management of any State forest or timber reserve.
- (2) Any such subsidy may take the form of a money grant or authority to get any forest products or quarry material as specified in such authority free of charge or at concessional rates or any combination of these.

53 Interference with forest products on Crown holdings and particular entitlements

- (1) A person must not—
 - (b) destroy a tree, or get other forest products or quarry material, on a Crown holding; or
 - (c) destroy a tree, or get other forest products or quarry material, on any lands, the property of the Crown, that are included in a lease or other entitlement granted under the Mining Acts, the Geothermal Act or the GHG Storage Act; or
 - (d) destroy commercial species of timber on a lease subject to an agreement between the Minister and a lessee for commercial timber on the land under the *Land Act 1994*; otherwise than in accordance with a permit, lease, licence, agreement or contract granted or made under this Act, the *Land Act 1962*, the Mining Acts, the Geothermal Act, the GHG storage Act or another Act.

Maximum penalty—

- (a) for a first offence—1000 penalty units; and
- (b) for a subsequent offence—3000 penalty units.

-
- (2) Where on any Crown holding the destruction of any tree or the getting of any other forest products or, as the case may be, any quarry material, is prohibited by this section, then the selector, lessee, or, as the case may be, holder of that Crown holding who allows or permits that prohibited act to be done shall be deemed for the purposes of this section to have done that act and proceedings may be taken against the person and the person shall be liable as if the person had destroyed that tree or got those other forest products or that quarry material, as the case may be, whether or not proceedings are taken against any other person for destroying that tree or getting such other forest products or quarry material.

54 Interfering with forest products on Crown lands etc.

- (1) A person shall not interfere with, or cause to be interfered with, any forest products, any quarry material, or any earth or soil—
- (a) on any Crown land; or
 - (b) on any land reserved for or dedicated to public purposes (including any road, save a State-controlled road under the *Transport Infrastructure Act 1994*);
- except—
- (c) under the authority of any other Act or law; or
 - (d) under the authority of and in compliance in every respect with the requirements of a permit, lease, licence, agreement or contract granted or made under this Act.
- Maximum penalty—
- (a) for a first offence—1000 penalty units; and
 - (b) for a subsequent offence—3000 penalty units.
- (2) Nothing in this section shall derogate from or otherwise affect any of the provisions of the *Transport Infrastructure Act 1994*.

[s 54A]

54A Interfering with quarry material in deeds of grant or freeholding leases

- (1) A person must not, without lawful authority, interfere with quarry material in the land contained in—
 - (a) a deed of grant that contains a reservation of quarry materials under the *Land Act 1994*; or
 - (b) a freeholding lease.
- (2) However an owner may use quarry material taken from a deed of grant or a freeholding lease for use on the grant or lease.

55 Licences to get forest products etc.

- (1) Licences may be granted by the chief executive under, and in accordance with this Act in respect of any land comprised in—
 - (a) any State forest or timber reserve; or
 - (b) any Crown land; or
 - (c) any land reserved for or dedicated to public purposes (including any road, save a State-controlled road under the *Transport Infrastructure Act 1994*); or
 - (d) any Crown holding;for all or any of the following purposes—
 - (e) to get timber for fuel;
 - (f) to cut and split slabs, fencing material, and shingles;
 - (g) to get quarry material;
 - (h) such other purposes as may be prescribed.
- (1A) Subsection (1)(d) does not apply to material that is owned by the lessee and mentioned in subsection (1)(e), (f), (g) or (h).
- (1B) The chief executive may grant licences for the purpose of getting quarry material from—
 - (a) deeds of grant that contain a reservation of quarry materials under the *Land Act 1994*; or

- (b) freeholding leases.
- (2) If a plantation licensee, plantation sublicensee, plantation manager or plantation officer (the *decision maker*) exercising power delegated to the decision maker under section 96B makes a decision under subsection (1), the decision maker must advise the applicant for the licence that the applicant may apply for a review of the decision under section 83A within 28 days if the applicant is dissatisfied with the decision.

Licence fees

- (3) Every such licence shall be granted subject to such terms and conditions as the chief executive deems fit and shall state the purpose for which it is granted and shall be granted subject to the payment by the licensee of such fees, or other moneys as may be prescribed in relation to the materials obtained thereunder and the class to which the licence belongs.

56 Permits etc.

- (1) Subject to this Act, the chief executive shall have power and authority to grant to or make with any person, exclusively or in common with others, permits, licences, leases, or other authorities, and agreements or contracts under and for the purposes of this Act and to extend any of the same from time to time and every permit, licence, lease, authority, agreement or contract shall be granted or made or extended subject to the payment by the permittee, licensee, lessee or, as the case may be, the person with whom the agreement or contract is made of such charges, rents, purchase moneys, royalties, stumpages, fees or other moneys, and to such provisions, conditions and reservations as may be prescribed or, in so far as not prescribed, as the chief executive may determine.
- (2) However, no permit, licence, lease, other authority or agreement or contract shall be so granted or made if it is inconsistent with any existing permit, licence, lease, other authority, or agreement or contract granted or made by the chief executive in respect of the same land.

[s 57]

Public competition

- (3) Unless otherwise prescribed, every proposed permit, licence, lease, and other authority, and every proposed agreement or contract, under this Act may be by auction, tender, or otherwise howsoever according as the chief executive shall determine at the chief executive's discretion.
- (4) Subsection (5) applies if a plantation licensee, plantation sublicensee, plantation manager or plantation officer (the *decision maker*) exercising power delegated to the decision maker under section 96B makes a decision under this section.
- (5) The decision maker must advise the applicant for the permit, licence, lease, or other authority, or agreement or contract (each an *authorisation*) or the extension of the authorisation that the applicant may apply for a review of the decision under section 83A within 28 days if the applicant is dissatisfied with the decision.
- (6) In this section, a reference to an authority, agreement or contract does not include a plantation licence or plantation sublicensee.

57 Power of entry under licence or permit

- (1) A permit or licence under this Act shall confer on the permittee or, as the case may be, licensee, subject to this Act and to the conditions and reservations subject to which the permit or licence is granted, rights to enter (with such agents, assistants, plant, vehicles, animals, and equipment as are necessary for the purpose for which the permit or licence is granted) upon the land in relation to which that permit or licence is granted and upon any other Crown land or land comprised in a Crown holding in, into, over, upon and out of which it is necessary to pass for the purpose of exercising or enjoying the aforesaid rights of entry upon the land in relation to which the permit or licence is granted and to carry out on the land in relation to which the permit or licence is granted, all operations necessary for the purpose for which the permit or licence is granted.

-
- (1A) Such rights to enter shall include such right of ingress, egress, and regress in, into, over, upon and out of as may be necessary in the circumstances.
- (1B) However, the permittee or licensee shall be liable in damages for any injury done by the permittee or licensee or any of his or her agents or assistants to any cultivated land, crops, or other improvements whatsoever the property of any other person on any land over or on which the permittee or licensee so enters or passes.

Power to direct route for entry

- (2) The selector, lessee, or holder of the land, other than the land in relation to which the permit or licence is granted, may give directions regarding the route or track by or over which the permittee or licensee shall pass for the purpose of exercising the right of entry conferred by this section in relation to such land, and the permittee or licensee shall comply in all respects with any directions so given unless or until the direction is altered, varied or cancelled by a determination of the Minister under subsection (3).

Minister to determine dispute

- (3) The Minister shall have power to determine the question whether or not entry upon the land in question is necessary for the purposes of giving effect to this section, and, if the Minister decides that question in the affirmative, or if the matter of the necessity of entry is not in dispute, the question as to the route or track by or over which the right of entry shall be exercised.
- (4) The Minister, if the Minister determines that entry is necessary upon the land in question, may require the right of entry be exercised subject to such conditions and reservations the Minister deems proper and by or over such route or track as the Minister may direct.
- (5) The Minister, if the Minister determines the route or track by or over which the right of entry over the land in question shall be exercised, may require such right be exercised subject to such conditions and reservations as the Minister deems proper.

[s 58]

- (6) The Minister's determination of any such question shall be final and the terms thereof shall be complied with in all respects by the parties to the dispute.

58 Power to cancel, suspend, permit, licence etc.

- (1) Every permit, licence, lease, or other authority, and every agreement or contract granted or made under this Act shall be deemed to be granted or made subject to the power of the chief executive to cancel or suspend, according to the chief executive's discretion, that permit, licence, or other authority, or to forfeit that lease, or to cancel that contract or agreement on the failure by the holder of the permit, licence, or lease or other authority, or, as the case may be, the person with whom the agreement or contract is made, or the assignee of any such person, to comply with any provision of this Act or of the *Fire and Rescue Service Act 1990*, part 7, or with any provision, condition, or restriction subject to which the same was granted or, as the case may be, made.
- (1A) The fixing of any condition for any agreement, contract, permit, licence, lease, or other authority with respect to payment for money due to the State whether in respect of the sale of any forest products or quarry material or in respect of any royalty or stumpage on any forest products or quarry material or as compensation for any loss or any damage resulting from the acts or omissions of the permittee, licensee, lessee or holder or, as the case may be, the person with whom the agreement or contract is made or the assignee of any such person or otherwise howsoever, or any failure to observe or enforce that condition or any part thereof shall not prejudice or otherwise affect the recovery by the State of all money owing to the State by that permittee, licensee, lessee or holder or, as the case may be, the person with whom the agreement or contract is made or the assignee of any such person and with respect to which that condition was fixed.

Cancellation or suspension of agreements etc.

- (1B) The chief executive may forfeit any lease, or cancel or suspend any agreement, contract, permit, licence, or other

authority granted or made under this Act for failure by the holder of that lease, permit, licence, or other authority or, as the case may be, the person with whom the agreement or contract is made or the assignee of any such person to comply with any provision, condition, or restriction subject to which the same was granted notwithstanding that such holder or, as the case may be, the person with whom the agreement or contract is made or the assignee of any such person has not been proceeded against for any offence constituted by such failure.

Power to suspend conditions of agreements

- (2) The chief executive may, in the case of any agreement, contract, permit, licence, lease, or other authority granted or made under this Act, suspend on such conditions and for such periods as may be prescribed, or in so far as are not prescribed as the chief executive may determine, the obligations of the holder or, as the case may be, the person with whom the agreement or contract is made or the assignee of any such person thereof to observe any provisions or conditions subject to which the same is or is deemed to be granted or made, except the obligation for payment of any moneys thereunder.

Suspension of agreements etc. during fire hazard

- (3) Where the chief executive is of the opinion that a state of high fire hazard exists in the whole or part of any State forest, the chief executive may, by notice in writing, suspend for such period as the chief executive deems expedient, any agreement, contract, permit, licence, or other authority made or granted under this Act in relation to the State forest or part thereof in question.
- (3A) Notwithstanding the provisions of subsection (4), the period during which such agreement, contract, permit, licence, or other authority would ordinarily remain in force shall be extended for a period equal to the period of such suspension.

Effect of suspension of agreement etc.

- (4) Suspension under this Act of any agreement, contract, permit, licence, or other authority—

[s 58]

- (a) shall, whilst such agreement, contract, permit, licence, or other authority is so suspended, have the same effect as the cancellation thereof; and
- (b) (if the period of such suspension is less than the period during which that agreement, contract, permit, licence, or other authority ordinarily would have remained in force) shall not, unless the chief executive otherwise directs, upon the termination of that suspension, extend the period during which that agreement, contract, permit, licence, or other authority thereafter remains in force beyond the period during which that agreement, contract, permit, licence, or other authority would have remained in force if it had not been suspended.

Rights to cease on forfeiture

- (5) On forfeiture of a lease or cancellation of an agreement, contract, permit, licence, or other authority, the lease, agreement, contract, permit, licence, or other authority affected thereby and, unless otherwise determined by the chief executive, all rights, interests, and privileges thereunder shall absolutely cease and determine.

Cancellation, suspension may be published in gazette

- (6) Without limiting the mode of forfeiting a lease or cancelling or suspending an agreement, contract, permit, licence, or other authority, any lease may be forfeited and any agreement, contract, permit, licence, or other authority may be cancelled or suspended by notice published in the gazette.

No compensation on forfeiture

- (7) When under this Act a lease is forfeited or an agreement, contract, permit, licence, or other authority is cancelled or suspended, the person to or with whom that lease, agreement, contract, permit, licence, or other authority was granted or made shall not be entitled to claim or receive any compensation in respect of such forfeiture, suspension, or cancellation, or any expense the person may have incurred in acting or with a view to taking action under that lease, agreement, contract, permit, licence, or authority.

- (8) Subsection (7) does not prevent the payment of compensation for suspension or cancellation of a sales permit in particular circumstances if the permit provides for compensation to be paid in the circumstances.
- (9) In this section, a reference to an authority, agreement or contract does not include a plantation licence or plantation sublicense.

59 Transfer of permits etc.

- (1) No lease, agreement, contract, permit, licence, or other authority granted or made under this Act shall be assigned or transferred, except with the consent in writing of the chief executive.

Surrender of permits etc.

- (2) The chief executive may accept a surrender, on such conditions as the chief executive may determine, of any lease, agreement, contract, permit, licence, or other authority granted under this Act.
- (3) In this section, a reference to an agreement, contract or other authority does not include a plantation licence or plantation sublicense.

60 Failure to comply with provisions of lease etc.

- (1) Any person who fails to comply in any respect with any provision, condition, or restriction subject to which any lease, agreement, contract, permit, licence, or other authority is granted or made under this Act shall be guilty of an offence against this Act.
- (2) This section shall be in addition to and not in diminution of or in substitution for any other provision of this Act.
- (3) In this section, a reference to an agreement, contract or other authority does not include a plantation licence or plantation sublicense.

[s 61]

61 Removal of forest products

- (1) All forest products and quarry material obtained under the authority of an agreement, contract, permit, licence, or authority granted or made under this Act shall be removed from the area to which the agreement, contract, permit, licence, or authority applies during the currency of such agreement, contract, permit, licence, or authority, on such conditions (if any) as the chief executive may deem fit to impose and are specified in the agreement, contract, permit, licence, or, as the case may be, authority.
- (1A) However, the chief executive may grant an extension or further extension of the time as aforesaid for the removal of the forest products or quarry material in which event the same shall be removed before that extended time expires.
- (2) Any forest products and quarry material not removed as required by subsections (1) and (1A) shall be deemed to be forfeited to the Crown.
- (3) A person shall not without the written authority of a forest officer remove from any land any forest products or quarry material got under the authority of any agreement, contract, permit, licence, or other right or authority granted or made under this Act without previously paying the proper royalty, stumpage or other fees or charges (if any) payable in respect thereof.
- (4) All forest products and quarry material sold, cut, or got, upon which any purchase moneys, royalties, stumpages or charges are payable under this Act, shall, until payment thereof, remain the property of the Crown, and may be seized and detained or removed by any forest officer until such purchase moneys, royalties, stumpages and charges have been paid, and in default of payment within 1 month of seizure may, by direction of the Minister, be disposed of.
- (5) The Crown's interest under subsection (4) in forest products and quarry material—
 - (a) is declared to be a statutory interest to which section 73(2) of the *Personal Property Securities Act 2009* (Cwlth) applies; and

-
- (b) has priority over all security interests in relation to the forest products and quarry material.
- (6) In this section—
- security interest* has the meaning given by the *Personal Property Securities Act 2009* (Cwlth), section 12.

Part 6A Quarry material in deed of grant or freeholding lease

61B Interpretation

In this part—

permit means—

- (a) a permit for the sale of quarry material in a deed of grant or freeholding lease; or
- (b) a licence to remove quarry material in a deed of grant or freeholding lease.

61C Entitlement under permit

- (1) A permit does not authorise a person to enter the surface of land of an owner that is—
 - (a) within 200m laterally of—
 - (i) a dwelling house, or other building (not of a temporary nature) on that land, principally used for accommodation of persons or the conduct of business; or
 - (ii) a building (not of a temporary nature) on that land used for community, sporting or recreational purposes or as a place of worship; or
 - (b) within 100m laterally of—

[s 61D]

- (i) a principal stockyard or a dam, bore or artesian well of that owner or other artificial water storage of that owner connected to a supply of water; or
- (ii) a cemetery or burial place;

except with the written consent of the owner of the land lodged with the chief executive.

(2) In this section—

building means a fixed structure that is wholly or partly enclosed by walls and is roofed.

dwelling house means a fixed structure that is wholly or partly enclosed by walls and is roofed.

61D Withdrawal of consent

Consent mentioned in section 61C may only be withdrawn by the giving of written notice to—

- (a) the holder of the permit; and
- (b) the chief executive.

61E Provision of security

- (1) A permit must not be granted until the applicant deposits the security (if any) determined by the chief executive to ensure compliance with the permit and this Act.
- (2) The security must cover any damage to land or improvements that may be caused by a person acting under the authority of the permit.
- (3) The owner of land may apply in writing to the chief executive to rectify the damage mentioned in subsection (2) that has been caused by activity allegedly authorised under a permit in respect of the land.
- (4) If the chief executive is satisfied (whether or not on an application referred to in subsection (3)) that damage mentioned in subsection (2) has been caused by a person purporting to act under the authority of a permit, the chief

executive must require the person to take all action necessary to rectify the damage.

- (5) The chief executive may, at any time (whether during or after the term of a permit and whether or not the chief executive cancels the permit), use the whole or part of the amount of the security deposited in respect of the permit—
 - (a) to rectify any damage mentioned in subsection (4); or
 - (b) towards payment of amounts (including penalties) owing to the Crown under this Act or for a breach of any of the conditions of the permit or of this Act.
- (6) If, at any time (whether during or within 28 days after the term of a permit)—
 - (a) the amount or part of the amount deposited under this section is used as provided by subsection (5); or
 - (b) the chief executive considers that, because of the damage caused or likely to be caused by a person purporting to act under the authority of the permit or for any other reason, a further amount of security should be deposited in respect of the permit;

the chief executive must, by written notice, require the holder or former holder of the permit to deposit the further security within the time specified in the notice.

- (7) The chief executive may accept a bond or guarantee by, or other financial arrangement with, a financial institution, insurance company or another credit provider approved by the chief executive, or another form of security acceptable to the chief executive, as the whole or part of the security to be deposited under this section.
- (8) It is a condition of a permit that the holder must deposit security or further security from time to time in accordance with requirements made under this section.
- (9) Subject to subsection (5), if a permit has ended or been terminated, the chief executive must refund to the holder of the permit (or as the holder in writing directs) any security deposited, and not used as provided by subsection (5), less

[s 61F]

any amount determined by the chief executive to be used after—

- (a) the receipt by the chief executive of written agreement by the owners of all occupied land so specified; or
 - (b) the expiration of 28 days from the date of expiration or termination of the permit, whichever first occurs.
- (10) For the purposes of subsection (9)(a), if more than 1 person is the owner of a parcel of land, the agreement of 1 such person is, in the absence of evidence to the contrary, taken to be the agreement of those persons.
- (11) If the chief executive accepts a bond or guarantee by, or another financial arrangement with, a financial institution, insurance company or another credit provider as security under this section, an amount payable to the holder under subsection (9) is to be refunded to the financial institution, insurance company or credit provider and not to the holder of the permit to which the security relates.
- (12) In this section—
credit provider see the National Credit Code.

61F Compensation

- (1) Despite section 61E, the Crown or an owner is entitled to recover in the Land Court compensation in respect of damage or injury suffered or loss incurred because of a person acting or purporting to act under the authority of a permit.
- (2) Amounts paid under section 61E in respect of rectification of damage the subject of the proceeding must be taken into account in assessing compensation.
- (3) The holder of a permit is not liable under this section in respect of damage or injury or loss caused by a person who is not authorised by the holder to be on the land the subject of the permit.

61G Prior notice of entry to be served

- (1) The holder of a permit is to notify the owner of occupied land (other than a reserve for a road) of the holder's intention to enter the land at least 7 days before initial entry is made under the authority of a permit.
- (2) The owner of the land may, by an endorsement on the application for the permit or the permit, agree to a shorter period of notice.

61H Appeal to Land Court

- (1) The Land Court is authorised to hear and determine matters under this part.
- (2) Application may be made to the Land Court for it to settle the amount of compensation payable to an owner of the land for—
 - (a) deprivation of possession of the surface of land; and
 - (b) diminution of the value of land or improvements; and
 - (c) diminution of the use made, or that may be made, of land or improvements; and
 - (d) severance of part of land from other parts or from other land; and
 - (e) surface rights of access; and
 - (f) loss or expense because of the grant or renewal of a permit.

61I Appeal against Land Court's determination

The *Land Act 1962*, section 44, as continued by the *Land Act 1994*, applies to a party aggrieved by a determination of the Land Court made under section 61H.

Part 6B Natural resource products

61J Agreement about natural resource products

- (1) The owner of land may enter into an agreement with another person (the *benefited person*) about a natural resource product on the land.
- (1A) However, if the land is land held under the *Land Act 1994*, the owner may enter into an agreement only if the natural resource product is owned by the owner as an improvement, within the meaning of that Act, on the land.
- (2) If the land is mortgaged, the owner may only enter into the agreement with the mortgagee's consent.
- (3) The agreement may do 1 or more of the following—
 - (a) vest all or part of the natural resource product in the benefited person;
 - (b) grant the benefited person the right to enter the land to do either or both of the following—
 - (i) establish, maintain or harvest the natural resource product;
 - (ii) carry out works or activities for the natural resource product;
 - (c) grant the benefited person the right to deal with the natural resource product.
- (5) The benefited person's rights to the natural resource product under the agreement are a profit a prendre for the *Land Act 1994* or the *Land Title Act 1994*.

Editor's note—

See the *Land Act 1994*, chapter 6, part 4, division 8B (Profits a prendre) or the *Land Title Act 1994*, part 6, division 4B (Profits a prendre).

- (6) This section does not limit the owner's power to enter into an agreement about the natural resource product.
- (7) In this section—

land means—

- (a) land held under the *Land Act 1994* under a lease that allows the land to be used for agricultural or timber plantation purposes; or
- (b) land held under the *Land Title Act 1994*.

natural resource means a tree or vegetation.

owner means—

- (a) for land held under the *Land Act 1994*—the lessee of the land; or
- (b) for land held under the *Land Title Act 1994*—the registered owner of the land.

Part 6D Plantation forestry

Division 1 Preliminary

61Q Definitions for pt 6D

In this part—

compensation event see section 61RH(1).

plantation forestry, in relation to a licence area, means—

- (a) the production, on the licence area on an ongoing basis, of natural resource product in the form of plantation timber for commercial purposes; and

Examples—

- planting, maintaining and felling trees for sale
- selling carbon storage or carbon sequestration rights in plantation timber
- selling rights to harvest timber

[s 61QA]

- (b) the management of the licence area in a way consistent with sustainable management practices for plantation forests that are generally accepted in the Australian plantation forestry industry at the relevant time.

relevant State land means all land (including roads and reserves), other than freehold land or land contracted to be granted in fee simple by the State.

Division 2 Plantation licences

61QA Agreements to deal with natural resource product etc.

- (1) The Minister may grant a corporation the right to deal with natural resource product on specified State plantation forests or specified parts of State plantation forests for the purpose of plantation forestry and for incidental purposes under this Act by entering into an agreement (*plantation licence*) with the corporation (*plantation licensee*).
- (2) Without limiting subsection (1), a plantation licence may contain terms dealing with the following matters—
- (a) the grant to the plantation licensee of an exclusive right to deal with, including get and sell, natural resource product in the licence area;
 - (b) the grant to the plantation licensee of a right to get and use quarry material from the licence area;
 - (c) the plantation licensee's right to enter and remain in, and use, the licence area;
 - (d) the plantation licensee's right to make roads and tracks in the licence area;
 - (e) the management of particular areas in the licence area, including by restricting or excluding the exercise of rights mentioned in paragraphs (a) and (b) in the areas;

Examples of particular areas—

- native forest areas that border plantation areas and protect them against fire

- native forest areas and grassed areas that border and protect watercourses
 - unformed plantation forest roads
- (f) the rehabilitation of land that is, or is to be, removed from the licence area.
- (3) The plantation licence is valid, binding and enforceable according to its terms despite not having been registered.
- (4) The Minister can not enter into more than 1 plantation licence over the same area.
- (5) No fee is payable under this Act in relation to a plantation licensee's right to get and use quarry material under its plantation licence.
- (6) If, after a plantation licence is entered into, land forming part, or all, of the licence area for the plantation licence stops being State plantation forest, the land also stops being licence area.
- (7) To remove any doubt, it is declared that a right of a plantation licensee to enter and remain in, and use, the licence area under a plantation licence is not a right of exclusive possession and, subject to this Act, is coextensive with the lawful rights of members of the public and others to enter and remain in, and use, the licence area.

61QB Related agreements

- (1) The chief executive, the chief executive (fire) or the fire commissioner (individually or in any combination) may enter into 1 or more agreements (*related agreements*) with a plantation licensee or a plantation sublicensee about operational and other matters relevant to the use, maintenance and management of the licence area.
- (2) Without limiting subsection (1), a related agreement may contain terms dealing with the following matters—
- (a) fire control;
 - (b) pest control;

[s 61QC]

- (c) constructing and maintaining roads and tracks in the licence area and other access roads;
- (d) getting and using quarry material from the licence area;
- (e) arrangements relating to access over relevant State land as mentioned in section 61QL.

61QC Plantation licence is an interest in land

It is declared that a plantation licence is in the nature of a profit a prendre and it and a plantation sublicense confer an interest in land.

61QD Sale of natural resource product

A plantation licence or plantation sublicense may confer on a plantation licensee or plantation sublicensee a right to contract with other persons for the sale of natural resource product from the licence area.

61QE Statutory obligations

- (1) Without limiting any other obligations of a plantation licensee under this Act, the plantation licence or a related agreement, the plantation licensee has the following obligations—
 - (a) to use the licence area for the purpose of plantation forestry;
 - (b) to not interfere with the lawful use of the licence area by members of the public and others unless it is reasonably required for the plantation licensee's use of the licence area for the purpose of plantation forestry or an incidental purpose.

Examples of when interfering with use of the licence area might be reasonably required—

- to protect persons from injury when tree felling in the licence area
- to protect an area of young trees at risk of damage because of careless behaviour or general use of the area

- to protect unformed roads and tracks from traffic damage after heavy rain
- (2) The chief executive may require a plantation licensee to report to the chief executive at any time about the plantation licensee's obligations, or a particular aspect of the plantation licensee's obligations, under subsection (1).
 - (3) Nothing in this section requires a plantation licensee to plant trees on an area shown in a plan mentioned in section 32B or on an unformed plantation forest road.

61QF Rights under a plantation licence

- (1) A right conferred on a plantation licensee under this Act, the plantation licence or a related agreement may be exercised by the plantation licensee's employees, agents, contractors, customers and invitees.
- (2) Subsection (1) is subject to a contrary intention expressed or implied in this Act, the plantation licence or related agreement.
- (3) In this section—
right does not include the performance of a function delegated under section 96B.

61QG Appointment of plantation manager

A plantation licensee may, with the Minister's written approval, appoint a person as the plantation manager for the licence area or a part of the licence area.

61QH Acts and omissions of plantation sublicensee or plantation manager etc.

- (1) Subsection (2) applies if any of the following persons does an act or makes an omission that if done or omitted to be done by a plantation licensee would be a contravention of an obligation of the plantation licensee under this Act, the plantation licence or a related agreement—

[s 61QI]

- (a) a plantation sublicensee;
 - (b) a plantation manager;
 - (c) an employee, agent, contractor, customer or invitee of a plantation licensee, plantation sublicensee or plantation manager.
- (2) The act or omission is taken also to be the act or omission of the plantation licensee.

61QI Plantation licence may be transferred

- (1) A plantation licensee may transfer its rights and obligations under a plantation licence to another corporation (*new licensee*) only with the Minister's written approval.
- (2) A transfer of a plantation licence is effective, on its registration, to transfer the obligations of the plantation licensee under the plantation licence to the new licensee despite any rule of law to the contrary.
- (3) To remove any doubt, it is declared that part of a plantation licence can not be transferred.

Note—

See division 7 for provisions about the division of a plantation licence.

- (4) If the Minister decides to refuse to approve the transfer, the plantation licensee must be given a written notice of the decision and the reasons for it.

61QJ Related agreements may be transferred

- (1) A plantation licensee that transfers its rights and obligations under a plantation licence to another corporation (*new licensee*) as provided under section 61QI may also transfer a related agreement to the new licensee—
 - (a) with the chief executive's approval; and
 - (b) if permitted under the plantation licence and the related agreement.

- (2) A transfer of a related agreement in accordance with subsection (1) is effective to transfer the obligations of the plantation licensee under the related agreement to the new licensee despite any rule of law to the contrary.
- (3) If the chief executive decides to refuse to approve the transfer of a related agreement, the plantation licensee must be given a written notice of the decision and the reasons for it.

61QK Amending a plantation licence

- (1) A plantation licence may be amended only with the Minister's written approval.
- (2) However, the amendment must not add a party to or remove a party from the plantation licence.
- (3) The Minister may—
 - (a) refuse to approve the amendment; or
 - (b) approve the amendment on the conditions the Minister considers appropriate; or
 - (c) approve the amendment unconditionally.
- (4) If the Minister decides not to approve the amendment, the Minister must—
 - (a) give the plantation licensee written notice of the decision and the reasons for the decision; and
 - (b) give any plantation sublicensee written notice of the decision.
- (5) An amendment of a plantation licence approved by the Minister must be registered.

61QL Plantation licensee's rights of access over relevant State land

- (1) The chief executive may grant to a plantation licensee the rights of access over relevant State land, and to State-owned infrastructure on relevant State land, that are necessary for the exercise of the plantation licensee's rights or to meet the

[s 61QL]

plantation licensee's obligations under this Act, the plantation licence or a related agreement.

Note—

Access rights are also exercisable by a plantation sublicensee and employees, agents, contractors, customers and invitees of a plantation licensee or plantation sublicensee. See sections 61QF and 61QP.

- (2) The access right may be granted by licence or permit, or under a related agreement, or in any other way agreed by the chief executive and the plantation licensee.
- (3) In deciding the nature and extent of an access right over relevant State land, the chief executive must consider the following matters—
 - (a) whether there is a usable road giving practical access;
 - (b) the means of access before the land became a licence area;
 - (c) the use or proposed use of the relevant State land over which access is proposed;
 - (d) whether the licence area is completely or partly surrounded by the relevant State land through which access is to be given.
- (4) If the chief executive and the plantation licensee do not agree on the grant of reasonable access rights under this section, the plantation licensee's access rights are to be decided by the Minister.
- (5) An access right given to a plantation licensee under this section is binding on, and must be given effect by, all persons having an interest in the relevant State land over which the right is given.
- (6) Nothing in this section requires the chief executive or the Minister to grant rights of access over land that is part of relevant State land if the grant of the right would be inconsistent with the rights of the holder of an interest in the land previously granted by or for the State.

61QM Unformed plantation forest roads

- (1) An unformed plantation forest road is taken to be part of the State forest, State plantation forest and the licence area for this Act and the plantation licence until the road construction date for the unformed plantation forest road.
- (2) The relevant road authority must give the chief executive at least 6 months written notice of its intention to use an unformed plantation forest road for road purposes and specify the date on which the construction of the road is to begin.
- (3) As soon as practicable after receiving notice under subsection (2), the chief executive must give written notice to the plantation licensee and any plantation sublicensee for the licence area of—
 - (a) the road authority's intention to construct a road; and
 - (b) the date specified by the road authority as the date on which the construction of the road is to begin.
- (4) An unformed plantation forest road stops being part of the State forest, State plantation forest and the licence area for this Act on the road construction date.
- (5) For the definition *unformed plantation forest road*, a dedicated road is to be taken to be within the outer boundaries of a licence area if the dedicated road—
 - (a) separates lands forming the licence area, or part of the licence area; or
 - (b) is surrounded by the licence area.
- (6) However, if a dedicated road continues beyond the licence area, the dedicated road is taken to be within the outer boundaries of the licence area only to the extent that it is within a notional boundary formed by a line drawn directly across the dedicated road at the extremities of the outer boundaries of the lands it separates.
- (7) In this section—

dedicated road means land dedicated as a road under the *Land Act 1994*.

[s 61QN]

road authority, for an unformed plantation forest road, means—

- (a) if the unformed plantation forest road is a State-controlled road—the chief executive of the department in which the *Transport Infrastructure Act 1994* is administered; or
- (b) otherwise—the local government for the local government area in which the unformed plantation forest road is situated.

road construction date, for an unformed plantation forest road, is the date specified in the written notice given to a plantation licensee and any plantation sublicensee under subsection (3)(b).

unformed plantation forest road means a dedicated road taken to be within the outer boundaries of a licence area that, immediately before the grant of a plantation licence for the licence area—

- (a) is not used by the public as a road; and
- (b) is planted with plantation timber or is otherwise used for plantation forestry.

61QN Chief executive to identify unformed plantation forest roads for s 61QM

- (1) The chief executive may, after a plantation licence is entered into, identify and record the boundaries of unformed plantation forest roads within the licence area for section 61QM.
- (2) The identification may be done in any way that is sufficient to identify the unformed plantation forest roads.
- (3) If an unformed plantation forest road is identified in a way that allows it to be included in the State digital cadastral dataset under the *Survey and Mapping Infrastructure Act 2003*, a digital graphic representation of the road and the other information required under section 46(1)(c) and (d) of that Act must be included in the dataset.

-
- (4) Until a digital graphic representation of the road and the other information is recorded in the State digital cadastral dataset, a declaration by the chief executive that land is or is not an unformed plantation forest road for section 61QM is evidence of the matter.

Division 3 Plantation sublicences

61QO Approval

- (1) A plantation licensee may grant a corporation (*plantation sublicensee*) a sublicense of its plantation licence only under this Act.
- (2) The plantation licensee grants a sublicense under this Act by entering into an agreement (*plantation sublicense*) under which all of the plantation licensee's rights under its plantation licence in relation to all or part of the licence area are granted to the plantation sublicensee for a term of years that is less than the unexpired term of the plantation licence.
- (3) However, a plantation licensee may enter into a plantation sublicense only with the Minister's written approval.
- (4) The Minister may—
- (a) refuse to approve a proposed plantation sublicense; or
 - (b) approve the entering into of the proposed plantation sublicense on the conditions the Minister considers appropriate; or
- Example of a condition—*
- that the plantation sublicensee enter into a related agreement
- (c) approve the entering into of the proposed plantation sublicense unconditionally.
- (5) If the Minister decides not to approve the entering into of the proposed plantation sublicense, the plantation licensee must be given written notice of the decision and the reasons for the decision.

[s 61QP]

61QP Rights under the plantation sublicense

- (1) If a plantation sublicense is entered into with the Minister's approval, a right conferred on the plantation licensee under this Act, the plantation licence or a related agreement is also taken to have been conferred on, and may be exercised by, the plantation sublicensee.
- (2) Without limiting subsection (1), a right conferred on a plantation sublicensee under this Act, the plantation licence, the plantation sublicense or a related agreement may be exercised by the plantation sublicensee's employees, agents, contractors, customers and invitees.
- (3) Subsection (2) is subject to a contrary intention expressed or implied in the plantation licence, plantation sublicense or related agreement.
- (4) In this section—
right does not include the performance of a function delegated under section 96B.

61QQ Appointment of plantation manager

A plantation sublicensee may, with the Minister's written approval, appoint a person as the plantation manager for the licence area or part of the licence area.

61QR Plantation sublicense may be transferred

- (1) A plantation sublicensee may transfer its rights and obligations under a plantation sublicense to another corporation (*new sublicensee*) only with the Minister's written approval.
- (2) A transfer of a plantation sublicense approved by the Minister must be registered.
- (3) A transfer of a plantation sublicense has effect, on its registration, to transfer the obligations of the plantation sublicensee under the plantation sublicense to the new sublicensee despite any rule of law to the contrary.

-
- (4) If the Minister decides to refuse to approve the transfer, the plantation sublicensee must be given a written notice of the decision and the reasons for it.

61QS Related agreements may be transferred

- (1) A plantation sublicensee that transfers its rights and obligations under a plantation sublicense to another corporation (*new sublicensee*) as provided under section 61QR may also transfer a related agreement to the new sublicensee—
- (a) with the chief executive's approval; and
 - (b) if permitted under the plantation licence, the plantation sublicense and the related agreement.
- (2) A transfer of a related agreement in accordance with subsection (1) is effective to transfer the obligations of the plantation sublicensee under the agreement to the new sublicensee despite any rule of law to the contrary.
- (3) If the chief executive decides to refuse to approve the transfer of a related agreement, the plantation sublicensee must be given a written notice of the decision and the reasons for it.

61QT Amending a plantation sublicense

- (1) A plantation sublicense may be amended only with the Minister's written approval.
- (2) However, the amendment must not add a party to or remove a party from the plantation sublicense.
- (3) The Minister may—
- (a) refuse to approve the amendment; or
 - (b) approve the amendment on the conditions the Minister considers appropriate; or
 - (c) approve the amendment unconditionally.
- (4) If the Minister decides not to approve the amendment, the Minister must give the plantation licensee and plantation

[s 61QV]

sublicensee written notice of the decision and the reasons for the decision.

- (5) An amendment of a plantation sublicense approved by the Minister must be registered.

Division 4 Mortgages

61QV Mortgages require Ministerial approval

- (1) A plantation licensee or plantation sublicensee may grant a mortgage over its rights under a plantation licence or plantation sublicense only with the Minister's written approval.
- (2) A plantation licensee or plantation sublicensee that grants a mortgage over its rights in a plantation licence or plantation sublicense with the Minister's approval may also grant a mortgage over its rights in a related agreement to the mortgagee—
 - (a) with the chief executive's written approval; and
 - (b) if not prohibited by the related agreement.
- (3) If the Minister decides to refuse to approve the grant of a mortgage over the rights of a plantation licensee or plantation sublicensee under a plantation licence or plantation sublicense, the plantation licensee or plantation sublicensee must be given a written notice of the decision and the reasons for it.
- (4) If the chief executive decides to refuse to approve the grant of a mortgage over the rights of a plantation licensee or plantation sublicensee in a related agreement, the plantation licensee or plantation sublicensee must be given a written notice of the decision and the reasons for it.

Division 5 Ownership of improvements

61QW Application of division

- (1) This division applies if—
 - (a) equipment or improvements are taken, constructed or placed on a licence area by the plantation licensee or plantation sublicensee; and
 - (b) the equipment or improvements were taken, constructed or placed on the land for the purpose of plantation forestry or an incidental purpose.
- (2) In this section—

equipment includes machinery and plant.

61QX Ownership of equipment and improvements

- (1) While the equipment or improvements are on the land, they are the property of the person who took, constructed or placed them on the land, unless that person otherwise agrees.
- (2) Subsection (1) applies despite—
 - (a) the equipment or improvements having become part of the land; or
 - (b) the sale or other disposal of the land.
- (3) This section applies despite—
 - (a) an Act or law of a State; or
 - (b) a contract, covenant or claim of right under a law of a State.

Division 6 Cancellation

61QY Show cause notice for cancellation of plantation licence

- (1) This section applies if the Minister reasonably believes that a plantation licensee is contravening its obligations under section 61QE(1) in relation to the licence area or a part of the licence area.
- (2) The Minister may give the plantation licensee a notice (*show cause notice*)—
 - (a) stating—
 - (i) the Minister proposes to cancel the plantation licence for the licence area or part of the licence area; and
 - (ii) that no compensation will be payable in relation to the cancellation; and
 - (b) stating the reasons for the proposed cancellation; and
 - (c) if the Minister proposes to cancel the plantation licence for part of the licence area, identifying the part; and
 - (d) inviting the plantation licensee to show within a stated period of at least 90 days (*show cause period*) why the plantation licence for the licence area or part should not be cancelled.

61QZ Representations about show cause notice

- (1) The plantation licensee may make written representations to the Minister about the show cause notice within the show cause period.
- (2) The Minister must consider all written representations (the *accepted representations*) made under subsection (1).

61R Ending show cause process without further action

- (1) This section applies if, after considering the accepted representations for the show cause notice, the Minister believes that the plantation licensee is complying with its obligations under section 61QE(1).
- (2) The Minister must not take any further action about the show cause notice.
- (3) The Minister must also, as soon as practicable after coming to the belief, give notice to the plantation licensee that no further action is to be taken about the show cause notice.

61RA Cancellation of plantation licence for licence area or part

- (1) This section applies if, after considering the accepted representations for the show cause notice, the Minister—
 - (a) still believes that the plantation licensee is contravening its obligations under section 61QE(1); and
 - (b) believes cancellation of the plantation licence for the licence area or part of the licence area is warranted.
- (2) This section also applies if there are no accepted representations for the show cause notice.
- (3) The Minister may decide to cancel the plantation licence for the licence area or part.
- (4) If the Minister decides to cancel the plantation licence for the licence area or part, the Minister must advise the plantation licensee of the decision as soon as practicable after making it.
- (5) The Minister must lodge with the chief executive (lands) a cancellation of a plantation licence for the licence area or part.

Note—

The chief executive (lands) may require the lodgement of a sketch plan for the cancellation. See section 61RO(5).

- (6) The chief executive (lands) must register the cancellation on the register.

[s 61RB]

- (7) To remove any doubt, it is declared that if the plantation licence for a licence area or part of a licence area is cancelled, the area or part stops being licence area.

Division 7 Surrender or division of plantation licence

61RB Surrender of plantation licence or part of a plantation licence

- (1) A plantation licensee may apply to the Minister to surrender a plantation licence or part of a plantation licence.
- (2) An application for surrender of a plantation licence or part of a plantation licence must be accompanied by the written consent of—
- (a) each registered mortgagee of the plantation licence and any plantation sublicense of the affected area; and
 - (b) any plantation sublicensee of the affected area.
- (3) The Minister may approve, or refuse, the application at the Minister's discretion.
- (4) Without limiting the Minister's discretion, the Minister may refuse the application until the affected area is rehabilitated to the Minister's satisfaction.
- (5) If the Minister approves the application, the plantation licensee must lodge with the chief executive (lands)—
- (a) a surrender of a plantation licence; and
 - (b) the written consent of all persons with a registered interest in the plantation licence.

Note—

The chief executive (lands) may require the lodgement of a sketch plan for the surrender of part of a plantation licence. See section 61RO(5).

- (6) In this section—
affected area means—

-
- (a) if the application relates to the surrender of a plantation licence—the licence area for the plantation licence; or
 - (b) if the application relates to the surrender of part of a plantation licence—the part of the licence area for the plantation licence that will be removed from the licence area if the application is approved.

61RC Application for division

- (1) A plantation licensee may apply (*application for division*) to the Minister for approval—
 - (a) to surrender part of its plantation licence (*original plantation licence*); and
 - (b) to be granted a right to deal with natural resource product, on the affected area, for the purpose of plantation forestry and for incidental purposes under this Act.

Note for paragraph (b)—

This right is granted by entering into an agreement with the Minister under section 61QA(1).

- (2) The application must be made in the approved form and be accompanied by—
 - (a) a statement of the plantation licensee’s reasons for seeking the division; and

Example of a reason—

The plantation licensee wishes to be granted a new plantation licence for the affected area and to seek approval to transfer the new plantation licence for the affected area.

- (b) evidence that the affected area is sustainable as a commercially viable forestry plantation; and
 - (c) information identifying the affected area; and
 - (d) the written consent of all persons with a registered interest in the plantation licence.
- (3) In this section—

[s 61RD]

affected area, in relation to an application for division, means the part of the licence area for the plantation licence that will be removed from the licence area if the application is approved.

61RD Deciding the application

- (1) The Minister must decide whether to approve the application for division.
- (2) In deciding the application, the Minister must be satisfied that—
 - (a) the affected area is sustainable as a commercially viable forestry plantation; and
 - (b) consents have been given by—
 - (i) each registered mortgagee of the plantation licence and any plantation sublicense of the affected area; and
 - (ii) any plantation sublicensee of the affected area.
- (3) The Minister must also consider—
 - (a) the public interest; and
 - (b) the extent to which the plantation licensee has complied with the original plantation licence.
- (4) The Minister can not approve the surrender under the application and refuse to grant the right under this Act as mentioned in section 61RC(1)(b).

61RE Approving the application

- (1) If the Minister approves the application for division, the agreement to be entered into under section 61QA(1) for the affected area must be on the same terms as the original plantation licence (other than the description of the licence area) unless otherwise agreed by the parties.
- (2) However, a proposed plantation licence for the affected area—

- (a) must not be for a term of years longer than the unexpired term of the original plantation licence; and
 - (b) may include a provision linking it and the original plantation licence in the event of default or termination.
- (3) Subsection (1) does not apply in relation to any obligation that has been fully performed by the plantation licensee under the original plantation licence.

61RF Notice of decision

- (1) If the Minister decides to approve the application for division, the Minister must give the applicant written notice of the decision.
- (2) If the Minister decides to refuse the application, the applicant must be given a written notice of the decision and the reasons for it.

61RG Minister and the plantation licensee may enter into new plantation licence etc.

- (1) If the Minister approves the application for division, the Minister must, if requested by the applicant within 3 months after the approval is given, enter into an agreement as mentioned in section 61RC(1)(b) for the affected area (*new plantation licence*).
- (2) On entering into the new plantation licence—
 - (a) the affected area stops being part of the licence area of the original plantation licence; and
 - (b) the Minister and the applicant must do everything necessary to lodge for registration a surrender of a plantation licence for the affected area.
- (3) The Minister and the applicant may also amend a related agreement or enter into a new related agreement about operational and other matters relevant to the use and maintenance of the licence areas.

[s 61RH]

- (4) The new plantation licence is subject to all relevant registered interests to which the affected area of the original plantation licence was subject with the same priorities.

Division 8 Compensation

61RH Events that are compensation events

- (1) A plantation licensee and any plantation sublicensee (each a *claimant*) may claim compensation under this division for any of the following events (each a *compensation event*) happening in relation to the licence area for the plantation licence or plantation sublicense—
- (a) an unformed plantation forest road, taken to be part of the licence area for this Act under section 61QM, stops being part of the licence area on the road construction date nominated for the road by the chief executive under that section;
 - (b) the chief executive grants, makes or extends any of the following over the licence area or part of the licence area—
 - (i) a permit under section 35(1);
 - (ii) a licence under section 55(1);
 - (iii) a permit, licence, lease, or other authority, or an agreement or contract under section 56(1);
 - (iv) a permit under section 73(2);
 - (c) a term lease, as mentioned in section 35(5), is granted over the licence area or part of the licence area under the *Land Act 1994*;
 - (d) subject to section 61RI, land forming part, or all, of the licence area stops being a licence area under section 61QA(6);
 - (e) an easement is created under an Act over land in the licence area;

-
- (f) a collection authority is issued under the *Biodiscovery Act 2004* authorising its holder to take native biological material for biodiscovery from the licence area.
- (2) Compensation is payable under subsection (1)(b), (c), (e) and (f) only if the compensation event materially and adversely interferes with the claimant's ability to use the licence area for the purpose of plantation forestry.
- (3) Also, compensation is not payable for a compensation event if the compensation event results from the exercise by a claimant, a plantation manager appointed by the claimant or a plantation officer employed by the claimant or the plantation manager of power delegated to the claimant, plantation manager or plantation officer under section 96B.
- (4) Compensation can not be claimed or paid more than once in relation to the same matter.

Example—

A plantation licensee can not claim compensation under this Act and another Act or under this Act and a Commonwealth Act in relation to the same matter.

- (5) In this section—
create includes grant, take and acquire.

61RI Events that are not compensation events

A plantation licensee or plantation sublicensee may not claim compensation under this division for any of the following events happening in relation to the licence area for the plantation licence or plantation sublicense—

- (a) land forming part, or all, of the licence area stops being State plantation forest under section 32B;

Note—

See also section 61QA(6).

- (b) the plantation licence for the licence area or part of the licence area is cancelled under section 61RA;

[s 61RJ]

- (c) the surrender of the plantation licence or part of the plantation licence under section 61RB.

61RJ Chief executive to give notice of compensation events to the plantation licensee

As soon as practicable after becoming aware of a proposed compensation event, or the happening of a compensation event, mentioned in section 61RH(1), the chief executive must give to the plantation licensee and any plantation sublicensee affected by the compensation event written notice of—

- (a) the proposed compensation event or compensation event; and
- (b) details of the extent to which the compensation event will affect, or affects, the licence area.

61RK Compensation to be assessed under applied provisions of the Acquisition of Land Act 1967 in absence of agreement

- (1) If the chief executive and the plantation licensee and any plantation sublicensee can not agree on an amount payable as compensation for a compensation event, compensation is to be assessed and decided under the *Acquisition of Land Act 1967*, part 4 (the *compensation provisions*) as applied under this section.
- (2) The compensation provisions apply as if—
 - (a) the State were the constructing authority; and
 - (b) a reference to land includes land in a licence area; and
 - (c) the plantation licensee and any plantation sublicensee were persons who have a right to claim compensation; and
 - (d) a reference to land taken were a reference to—
 - (i) if a licence area suffers a net reduction in size because of a compensation event—the land that

- stopped being part of the licence area because of the compensation event; or
- (ii) otherwise—the land in the licence area directly affected by the compensation event; and
- (e) a reference to the day the land was taken were a reference to the day the compensation event had effect in relation to the licence area; and
 - (f) a reference to the serving of a notice of intention to resume on the claimant were a reference to the giving of written notice under section 61RJ; and
 - (g) a reference to a gazette resumption notice were a reference to the document under which the licence area is, or is to be, reduced or affected by the compensation event.
- (3) In applying the compensation provisions, the compensation provisions must be read with any other necessary or convenient changes.
 - (4) For the compensation provisions, an extract from the register is proof of the plantation licensee's or plantation sublicensee's interest in the land.
 - (5) If the compensation event is an event mentioned in section 61RH(1)(a), compensation must be assessed and decided under the compensation provisions having regard only to the market value of the natural resource product on the unformed plantation forest road on the nominated road construction date.

[s 61RL]

Part 6E **Registration of interests in State plantation forests**

Division 1 **Preliminary**

61RL **Definitions for pt 6E**

In this part—

plantation licence sketch plan means a plan prepared in accordance with directions under section 61RU(2)(b) identifying a licence area or part of a licence area.

sketch plan means a plantation licence sketch plan.

Division 2 **Register**

61RM **Register of plantation licences**

The chief executive (lands) must keep a register of plantation licences.

61RN **Form of register**

- (1) The chief executive (lands) may keep the register in the form (including in digital form) the chief executive (lands) considers appropriate.
- (2) Without limiting subsection (1), the chief executive (lands) may change the form in which the register or part of the register is kept.

61RO **Registration of documents**

- (1) A plantation licence must be registered in—
 - (a) the register; and

- (b) the register of State forests kept under the *Land Act 1994*.
- (2) If a plantation licence is affected by any of the following dealings, a document must be registered in the register to record the dealing—
- (a) an amendment of the plantation licence;
 - (b) a sublicence of the plantation licence;
 - (c) an amendment of the plantation sublicence;
 - (d) a transfer of the plantation licence;
 - (e) a transfer of a plantation sublicence;
 - (f) a transfer of a registered mortgage;
 - (g) a release of a registered mortgage;
 - (h) an amendment of a registered mortgage;
 - (i) a change in the priority of registered mortgages;
 - (j) a caveat in relation to the plantation licence;
 - (k) a surrender of a plantation licence;
 - (l) a cancellation of a plantation licence;
 - (m) a termination of a plantation licence;
 - (n) a termination of a plantation sublicence;
 - (o) an enforcement warrant.

Note—

A dealing may be lodged for registration under this Act at any office where a dealing may be lodged for registration under the *Land Title Act 1994* when the office is open for business.

- (3) Also, if a plantation licence is affected by any of the following documents, the document may be registered in the register—
- (a) a mortgage of a plantation licence;
 - (b) a mortgage of a plantation sublicence;
 - (c) another document required under an Act.

[s 61RP]

- (4) A document mentioned in subsection (2)(a), (b), (c), (d), (e), (f), (k), (l) or (m) or (3)(a) or (b) may be registered only if it is approved, or consented to, by the Minister.
- (5) If a dealing mentioned in subsection (2) relates to part of a licence area that is not already identified on a sketch plan, the person lodging the dealing for registration must also lodge a sketch plan identifying the affected part.

61RP Particulars that must be recorded

The chief executive (lands) must record in the register—

- (a) the particulars of each plantation licence lodged for registration; and
- (b) the particulars necessary to identify—
 - (i) each dealing affecting an interest in a plantation licence registered and when it was lodged and registered; and
 - (ii) the name of the person who holds, and the name of each person who has held, an interest in a plantation licence; and
 - (iii) all documents registered in the register and when they were lodged and registered; and
 - (iv) anything else required or permitted to be registered under this Act.

61RQ Particulars that may be recorded

The chief executive (lands) may record in the register anything the chief executive (lands) considers should be recorded to ensure the register is an accurate, comprehensive and useable record of plantation licences, relevant interests and dealings.

61RR Procedures on lodgement and registration of document

- (1) When a document is lodged with the chief executive (lands), the chief executive (lands) must note on the document—
 - (a) the date and time of lodgement; and
 - (b) an identifying reference.
- (2) When the document is registered, the chief executive (lands) must record the information mentioned in subsection (1)(a) and (b) in the register.

61RS Chief executive (lands) may correct registers

- (1) The chief executive (lands) must correct the register if—
 - (a) the chief executive (lands) is satisfied—
 - (i) the register is incorrect because the chief executive (lands) has incorrectly recorded a particular or registered a dealing; and
 - (ii) the correction will not prejudice the rights of the holder of an interest recorded in the register; or
 - (b) a court has ordered the correction.
- (2) The power of the chief executive (lands) to correct the register includes power to correct a particular in the register.
- (3) If the register is corrected, the chief executive (lands) must record in the register—
 - (a) the state of the register before the correction; and
 - (b) the time, date and circumstances of the correction.
- (4) The register as corrected by the chief executive (lands) under this section has the same effect as if the relevant error had not been made.
- (5) For subsection (1)(a)(ii), the rights of the holder of an interest recorded in the register are not prejudiced if the holder acquired or has dealt with the interest with actual or constructive knowledge that the register was incorrect and how it was incorrect.

[s 61RT]

61RT Documents form part of the register

On registration of a document in the register, the document forms part of the register.

Division 3 General requirements for documents in the register

61RU Form of documents

- (1) A document lodged by a person must be lodged with the approved form.
- (2) The chief executive (lands) may—
 - (a) approve forms for use under this part; and
 - (b) give directions about particular requirements for sketch plans.

61RV Execution of documents

- (1) For a corporation, a document is validly executed if—
 - (a) it is executed in a way permitted by law; or
 - (b) the document is sealed with the corporation's seal in accordance with the *Property Law Act 1974*, section 46.
- (2) For an individual, a document is validly executed if—
 - (a) it is executed in a way permitted by law; and
 - (b) the execution is witnessed by a person mentioned in the *Land Title Act 1994*, schedule 1.
- (3) However, the chief executive (lands) may, in exceptional circumstances, register a document executed by an individual even though the execution was not witnessed or was not witnessed by a person mentioned in the *Land Title Act 1994*, schedule 1.
- (4) A document to transfer or create an interest in a plantation licence or plantation sublicense must be executed by—

- (a) the transferor or the person creating the interest; and
 - (b) the transferee or the person in whose favour the interest is to be created or a lawyer authorised by the transferee or the person.
- (5) A total or partial release of mortgage need only be signed by the mortgagee.
- (6) The witnessing of a document may be proved in any way permitted by law.
- (7) This section does not apply to a sketch plan.

61RW Registered documents to comply with particular requirements

- (1) A document may be registered only if—
- (a) the document is lodged with the approved form and correctly executed; and
 - (b) the document complies with the directions of the chief executive (lands) about—
 - (i) how the approved form must be filled in; and
 - (ii) how information to be included in or given with the document must be included or given; and
 - (c) for a document relating to a transaction for which the Minister’s approval or consent is needed—the Minister has given the approval or consent; and
 - (d) for a document relating to a plantation licence the subject of a registered mortgage—the mortgagee under the registered mortgage has given consent to the transaction to which the document relates; and
 - (e) for a document relating to a plantation sublicense the subject of a registered mortgage—
 - (i) the mortgagee under the registered mortgage has given consent to the transaction to which the document relates; and

[s 61RX]

- (ii) if the plantation licence is also the subject of a registered mortgage—the mortgagee under that registered mortgage has given consent to the transaction to which the document relates.
- (2) A document that does not comply with a direction mentioned in subsection (1)(b) may be registered if the chief executive (lands) is satisfied it is reasonable to not require compliance.
- (3) Subsection (1)(d) or (e) does not apply to a caveat, a cancellation of a plantation licence, a termination of a plantation licence or plantation sublicense or an enforcement warrant.

61RX Power of the chief executive (lands) when fraud suspected

The chief executive (lands) may refuse to accept for lodgement, or refuse to register, a document the chief executive (lands) reasonably suspects to be affected by fraud.

Division 4 Registration of documents

61RY Right to have interest registered

- (1) If a person lodges a document mentioned in section 61RO, the chief executive (lands) must register the document if—
 - (a) the document has been correctly executed; and
 - (b) the person lodges the document and all other documents needed by the chief executive (lands) to effect registration of the document; and
 - (c) the document appears on its face to be capable of registration; and
 - (d) the document contains, or is accompanied by, any written approval or consent required for its registration; and

- (e) the person has otherwise complied with this part for the registration of the document; and
 - (f) the document is not inconsistent with another Act or law.
- (2) However, subsection (1) does not prevent the person from withdrawing the document before it is registered.

61RZ Registered document operates as a deed

A registered document operates as a deed.

61S Order of registration of documents

- (1) Documents relating to a plantation licence must be registered in the order they are lodged.
- (2) Subsection (1) is subject to section 61TO.

61SA Priority of registered documents

- (1) Registered documents have priority according to when each of them was lodged and not according to when each of them was executed.
- (2) A document is taken to be lodged on the day and at the time endorsed on the document by the chief executive (lands) as the day and time of the lodgement unless the contrary is proved.
- (3) Subsection (1) is not affected by actual, implied or constructive notice.
- (4) Registered documents have priority over documents that are not registered and any interests claimed under documents that are not registered.

[s 61SB]

61SB How a document is registered

The chief executive (lands) registers a document in the register by recording in the register the particulars necessary to identify the document.

61SC When a document is registered

- (1) A document is registered when the particulars about the document are recorded in the register.
- (2) This section applies subject to section 61SD.

61SD No registration in absence of required approval or consent of Minister

- (1) A document is not registered, even though the particulars about the document are recorded in the register, if—
 - (a) under this Act, the Minister's approval or consent, however described, is required for the document, including any aspect of the document, but the approval or consent has not been obtained; or

Example—

A mortgage of a plantation licence requires the Minister's consent to be registered. See section 61RO(4).

- (b) the terms of the document are inconsistent with the terms of any approval or consent, however described, given by the Minister in relation to the document, including any aspect of the document.
- (2) If under subsection (1) a document is not registered, the chief executive (lands) may correct the particulars included in the register in relation to the document.
- (3) Subsection (1) applies to an approval or consent, however described, in relation to a document, whether or not the approval or consent is required to be endorsed on the document.
- (4) If the Minister is a signatory to a document, the Minister is taken to have approved, or consented to, the document.

Division 5 Consequences of registration

61SE Benefits of registration

The benefits of this division apply to a document whether or not valuable consideration has been given.

61SF Effect of registration on interest

- (1) On registration of a document expressed to transfer or create an interest in a plantation licence or plantation sublicence—
 - (a) the interest is created or transferred in accordance with the document; and
 - (b) the interest is registered; and
 - (c) the interest vests in the person identified in the document as the person entitled to the interest.
- (2) A person who holds an interest in a plantation licence or plantation sublicence holds the interest subject to—
 - (a) all other interests in the plantation licence or plantation sublicence previously registered; and
 - (b) all rights and interests registered in the register of State forests kept under the *Land Act 1994*.
- (3) Subsection (1)(a) and (c) does not apply to a mortgage.

61SG Evidentiary effect of recording particulars in the register

In all proceedings, the particulars of a registered document recorded in the register are conclusive evidence of—

- (a) the registration of the document; and
- (b) the contents of the document; and
- (c) all things stated or implied in it by this or another Act; and
- (d) when the document was lodged and registered.

[s 61SH]

Division 6 Transfers

61SH Registering a transfer

In order to be registered, a transfer of a plantation licence or plantation sublicence must—

- (a) be validly executed; and
- (b) include particulars sufficient to identify the plantation licence or plantation sublicence to be transferred; and
- (c) otherwise comply with the requirements of this Act.

Division 7 Mortgages

61SI Registering a mortgage

- (1) In order to be registered, a mortgage must—
 - (a) be validly executed; and
 - (b) include a description sufficient to identify the plantation licence or plantation sublicence to be mortgaged; and
 - (c) include a description of the debt or liability secured by the mortgage; and
 - (d) otherwise comply with the requirements of this Act.
- (2) A notice to a registered mortgagee under this Act is sufficiently served if left at or sent to an address given for the registered mortgagee in the mortgage.
- (3) If a mortgagee is registered as a trustee, a document stating the details of the trust, or the document creating the trust, must be deposited with the mortgage, unless—
 - (a) a document has already been produced for the trust under section 61ST(2); and
 - (b) the details of the trust have not since changed.

61SJ Original mortgagee to confirm identity of mortgagor

- (1) This section applies in relation to the grant of a mortgage of a plantation licence or plantation sublicense.
- (2) Before the mortgage is lodged for registration, the mortgagee under the mortgage (the *original mortgagee*) must take reasonable steps to ensure the person who executed the mortgage as mortgagor is identical with the person who is, or who is about to become, the plantation licensee or plantation sublicensee.
- (3) Without limiting subsection (2), the original mortgagee takes reasonable steps under the subsection if the original mortgagee complies with practices included in the manual of land title practice under the *Land Title Act 1994*, section 9A(2)(ba) for the verification of identification of mortgagors.
- (4) The original mortgagee must, for 7 years after the mortgage is registered, and whether or not there is registered a transfer of the interest constituted by the mortgage—
 - (a) keep, in the approved form, a written record of the steps taken under subsection (2); or
 - (b) keep originals or copies of the documents and other evidence provided to or otherwise obtained by the original mortgagee in complying with subsection (2).

Maximum penalty—20 penalty units.

- (5) The chief executive (lands) may, whether before or after the registration of the mortgage, and whether or not there has been registered a transfer of the interest constituted by the mortgage, ask the original mortgagee—
 - (a) to advise the chief executive (lands) about the steps taken by the original mortgagee under subsection (2); and
 - (b) to produce for the inspection of the chief executive (lands) the written record mentioned in subsection (4)(a) or the originals or copies mentioned in subsection (4)(b).

[s 61SK]

- (6) The original mortgagee must comply with a request under subsection (5) unless the original mortgagee has a reasonable excuse.

Maximum penalty for subsection (6)—20 penalty units.

61SK Mortgagee transferee to confirm identity of mortgagor

- (1) This section applies to the transfer of the interest constituted by the mortgage of a plantation licence or plantation sublicense.
- (2) Before the transfer is lodged for registration, the transferee under the transfer (the *mortgage transferee*) must take reasonable steps to ensure the person who executed the mortgage as mortgagor was identical with the person who, when the mortgage was executed, was, or was about to become, the plantation licensee or plantation sublicensee.
- (3) Without limiting subsection (2), the mortgage transferee takes reasonable steps under the subsection if the mortgage transferee complies with practices included in the manual of land title practice under the *Land Title Act 1994*, section 9A(2)(c) for the verification of identification of mortgagors.
- (4) The mortgage transferee must, for 7 years after the transfer of the mortgage is registered, and whether or not there is registered a further transfer of the interest constituted by the mortgage—
- (a) keep, in the approved form, a written record of the steps taken under subsection (2); or
 - (b) keep originals or copies of the documents and other evidence provided to or otherwise obtained by the mortgage transferee in complying with subsection (2).

Maximum penalty—20 penalty units.

- (5) The chief executive (lands) may, whether before or after the registration of the transfer of the mortgage, and whether or not there has been registered a further transfer of the interest constituted by the mortgage, ask the mortgage transferee—

- (a) to advise the chief executive (lands) about the steps taken by the mortgage transferee under subsection (2); and
 - (b) to produce for the inspection of the chief executive (lands) the written record mentioned in subsection (4)(a) or the originals or copies mentioned in subsection (4)(b).
- (6) The mortgage transferee must comply with a request under subsection (5) unless the mortgage transferee has a reasonable excuse.

Maximum penalty for subsection (6)—20 penalty units.

61SL Releasing a mortgage

- (1) If a release of a registered mortgage is lodged, the chief executive (lands) may register the release to the extent shown in the release.
- (2) On registration of a release of a registered mortgage, the mortgage is discharged, and the plantation licence or plantation sublicense is released from the mortgage, to the extent shown in the release.

61SM Amending or transferring a mortgage

- (1) A registered mortgage may be amended only by registering an amendment of the mortgage.
- (2) However, an amendment must not add a party to or remove a party from the mortgage.
- (3) A registered mortgage may be transferred only by registering a transfer of the registered mortgage.
- (4) A mortgage may be transferred by the mortgagee only with the Minister's written approval.

[s 61SN]

61SN Amending priority of mortgages

- (1) The priority of registered mortgages may be amended by registering a document amending priority.
- (2) The document amending priority must—
 - (a) state the order of priority of all affected registered mortgages; and
 - (b) be executed by all mortgagees affected by the amendment.
- (3) On registration of the document amending priority, the mortgages have priority in the order stated in the document.

61SO Priority of advances

A registered mortgage has the same priority in relation to all advances (including future advances), and the performance of all obligations, secured by the mortgage.

61SP Transfer of mortgage does not affect priority

If a registered mortgage is transferred, the transferred mortgage has the same priority immediately after the transfer as it had immediately before the transfer.

61SQ Powers of registered mortgagee

- (1) A registered mortgagee of a plantation licence or plantation sublicence may exercise any right, power or authority validly conferred on it under the mortgage if the plantation licensee or plantation sublicensee defaults under the mortgage.

Example of powers that might be validly conferred under a mortgage—

- power to enter into possession, assume control of or exercise power of sale of the plantation licence or plantation sublicence
- power to appoint an enforcing party to enter into possession, assume control of or exercise power of sale of the plantation licence or plantation sublicence

- power to engage, or permit the enforcing party to engage, 1 or more persons to perform some or all of the plantation licensee's or plantation sublicensee's obligations under the plantation licence or plantation sublicense
- (2) If the registered mortgagee or an enforcing party enters into possession or assumes control of the plantation licence or plantation sublicense, the registered mortgagee or enforcing party—
- (a) is subject to, and must perform, the obligations of the plantation licensee or plantation sublicensee under this Act, the plantation licence or plantation sublicense, or any related agreement; and
 - (b) may enforce the rights of the plantation licensee or plantation sublicensee under this Act, the plantation licence or plantation sublicense, or any related agreement.

61SR Mortgagee exercising power of sale

- (1) A registered mortgagee exercising power of sale over a plantation licence or plantation sublicense must obtain the Minister's approval to any transfer of the plantation licence or plantation sublicense.
- (2) A registered mortgagee transferring a plantation licence or plantation sublicense with the Minister's approval obtained under subsection (1) may also transfer a related agreement—
- (a) with the chief executive's approval; and
 - (b) if permitted under the plantation licence and the related agreement.
- (3) A transfer of a related agreement in accordance with subsection (2) has effect to transfer obligations of the plantation licensee or plantation sublicensee under the agreement to the transferee despite any rule of law to the contrary.

[s 61SS]

61SS Effect of transfer after sale under mortgage

- (1) Subsection (2) applies if a transfer of a plantation licence or plantation sublicence executed by a registered mortgagee after the exercise of the power of sale under a registered mortgage is registered.
- (2) Registration of the transfer vests in the transferee the mortgagor's interest that is transferred, free from liability under the mortgage and any other mortgage registered after it and any other mortgage not registered under this Act.

Division 8 Trusts

61ST Details of trust must be given

- (1) A corporation may be registered in the register as trustee of an interest in a plantation licence or plantation sublicence.

Examples—

- a mortgagee of a plantation licence may be registered as holding that interest as trustee
 - a plantation licensee may be registered as holding that interest as trustee
- (2) A certified copy of a document stating details of the trust, or a certified copy of the document creating the trust, must be lodged with the chief executive (lands) with the document creating the corporation's interest as a trustee.
 - (3) If the details of the trust change, the trustee must lodge a certified copy of the document effecting the change with the chief executive (lands).
 - (4) A document given to the chief executive (lands) under subsection (2) or (3) does not form part of the register.

Division 9 Enforcement warrants

61SU Definition for division

In this division—

enforcement warrant means an enforcement warrant under—

- (a) the *Civil Proceedings Act 2011*, section 90; or
- (b) the *State Penalties Enforcement Act 1999*, section 63.

61SV Registering an enforcement warrant

- (1) The chief executive (lands) may register a request to record an enforcement warrant only if an office copy of the warrant is lodged with the request.

- (2) In this section—

office copy of an enforcement warrant under the *State Penalties Enforcement Act 1999* means a copy of the enforcement warrant issued by the registrar under that Act.

61SW Effect of registering an enforcement warrant

Until an enforcement warrant is registered—

- (a) it does not bind or affect a plantation licence or plantation sublicence, whether or not there is actual or constructive notice of the enforcement warrant; and
- (b) it binds or affects a plantation licence or plantation sublicence only if the enforcement warrant is executed and put in force within—
 - (i) 6 months after its lodgement; or
 - (ii) for an enforcement warrant under the *Civil Proceedings Act 2011*, section 90—the extended time allowed by the court that issued the enforcement warrant, if notified to the chief executive (lands).

[s 61SX]

61SX Cancellation of registration of an enforcement warrant

Registration of an enforcement warrant may be cancelled if a request to cancel it is lodged and the chief executive (lands) is satisfied the time, or extended time, for executing and putting the warrant into force has ended.

61SY Discharging or satisfying an enforcement warrant

Discharge or satisfaction of an enforcement warrant may be registered if a request to register it is lodged and the chief executive (lands) is satisfied the warrant has been discharged or satisfied.

61SZ Transfer of plantation licence or plantation sublicence sold in execution

- (1) If a plantation licence or plantation sublicence is sold under a registered enforcement warrant, the registrar of the relevant court may execute a transfer to the purchaser.
- (2) On registration of the transfer, the transferee becomes the plantation licensee or plantation sublicensee for the plantation licence or plantation sublicence subject to—
 - (a) registered mortgages and other registered interests; and
 - (b) unregistered mortgages notified by caveat lodged before registration of the enforcement warrant.
- (3) To remove any doubt, it is declared that a sale of a plantation licence or plantation sublicence under a registered enforcement warrant is subject to the requirements of this Act relating to consent to the transfer of a plantation licence or plantation sublicence.

61T Effect on enforcement warrant of transfer after sale by mortgagee

- (1) Subsection (2) applies if—
 - (a) a mortgage is registered over a plantation licence or plantation sublicence; and

- (b) an enforcement warrant is later registered in relation to the plantation licence or plantation sublicense.
- (2) If the mortgagee of the plantation licence or plantation sublicense signs a transfer of the plantation licence or plantation sublicense after exercising the power of sale under the mortgage—
 - (a) registration of the enforcement warrant does not prevent registration of the transfer; and
 - (b) on registration of the transfer, the chief executive (lands) must cancel registration of the enforcement warrant.
- (3) To remove any doubt, it is declared that a transfer of a plantation licence or plantation sublicense by a mortgagee exercising its power of sale is subject to the requirements of this Act relating to consent to the transfer of a plantation licence or plantation sublicense.

Division 10 Powers of attorney

61TA Power of attorney

- (1) A power of attorney that allows dealings with an interest in a plantation licence or plantation sublicense under this Act must be registered in the powers of attorney register under the *Land Title Act 1994*.
- (2) A power of attorney registered under the *Land Title Act 1994*—
 - (a) is taken to be a power of attorney registered for this Act; and
 - (b) authorises the donee to deal with any interest in a plantation licence or plantation sublicense that may be dealt with by the donor under the power of attorney and this Act.

[s 61TB]

Division 11 Caveats

Subdivision 1 Caveats—general

61TB Requirements of caveats

- (1) A caveat in relation to a plantation licence must be signed by or for the caveator.
- (2) The caveat must state—
 - (a) the name of the caveator; and
 - (b) an address where documents can be served on the caveator; and
 - (c) unless the chief executive (lands) dispenses with it, the name and address of—
 - (i) the plantation licensee or plantation sublicensee affected by the caveat; and
 - (ii) anyone else having the right to deal with the plantation licence or plantation sublicense affected by the caveat; and
 - (d) the plantation licence affected by the caveat; and
 - (e) the registrable interest claimed by the caveator; and
 - (f) the grounds on which the interest is claimed.
- (3) This section applies to caveats under this division other than a caveat prepared and registered by the chief executive (lands) under section 61TL(1).

61TC Lodging caveat

- (1) A caveat may be lodged by the following—
 - (a) a person claiming a registrable interest in a plantation licence or plantation sublicense;

-
- (b) a person to whom an Australian court has ordered that an interest in a plantation licence or plantation sublicense be transferred;
 - (c) a person who has the benefit of a subsisting order of an Australian court in restraining a plantation licensee or plantation sublicensee from dealing with a plantation licence or plantation sublicense.
- (2) However a caveat may only be lodged by a mortgagee under an unregistered mortgage if it is a caveat to which section 61TG applies.

Note—

The chief executive (lands) may prepare and register a caveat under section 61TL(1).

- (3) An office copy of a court order mentioned in subsection (1)(b) or (c) must be deposited when a caveat is lodged under subsection (1).

61TD Notifying caveat

The chief executive (lands) must give written notice of lodgement of a caveat under this division to each person whose registered interest or whose right to registration of a document is affected by the caveat.

61TE Effect of lodging caveat

- (1) A caveat lodged under this division prevents registration of a document affecting the plantation licence or plantation sublicense over which the caveat is lodged from the date and time endorsed by the chief executive (lands) on the caveat as the caveat's date and time of lodgement.
- (2) Subsection (1) has effect for a caveat until the caveat is cancelled, rejected, removed or withdrawn.
- (3) However, lodgement of a caveat under this subdivision does not prevent registration of the following—

[s 61TF]

- (a) a document stated in the caveat as a document to which the caveat does not apply;
 - (b) a document if the caveator consents to its registration;
 - (c) a document executed by a mortgagee whose interest was registered before lodgement of the caveat if the mortgagee has power under the mortgage to execute the document;
 - (d) a document of transfer of mortgage executed by a mortgagee whose interest was registered before lodgement of the caveat;
 - (e) another interest that, if registered, will not affect the interest claimed by the caveator.
- (4) The exceptions mentioned in subsection (3)(c) and (d) do not apply to a caveat lodged by the chief executive (lands).
- (5) Also, registration of a caveat under section 61TL(1) does not prevent registration of the following—
- (a) a document stated in the caveat as a document to which the caveat does not apply;
 - (b) a document if the chief executive (lands) consents to its registration.
- (6) Lodgement of a caveat does not create in the caveator an interest in the plantation licence or plantation sublicense affected by the caveat.

61TF Withdrawing caveat

A caveator may withdraw a caveat lodged under this division by lodging a request to withdraw it.

61TG Lapsing of caveat

- (1) This section does not apply to a caveat if—
- (a) it is lodged by the registered plantation licensee; or

-
- (b) the consent of the registered plantation licensee is deposited when the caveat is lodged; or
 - (c) an office copy of a court order mentioned in section 61TC(1)(b) or (c) is deposited when the caveat is lodged; or
 - (d) it is prepared and registered by the chief executive (lands) under section 61TL(1).
- (2) A caveatee of a caveat to which this section applies may serve on the caveator a notice requiring the caveator to start a proceeding in a court of competent jurisdiction to establish the interest claimed under the caveat.
 - (3) The caveatee must notify the chief executive (lands) within 14 days of service of the notice on the caveator.
 - (4) If a caveator does not want a caveat to which this section applies to lapse, the caveator must—
 - (a) start a proceeding in a court of competent jurisdiction to establish the interest claimed under the caveat—
 - (i) if a notice under subsection (2) is served on the caveator—within 14 days after the notice is served on the caveator; or
 - (ii) if a notice under subsection (2) is not served on the caveator—within 3 months after the lodgement of the caveat; and
 - (b) notify the chief executive (lands) within the 14 days or the 3 months that a proceeding has been started and identify the proceeding.
 - (5) If the caveator does not comply with subsection (4), the caveat lapses.
 - (6) The caveator is taken to have complied with subsection (4)(a) if a proceeding has been started in a court of competent jurisdiction to establish the interest claimed under the caveat before the caveat was lodged.
 - (7) The chief executive (lands) may remove a caveat that has lapsed from the register.

[s 61TH]

61TH Removing caveat

- (1) A caveatee may at any time apply to the Supreme Court for an order that a caveat lodged under this division be removed.
- (2) The Supreme Court may make the order whether or not the caveator has been served with the application, and may make the order on the terms it considers appropriate.

61TI Cancelling caveat

- (1) This section does not apply to a caveat prepared and registered by the chief executive (lands) under section 61TL(1).
- (2) The chief executive (lands) may cancel a caveat if a request to cancel the caveat is lodged and the chief executive (lands) is satisfied—
 - (a) the interest claimed by the caveator has ceased or the claim to it has been abandoned or withdrawn; or
 - (b) the claim of the caveator has been settled by agreement or otherwise satisfied; or
 - (c) the nature of the interest claimed does not entitle the caveator to prevent registration of a document that has been lodged.
- (3) The chief executive (lands) must notify the caveator of his or her intention to cancel the caveat at least 7 days before cancelling it.
- (4) If a document that has been lodged will, on registration, give full effect to an interest claimed in a caveat, the chief executive (lands) may remove the caveat immediately before registering the document.

61TJ Further caveat

- (1) This section applies if a caveat is lodged under this division (the *original caveat*) in relation to an interest.

-
- (2) A further caveat with the same caveator can never be lodged in relation to the interest on the same, or substantially the same, grounds as the grounds stated in the original caveat unless the leave of a court of competent jurisdiction to lodge the further caveat has been granted.
 - (3) This section does not apply to a caveat prepared and registered by the chief executive (lands) under section 61TL(1).

61TK Notices to the caveator

- (1) A notice to a caveator under this subdivision is sufficiently served if left at or sent to the address mentioned in section 61TB(2)(b).
- (2) If the chief executive (lands) is satisfied a notice under this subdivision will not reach the caveator if served in the way mentioned in subsection (1), the notice may be served in a way stated in a written direction by the chief executive (lands).
- (3) If the chief executive (lands) is informed in writing, and is satisfied, the name or address of the caveator has changed, the chief executive (lands) must note on the caveat details of the new name or address.
- (4) A new name or address noted under subsection (3) becomes the name or address for service of a notice on the caveator.

Subdivision 2 Caveats—chief executive (lands)

61TL Chief executive (lands) may prepare and register caveat

- (1) The chief executive (lands) may prepare and register a caveat over a plantation licence in favour of a person.
- (2) The chief executive (lands) may act under subsection (1) to prevent a dealing with a plantation licence that may prejudice—
 - (a) the Commonwealth, a State or a relevant local government; or

[s 61TM]

- (b) a person because of—
 - (i) misdescription of the plantation licence; or
 - (ii) fraud or forgery; or
- (c) a person, other than a person mentioned in any of paragraphs (a) or (b), who has an interest in the plantation licence.
- (3) Also, the chief executive (lands) may act under subsection (1) to prevent a dealing with a plantation licence—
 - (a) if the plantation licence is to be cancelled or terminated; or
 - (b) to give effect to an order of a court of competent jurisdiction directed to the chief executive (lands).
- (4) Subsection (2)(c) applies only if the chief executive (lands) is satisfied, because of the nature or urgency of particular circumstances, there is no practicable alternative to registering the caveat.
- (5) In this section—

dealing, with a plantation licence, does not include registering a document to cancel or terminate a plantation licence.

relevant local government means the local government in whose local government area the licence area for the plantation licence or plantation sublicense is situated.

Division 12 Relationship with other laws

61TM Relationship with Property Law Act 1974

- (1) For parts 6D and 6E, the following provisions of the *Property Law Act 1974* do not apply to a mortgage of a plantation licence or plantation sublicense—
 - section 18 (Restrictions on operation of conditions of forfeiture)
 - section 79 (Variation of mortgage)

-
- section 80 (Inspection and production of instruments)
 - section 81 (Actions for possession by mortgagors)
 - section 82 (Tacking and further advances)
 - section 83 (Powers incident to estate or interest of mortgagee)
 - section 85(1A) (Duty of mortgagee or receiver as to sale price)
 - section 86 (Effect of conveyance on sale)
 - section 87 (Protection of purchasers)
 - section 89 (Provisions as to exercise of power of sale)
 - section 91 (Amount and application of insurance money)
 - section 99 (Sale of mortgaged property in action for redemption or foreclosure)
 - section 100 (Realisation of equitable charges by the court)
 - section 101 (Facilitation of redemption in case of absent or unknown mortgagees).
- (2) The *Property Law Act 1974*, section 92(1A) applies to a mortgage under this Act as if a reference in that subsection to the Land Act or the Mineral Resources Act were a reference to this Act.

61TN Relationship with Personal Property Securities Act 2009 (Cwlth)

- (1) It is declared that the following are not personal property for the purposes of the *Personal Property Securities Act 2009* (Cwlth)—
- (a) a plantation licence;
 - (b) a plantation sublicense;
 - (c) a right conferred on a plantation licensee or plantation sublicensee under this Act, a plantation licence or

[s 61TO]

- plantation sublicence, including a right to natural resource product or quarry material in a licence area;
- (d) any other right, licence or authority granted under this Act.
- (2) Subsection (1) does not limit the application of the *Personal Property Securities Act 2009* (Cwlth), section 8(1)(f)(i) to a plantation licence or plantation sublicence.

Division 13 General

61TO Withdrawing lodged document before registration

- (1) If the chief executive (lands) is satisfied the order in which a document has been lodged in relation to other documents will not give effect to the intention expressed in it or a related document, or is a document that should not have been lodged, the chief executive (lands) may—
- (a) withdraw the document; or
- (b) permit the document to be withdrawn.
- (2) A document withdrawn by the chief executive (lands) under subsection (1)(a) remains in the register, unless the document is a document that should not have been lodged.
- (3) The chief executive (lands) may relodge a document that has been withdrawn by the chief executive (lands).
- (4) On receiving a written application, the chief executive (lands) may permit the applicant to relodge a document that the chief executive (lands) has permitted to be withdrawn.
- (5) A document withdrawn under subsection (1) loses its priority under section 61SA and is taken to have been lodged on the day and at the time endorsed on it by the chief executive (lands) on its relodgement.

61TP Chief executive may call in document for correction or cancellation

The chief executive (lands), by written notice, may require a person to deposit a document for correction or cancellation.

61TQ Requisitions

- (1) The chief executive (lands), by written notice (*requisition*) given to a person who has lodged or deposited a document, or to another person who reasonably appears to the chief executive (lands) to be relevantly associated with the document, may require a person to—
 - (a) re-execute, complete or correct the document if it appears to the chief executive (lands) to be wrong, incomplete or defective; or
 - (b) produce to the chief executive (lands) stated information, or deposit a stated document, in support of the application to register a document.
- (2) The chief executive (lands) may require the document or information to be verified by statutory declaration or affidavit.
- (3) A requisition may state when, and the place where, it must be complied with.
- (4) The chief executive (lands) may extend the time for complying with a requisition.
- (5) The chief executive (lands) may refuse to deal with a document lodged or deposited (and any document depending on it for registration) until the requisition is complied with.

61TR Rejecting document for failure to comply with requisition

- (1) If a requisition is not complied with by a person within the time stated or extended by the chief executive (lands), the chief executive (lands) may reject the document to which the requisition relates and any document depending on it for registration.

[s 61TS]

- (2) A rejected document loses its priority under section 61SA and must be returned by the chief executive (lands) to the person who lodged it.
- (3) A memorandum recording the rejection of a document may be endorsed on the rejected document or in a separate record kept in the register.
- (4) This section does not prevent relodgement of a rejected document after the requisition has been complied with.

61TS Entitlement to search the register

- (1) A person may, on payment of any fee prescribed under a regulation—
 - (a) search and obtain a copy of—
 - (i) the particulars recorded about a document registered in the register; or
 - (ii) a registered document; or
 - (iii) a document that has been lodged but is not registered (whether or not it has been cancelled); and
 - (b) obtain a copy of the particulars recorded about a registered document, or a registered document, certified by the chief executive (lands) to be an accurate copy.
- (2) Subsection (1)(a)(iii) does not apply to a document destroyed by the chief executive (lands).
- (3) A search under subsection (1) may be carried out at, or a copy mentioned in subsection (1) obtained from, an office of the registry during office hours on a day the registry is open for business.
- (4) Also, a search under subsection (1) may be carried out at, or a copy mentioned in subsection (1) obtained from, the website of an entity engaged by the chief executive (lands) for the purpose of allowing persons to search the register or obtain copies of particulars, documents or other information kept in the register.

- (5) The chief executive (lands) may allow a person to carry out a search under subsection (1)(a) for—
 - (a) only part of the particulars recorded about a document; or
 - (b) only part of a document lodged or deposited with the chief executive (lands); or
 - (c) only part of the information about a document lodged or deposited with the chief executive (lands).
- (6) The chief executive (lands) may enter into an agreement with another department allowing the department to carry out a search, or obtain a copy, under this section without payment of the fee mentioned in subsection (1).
- (7) However, the chief executive (lands) may enter into an agreement under subsection (6) only if the chief executive (lands) is reasonably satisfied the information obtained from the search or the copy will not be—
 - (a) used for a commercial purpose, including, for example, the marketing or sale of the information or other information; or
 - (b) included in another database of information, in any form, other than with approval from the chief executive (lands).

61TT Evidentiary effect of certified copies of documents

- (1) A document purporting to be a certified copy of the particulars recorded in the register is evidence of the particulars recorded.
- (2) A document purporting to be a certified copy of a registered document obtained under section 61TS(1)(b) is evidence of the registered document.

[s 61TU]

61TU Service

- (1) A notice required or permitted to be served on a person under this part (*relevant notice*) may be served on the person's agent.
- (2) The Supreme Court may order that a relevant notice required or permitted be served on a person under this Act be served in the way directed by the Supreme Court.
- (3) The Supreme Court may make an order under subsection (2) if, for example, the person—
 - (a) is not known; or
 - (b) can not be found and has no known agent; or
 - (c) is dead and has no personal representative.
- (4) The Supreme Court may dispense with service of a relevant notice if it is satisfied that it is appropriate to dispense with service of the notice.

61TV Protection from liability

- (1) This section applies to the chief executive (lands) and a person performing functions of the chief executive (lands) under a delegation.
- (2) A person to whom this section applies is not civilly liable for an act or omission done honestly and without negligence under this Act.
- (3) If subsection (2) prevents civil liability attaching to a person, the liability attaches instead to the State.
- (4) In this section—
function includes power.

Part 7 Fires on State forests, timber reserves and forest entitlement areas

62 Control of fires on State forests etc.

- (1) A person, other than a person performing duties under this Act, shall not at any time light, maintain or use or cause, permit or suffer to be lit, maintained or used, a fire on any land within any State forest, timber reserve or forest entitlement area for the purpose of, or which is likely to have the effect of, burning off or clearing any vegetation on or from the land within the State forest, timber reserve or forest entitlement area except in accordance with an authority given by a permit obtained under the *Fire and Rescue Service Act 1990*, part 7 and then remaining in force.

Note—

A plantation operator or plantation officer is not a person performing duties under this Act for this section. See section 18C. See also the *Fire and Rescue Service Act 1990*, sections 65 and 66 for provisions about the giving of permits to light fires on any land including in a licence area.

- (2) Any person who is convicted of an offence against this section may on conviction, in addition to the penalty imposed, be ordered by the court to pay to the chief executive, a plantation licensee or plantation sublicensee in respect of any damage or injury and the costs of controlling and extinguishing any fire occasioned or caused by the commission of such offence, such amount as is fixed by the court after taking the evidence on oath of a forest officer or plantation officer as to the nature and extent of such damage or injury and costs of controlling or extinguishing the fire and, in default of payment thereof, such amount may be recovered in the same way as a pecuniary penalty.
- (3) The provisions of this section shall be in addition to and not in diminution of or substitution for the provisions of any other enactment of this Act.

63 Duty of lessee of State forest etc.

- (1) Every person holding any lease, licence, permit or other authority or entitled to any right or privilege under an agreement or contract granted or made under this or any other Act over or in respect of the whole or any part of any State forest, timber reserve or forest entitlement area or the forest products thereon (the *holder*), shall at the person's own cost and expense—
 - (a) at all times make all reasonable provision for preventing, detecting, controlling and extinguishing bush, grass, or other rural fires on the State forest, timber reserve or forest entitlement area or, as the case may be, part thereof, over or in respect whereof or the forest products thereon, the lease, licence, permit, authority, agreement or contract was so granted or made; and
 - (b) on becoming aware of any fire burning on the State forest, timber reserve or forest entitlement area, or as the case may be, part thereof as aforesaid, or burning elsewhere, which is likely to spread to such State forest, timber reserve or forest entitlement area, or as the case may be, part thereof (such not being a fire authorised under the provisions of the *Fire and Rescue Service Act 1990*, part 7), promptly do everything reasonably within his or her power to extinguish the fire whether or not there is immediate danger of it causing damage, and shall forthwith cause the nearest forest officer or person performing duties under this Act to be notified of the fire and of the measures taken by the person to extinguish the same, and if, at the time of so notifying the forest officer or person performing duties under this Act, the fire is not extinguished, the person shall continue so far as possible to control and endeavour to extinguish the fire until it is brought under control or extinguished or until the person obtains the approval of the forest officer or person performing duties under this Act to desist.

-
- (1A) For the purposes of subsection (1)(b)—
- holder* shall include any agent, manager, supervisor or other person whomsoever acting in the general management or control of the business of the holder carried on, in or on the State forest, timber reserve or forest entitlement area, or part thereof as aforesaid (the *agent*).
- (1B) A forest officer or person performing duties under this Act who is notified of a fire under subsection (1) must immediately notify a plantation licensee or plantation sublicensee for a licence area of the fire if the fire is likely to spread to the licence area.

Note—

A plantation operator or plantation officer is not a person performing duties under this Act for this section. See section 18C.

- (2) Any person refusing, neglecting or failing to comply with the provisions of this section shall be guilty of an offence against this Act and shall be deemed to have committed an offence.

False statements as to whereabouts

- (3) Any holder or agent who makes a false statement as to his or her whereabouts or makes a statement knowing the same to be false as to the whereabouts of any of the employees or agents of the holder at the time of the outbreak of any such fire shall be guilty of an offence against this Act.
- (4) Nothing contained in this section shall be read as to relieve any person from any liability or obligation to which the person may be subject under the person's lease, agreement, contract, permit, licence, other authority, or under any other Act or law, and the provisions of this section shall be read as in addition to and not in derogation from the provisions of any other Act.
- (5) This section does not apply to a plantation licensee or plantation sublicensee or any manager, supervisor or other person acting in the general management or control of the business of the plantation licensee or plantation sublicensee carried on in or on a licence area.

[s 63A]

63A Duty of plantation licensee etc.

- (1) A plantation licensee must at the person's own expense, make all reasonable provision for preventing, detecting, controlling and extinguishing bush, grass, or other rural fires on the licence area.

Maximum penalty—100 penalty units.

- (2) A plantation licensee or plantation manager must, on becoming aware of a fire burning on the licence area that the plantation licensee or plantation manager reasonably believes to have been unlawfully lit or is out of control, immediately do everything reasonably within its power to extinguish the fire.

Maximum penalty—100 penalty units.

- (3) On becoming aware of a fire, a plantation licensee or plantation manager must immediately notify a forest officer of the fire—
- (a) if it is burning on State forest outside the licence area if the plantation licensee or plantation manager reasonably believes it to have been unlawfully lit or to be out of control; or
 - (b) if it is burning outside State forest and the plantation licensee or plantation manager reasonably believes it is likely to spread to the State forest; or
 - (c) if it is burning on the licence area, if the plantation licensee or plantation manager reasonably believes it is likely to spread beyond the licence area to the State forest outside the licence area.

Maximum penalty—100 penalty units.

- (4) In this section—

plantation licensee includes plantation sublicensee.

64 Certain person to be incapable of holding permits etc.

- (1) Where any person convicted of an offence against any provision of the *Fire and Rescue Service Act 1990*, part 7 or of

section 62 or 63, was, at the time when the offence was committed, the holder of any permit, licence, or lease granted, or the person entitled for the time being to the benefit of any agreement or contract made, under the *Land Act 1994* or this Act over or in respect of the whole or part of any State forests, timber reserve or forest entitlement area or the forest products thereon, which permit, licence, lease, agreement or contract has, subsequent to such conviction, been forfeited or cancelled, the Minister may, by signed writing, direct that such person shall not be capable of holding any permit, licence or lease, or of entering into or being entitled to the benefits of any agreement or contract under the *Land Act 1994* or this Act, over or with respect to the whole or part of any State forest, timber reserve or forest entitlement area whatsoever or the forest products thereon, for such period, not exceeding 5 years, as shall be specified in the direction.

- (2) A permit, licence or lease shall not be granted nor an agreement or contract made, under the *Land Act 1994* or this Act, over or with respect to the whole or part of any State forest, timber reserve or forest entitlement area whatsoever or the forest products thereon, to or with any person with respect to whom such a direction has been made or given, during the period for which the direction remains in force.
- (3) Any such direction may, at any time and from time to time, be varied, altered or rescinded by the giver thereof or the giver's successor in office.
- (4) This section does not apply to—
 - (a) a plantation licensee or plantation sublicensee; or
 - (b) a plantation licence or plantation sublicense.

65 Control of fires on lands adjoining State forest etc.

- (1) If a person performing duties under this Act discovers any fire burning within 3km of any State forest, timber reserve or forest entitlement area, and the person is of the opinion that such fire is likely to spread to and cause damage to the State forest, timber reserve or forest entitlement area, the person

[s 65]

may (with such assistants, plant, vehicles, animals and equipment as are necessary for the purpose) enter upon the land on which such fire is burning and perform any acts necessary to control and extinguish the fire.

Note—

A plantation operator or plantation officer is not a person performing duties under this Act for the purpose of this section. See section 18C.

- (1A) No liability shall attach to the chief executive or any person performing duties under this Act in respect of any loss or damage to property occasioned by any person as aforesaid in the exercise in good faith of the person's powers, pursuant to this section, in connection with any fire but any damage shall be deemed to be damage by a fire within the meaning of any policy of insurance against fire covering the damaged property and every such policy of insurance whether issued before or after the commencement of this Act shall notwithstanding anything therein contained be read and construed accordingly.
- (2) Where it is established that the owner or occupier of the land on which the fire originated, or the owner's or occupier's agent or employee, was responsible for the lighting of such fire and its lighting was not authorised under the *Fire and Rescue Service Act 1990*, part 7, then the State may recover from the owner or occupier of the land on which the fire originated, in any court of competent jurisdiction, all reasonable expenses incurred by a person performing duties under this Act in controlling and extinguishing such fire (including, but without limiting the generality hereof, salaries and wages of officers and employees and compensation for the use of plant, vehicles and equipment).
- (3) The provisions of subsection (2) shall be in addition to and not in diminution of or substitution for the provisions of any other enactment of this Act.
- (4) For the purpose of the exercise and performance by a forest officer or person performing duties under this Act of the powers, functions and authorities conferred upon the forest officer or person by this section, such forest officer or person

shall be deemed to be the first officer of a rural fire brigade under and within the meaning of the *Fire and Rescue Service Act 1990* and shall have and may exercise all the powers, functions and authorities conferred upon the said first officer by the said Act.

65A Recovery of expenses incurred in extinguishing fires on State forests

- (1) Subsection (2) applies if—
 - (a) a person performing duties under this Act has, within the boundaries of a State forest, timber reserve or forest entitlement area (the *relevant area*) extinguished or caused to be extinguished a fire burning within the relevant area; and
 - (b) it is established that—
 - (i) the fire originated on land other than the relevant area; and
 - (ii) the owner or occupier of the land on which the fire originated, or his or her agent or employee, was responsible for the lighting of the fire; and
 - (iii) the lighting of the fire was not authorised under the *Fire and Rescue Service Act 1990*, part 7.

Note—

A plantation operator or plantation officer is not a person performing duties under this Act for the purpose of this section. See section 18C.

- (2) The State may recover from the owner or occupier of the land on which the fire originated, in any court of competent jurisdiction, all reasonable expenses incurred by a person performing duties under this Act in controlling and extinguishing the fire, including, for example—
 - (a) salaries and wages of officers and employees; and
 - (b) compensation for the use of plant, vehicles and equipment.

[s 65B]

- (3) Subsection (2) does not limit the rights of the State, a plantation licensee or plantation sublicensee under any other provision of this Act or at law.

65B Recovery of expenses incurred in extinguishing fires on State forests within licence areas

- (1) Subsection (2) applies if—
- (a) a plantation licensee has, within a licence area, extinguished or caused to be extinguished a fire burning within the licence area; and
 - (b) it is established that—
 - (i) the fire originated on land, other than a State forest, timber reserve or forest entitlement area, outside the licence area; and
 - (ii) the owner or occupier of the land on which the fire originated, or his or her agent or employee, was responsible for the lighting of the fire; and
 - (iii) the lighting of the fire was not authorised under the *Fire and Rescue Service Act 1990*, part 7.
- (2) The plantation licensee may recover from the owner or occupier of the land on which the fire originated, in any court of competent jurisdiction, all reasonable expenses incurred by the plantation licensee in controlling and extinguishing the fire, including, for example—
- (a) salaries and wages of officers and employees; and
 - (b) compensation for the use of plant, vehicles and equipment.
- (3) Subsection (2) does not limit the rights of the State or plantation licensee under any other provision of this Act or at law.
- (4) In this section—
- owner or occupier* does not include the State.
- plantation licensee* includes plantation sublicensee.

66 Lighted match etc. not to be dropped near flammable material

A person shall not within any State forest, timber reserve or forest entitlement area throw, drop, place or leave any lighted match, pipe ashes, lighted cigar, lighted tobacco, lighted cigarette or any burning or smouldering substance within 10m of any flammable material.

67 Lighting of small fires on State forests etc.

- (1) A person shall not at any time light, maintain or use or cause to be lit, maintained or used, any fire in the open air, other than in a properly constructed fire place provided on any State forest, timber reserve or forest entitlement area for the purpose of a camp, billy or other like fire, unless a space of ground immediately around the site of the fire of a width of 2m at least in all parts, or, where in any prescribed locality or localities or on any prescribed land a greater width is prescribed, then of that width at least in all parts, has previous to the lighting of the fire been cleared and is then clear of all flammable material.
- (2) A person, having lit, maintained or used any fire referred to in subsection (1), shall not leave the same unattended temporarily or otherwise without completely extinguishing that fire.

68 Cooperative burnings

The chief executive may on any property, the nearest boundaries of which are within 3km of any State forest, timber reserve or forest entitlement area, join with the owner or occupier of such property, or render such assistance as the chief executive deems fit, in carrying out any burning operations which have been duly authorised under the *Fire and Rescue Service Act 1990*, part 7.

69 Forfeiture of leases and the like and cancellation of agreements

- (1) Where the Minister is satisfied that, by reason of the failure to comply with any of the provisions of the *Fire and Rescue Service Act 1990*, part 7 or this part by any person to whom has been granted, or who is the holder of, any lease, licence, permit, or other authority granted, whether before or after the commencement of this Act, under any Act over or in respect of the whole or part of any State forest or timber reserve, the continuance in force of that lease, licence, permit, or other authority is prejudicial to the objects of this Act and is detrimental to the public interest, the Minister may so advise the Minister administering the Act under which the lease, licence, permit, or other authority is granted.
- (2) Where a Minister has been so advised as aforesaid, the Governor in Council or other authority by whom the lease, licence, permit, or other authority is granted may, notwithstanding anything to the contrary contained in any Act, forfeit that lease or cancel or suspend that licence, permit, or other authority.
- (3) Where the Minister is satisfied that, by reason of a failure to comply with any provision of the *Fire and Rescue Service Act 1990*, part 7 or this part by any party to an agreement made with the Minister by the chief executive under section 39A, the continuance of that party's rights in respect of the forest entitlement area, or part thereof, to which the agreement relates is prejudicial to the objects of this Act and detrimental to the public interest the Minister may instruct the chief executive to cancel the agreement and the chief executive must cancel the agreement accordingly in the manner prescribed.
- (3A) The power conferred by subsection (3) is in addition to any other power of cancellation conferred by this Act or had by any person.
- (4) Upon a cancellation of an agreement made under section 39A, whether the cancellation be effected pursuant to subsection (3) or pursuant to any other power conferred by this Act—

-
- (a) the Minister shall cause notice in writing of the cancellation to be given to every party to the contract (other than the chief executive) affected thereby;
 - (b) the obligation of every person with whom the chief executive has made the agreement affected by the cancellation to perform that agreement shall cease but without prejudice to any liability incurred by any such person on account of anything done or omitted before the cancellation.
- (5) Section 58(5) to (7) shall apply, with all necessary adaptations, to a forfeiture, cancellation or suspension effected under this section.
- (6) In this section—
authority does not include plantation licence or plantation sublicence.

Part 8 Miscellaneous

69E Chief executive must consult with plantation licensee or plantation sublicensee if considering exercising power in relation to a licence area

- (1) This section applies if the chief executive is considering granting or making a permit, licence, lease or other authority, or an agreement or contract, under this Act that is over a licence area (the *relevant authorisation*).
- (2) This section does not apply if a person exercising delegated power under section 96B is considering the granting or making of the relevant authorisation.
- (3) Before granting or making the relevant authorisation, the chief executive must—
 - (a) consult with the plantation licensee and any plantation sublicensee for the licence area; and

[s 70]

- (b) consider any written representations made by the plantation licensee and any plantation sublicensee about the impact of the relevant authorisation on its operations under the plantation licence or plantation sublicense.
- (4) If activities under a relevant authorisation may result in damage being caused to the licence area, the chief executive must also take into account the ability of the applicant for the relevant authorisation to repair or pay for the damage.
- (5) A person to whom a relevant authorisation is granted or made who causes damage to the licence area is liable in damages to the plantation licensee or plantation sublicensee for the damage to the licence area.
- (6) The plantation licensee or plantation sublicensee may bring an action against a person mentioned in subsection (5) who causes damage to the licence area.

70 Destruction of trees on roads

The chief executive may from time to time grant permits to such persons as the chief executive deems fit and subject to such provisions, conditions and reservations as the chief executive deems fit, authorising the destruction of trees on roads (save State-controlled roads under the *Transport Infrastructure Act 1994*).

72 Wild stock

- (1) If the chief executive is satisfied that stock are unlawfully in, and are detrimental to a State forest, timber reserve or forest entitlement area (the *area*) the chief executive may—
 - (a) cause to be twice inserted in a newspaper circulating in the district wherein the area is situated, a notification that on a day or days specified therein, and being not less than 28 days from the date of the second insertion of such notification, a muster or musters of all or any of such stock in the area will be made at a stockyard or stockyards, the location of which shall be adequately set out in the notification, and that the owners of such stock

as may be mustered and other interested persons may claim such stock at such stockyard or stockyards;

- (b) cause to be made a muster or musters of all or any of such stock in the area and, for this purpose, issue a permit to muster stock to such persons performing duties under this Act and to such other persons as the chief executive deems necessary.
- (1A) A copy of that notification shall be posted up at the forestry office nearest to the area and a further copy thereof sent to—
- (a) every clerk of a Magistrates Court for the Magistrates Courts district or districts within which the area is situated; and
 - (b) every inspector of stock for the district or districts within which the area is situated;
- and, upon receipt, posted up by those officers at their respective offices.
- (1B) However, the chief executive shall not issue a permit to muster stock with respect to any part of an area which is comprised in a Crown holding or is subject to a permit (other than a sales permit) granted under this Act without the consent in writing of the lessee, licensee or permittee first had and obtained.
- (2) All stock mustered during any muster at a stockyard shall be held at that stockyard until noon on the day following the day of its muster at that stockyard unless otherwise lawfully dealt with under the provisions of this section.
 - (3) At least 1 forest officer or plantation officer shall attend at a stockyard on the day or days of each muster at that stockyard and until noon on the day following the last day of such muster.
 - (4) The forest officer or plantation officer in attendance at a stockyard shall release from that stockyard and shall deliver to the claimant therefor any stock in respect of which a person has—

[s 72]

- (a) claimed ownership, or a right to possession, on the day of the muster at that stockyard or before noon on the day following the day of such muster; and
 - (b) established his or her claim to the satisfaction of the forest officer or plantation officer; and
 - (c) paid to the forest officer or plantation officer such fees as may be from time to time prescribed.
- (4A) However, if the claimant has participated in and assisted the muster, and the forest officer or plantation officer thus certifies to the chief executive, the claimant may be granted a rebate of such sum on account of fees as the chief executive may determine.
- (4B) Before the forest officer or plantation officer releases stock from a stockyard under subsection (4) the forest officer or plantation officer shall give to the person to whom the stock is to be released a permit to remove stock and travel it to the boundary of the area.
- (5) Any person who removes, or causes to be removed, stock from a stockyard notified in accordance with the provision of subsection (1) shall be guilty of an offence unless the person has been given by the forest officer or plantation officer in attendance at that stockyard prior to such removal a permit referred to in subsection (4B).
- (6) Stock remaining in a stockyard at noon on the day following the day of its muster at that stockyard shall be dealt with in the following manner—
- (a) all stock that is unbranded or carries no decipherable brand (when clipped if necessary) or in respect of which a claim has been made in accordance with the provisions of subsection (4) but has not been established to the satisfaction of the forest officer or plantation officer in attendance at the stockyard or in respect of which a claim has been so established but the fees have not been paid as required by subsection (4) shall be sold, destroyed or otherwise disposed of in such manner and on such terms as the chief executive may determine;

- (b) all other stock shall be dealt with in accordance with the provisions of the *Local Government Act 2009* relating to the impounding of animals by private persons.
- (7) The proceeds of sale of any stock and fees paid with respect to any stock under this section shall be paid to Consolidated Fund.
- (8) No owner, nor any person claiming a proprietary or possessory interest in any stock sold, destroyed, disposed of or otherwise dealt with in pursuance of this section shall have any claim to damages or compensation or otherwise against the Crown or any other person on account of anything done or omitted to be done bona fide with respect to such stock in the course of carrying out or giving effect to the provisions of this section, anything in any Act or law or process of law to the contrary notwithstanding.

73 Unlawfully using State forests etc.

- (1) Any person who, except under the authority of and in compliance in every respect with a permit or licence or other right or authority granted under this Act, or a lease, licence, or other authority from the Crown, on any State forest, timber reserve or forest entitlement area—
 - (a) depastures any stock; or
 - (b) occupies, resides or camps upon, or encloses any land or waters, or grows crops upon any land, or clears or breaks up any land for cultivation or for any other purpose; or
 - (c) places any beehives; or
 - (d) searches for or collects minerals; or
 - (e) other than in accordance with a regulatory notice, traverses any part of such area with vehicles, teams, horses, or other animals;

shall be guilty of an offence against this Act.

[s 73A]

- (2) The chief executive may from time to time grant permits for the purposes of subsection (1)(e) to such persons as the chief executive deems fit and subject to such provisions, reservations and conditions as the chief executive deems fit.
- (3) If a plantation licensee, plantation sublicensee, plantation manager or plantation officer (the *decision maker*) exercising power delegated to the decision maker under section 96B makes a decision under this section, the decision maker must advise the applicant for the permit that the applicant may apply for a review of the decision under section 83A within 28 days if the applicant is dissatisfied with the decision.

73A Display of camping form if permit to camp granted

- (1) This section applies to a camping form for a permit to camp that, under section 35A(1), is taken to have been granted under section 35.
- (2) The person stated in the form must—
 - (a) attach the part of the form designated for this section to—
 - (i) if the person is using a tent, caravan or other structure for camping—the tent, caravan or other structure; or
 - (ii) otherwise—any camping equipment or vehicle the person is using for camping; and
 - (b) take reasonable steps to ensure that while a person continues to camp under the permit, the part of the camping form remains attached to the tent, caravan, structure, equipment or vehicle.

Maximum penalty—4 penalty units.

- (3) A person must not interfere with the part of the camping form mentioned in subsection (2) if a person is camping under the permit to which the form relates.

Maximum penalty—20 penalty units.

(4) In this section—

interfere with, a part of a camping form, includes to remove the part of the camping form.

73B Offence to display camping form if no permit to camp

A person must not attach a part of a camping form to a tent, caravan, structure, camping equipment or vehicle, in a self-registration camping area unless the person holds a permit to camp for the area.

Maximum penalty—20 penalty units.

74 Unauthorised building etc. within State forest etc.

(1) When any building, hut, tramline, fence, dam, weir, standing crop, or any other thing, or any property that appears to have been abandoned, is found within a State forest, timber reserve or forest entitlement area and—

- (a) the owner or occupier thereof does not on demand produce any lease, licence, permit, or other authority therefor; or
- (b) after reasonable enquiries made by a forest officer or plantation officer the owner or occupier thereof can not be ascertained or can not be found;

then on the hearing of the complaint by a forest officer or plantation officer acting with the authority of the chief executive, any Magistrates Court may fix a time within which such building, hut, tramline, fence, dam, weir, crop, or other thing, or that property, shall be removed.

Unauthorised building to become property of Crown

(2) If such removal is not effected within the time so fixed, such building, hut, tramline, fence, dam, weir, crop, or other thing, or that property, shall become the property of the Crown and may be disposed of or otherwise dealt with as the chief executive may direct.

Service of order for removal of building etc.

- (3) In any case where after such enquiries by a forest officer or plantation officer as aforesaid an owner or occupier has not been ascertained or has not been found, the order of the Magistrates Court fixing the time for removal of the building, hut, tramline, fence, dam, weir, crop, or other thing, or the property, shall, within a period fixed by the court for that purpose, be posted on some conspicuous part of the land on which the building, hut, tramline, fence, dam, weir, crop, or other thing, or the property, is situated and no other service or publication of that order need be made or given.
- (4) In this section—
- owner*, in relation to property that has been abandoned, means the person who was the owner of the property immediately before the property was abandoned.

75 Removal of trespassers

- (1) Any forest officer who has reason to believe that any person is in unlawful occupation of any State forest, timber reserve or forest entitlement area, or part thereof, may make complaint before justices, who shall hear and determine the matter in a summary way, and on being satisfied of the truth of the complaint, shall issue their warrant, addressed to any police officer, requiring the police officer forthwith to remove such person from such land, and to take possession of the same on behalf of the Crown, and the person to whom the warrant is addressed shall forthwith carry the same into execution.
- (2) In subsection (1)—
- forest officer* includes, in relation to a licence area, a plantation officer for the licence area.

76 Entry on to reserves may be prohibited

- (1) Whenever the Minister thinks it reasonable and necessary the Minister may, by notification in the gazette, prescribe that, while the notification remains in force, no person shall, in

respect of a State forest or timber reserve, or a specified part thereof, and no person other than a person who is therein under the authority conferred by an agreement made in relation to that area under section 39A or by the person being lessee or owner of land that is or includes that area, shall, in respect of a forest entitlement area or a specified part thereof, be in or on the forest, reserve or, as the case may be, area specified in the notification or, where a part only thereof is specified therein, the part so specified, except under and in accordance with a permit granted by the chief executive for the purposes of this section.

- (1A) However, the Minister can not, by notification under subsection (1), exclude the plantation licensee or plantation sublicensee for a licence area from, or limit the plantation licensee's or plantation sublicensee's access to, the licence area.
- (2) Any person who contravenes or fails to comply with any notification in force under subsection (1) shall be guilty of an offence against this Act.
- (3) The chief executive may from time to time grant subject to such conditions as the chief executive thinks fit permits for the purposes of this section.
- (4) The provisions of this section shall be in addition to and not in derogation from any other provisions of this Act.
- (5) In subsection (1A)—

plantation licensee includes the plantation licensee's employees, agents, contractors, customers and invitees.

plantation sublicensee includes the plantation sublicensee's employees, agents, contractors, customers and invitees.

77 Persons found in possession of forest products

Any person found within any State forest, timber reserve, forest entitlement area, reserve for public purposes, Crown land, or Crown holding, the forest products or quarry material whereon are the property of the Crown, or in the vicinity

[s 78]

thereof, and having in the person's possession any forest products, quarry material, or earth, who on being thereunto required by a forest officer, refuses or otherwise fails to give an account to the satisfaction of such officer of the manner in which the person became possessed of such forest products, quarry material, or earth, shall be deemed to have got the same on or from that State forest, timber reserve, forest entitlement area, reserve for public purposes, Crown land, or, as the case may be, Crown holding in contravention of the provisions of this Act, and shall be guilty of an offence against this Act, unless the person satisfies the court to the contrary.

78 Receiving forest products

Any person who receives any forest products or quarry material, the getting of which is an offence against this Act, knowing the same to have been so got shall be guilty of an offence against this Act.

79 Subpurchase

- (1) Every purchaser of forest products, quarry material, or earth from a person holding an agreement or a contract or permit, licence, or other right or authority made or granted under this Act shall be deemed to have purchased the same subject to the terms and provisions, conditions, and reservations of such agreement, contract, permit, licence, or, as the case may be, other right or authority and with notice thereof.
- (2) This section does not apply to a purchaser of natural resource product from a plantation licensee or plantation sublicensee.

80 Accounts of forest products

- (1) Every purchaser of forest products or quarry material under this Act shall keep such books and accounts and shall furnish such returns concerning the forest products or quarry material got as are required by the chief executive, and shall permit any forest officer to have access at all reasonable times to all such books and accounts and to all documents and writing

relating thereto and to take copies thereof and extracts therefrom.

- (2) The chief executive may require such returns to be verified by statutory declaration as to the truth or correctness thereof.
- (3) This section does not apply to a plantation licensee or plantation sublicensee or a purchaser of natural resource product from a plantation licensee or plantation sublicensee.

81 Power to enter land

Any person performing duties under this Act or any other person authorised by the chief executive by writing so to do, may for the purposes of this Act, without any previous notice—

- (a) enter upon any land or waters whatsoever for the purpose of inspecting any forest products thereupon or therein, whether growing or otherwise, or for giving effect to any of the provisions of this Act and upon such entry carry out such purpose;
- (b) upon such entry, make surveys and examine any timber or other forest products and any quarry material thereupon or therein;
- (c) upon such entry, do anything necessary for ascertaining the suitability of the land or waters for any forestry purposes or for the purposes of this Act.

82 Powers for seized timber etc.

- (1) Where timber has been seized under section 18(1)(ga)(i), the forest officer making the seizure may brand the timber for the purposes of identification.
- (2) When any forest products, quarry material, or earth have been seized under section 18(1)(ga)(i) the forest officer making such seizure may, in lieu of detaining and removing the same, place in a conspicuous position upon any such forest products, quarry material or earth, a notice signed by the forest officer and specifying so as to sufficiently identify it, the forest

[s 82]

products, quarry material, or earth seized and the place wherein or whereon it is situated at the time of seizure and the date and time of such seizure and thereupon any such forest products, quarry material, or earth shall be deemed to be in the custody and possession of that forest officer pending proceedings or until that forest officer by notice placed in the manner as aforesaid notifies that the forest officer has gone out of possession of such forest products, quarry material, or earth.

- (3) Every person who without authority alters, uses, interferes with, or removes or disposes of in any way any timber or other forest products, quarry material, or earth seized under section 18(1)(ga)(i) or attempts to do any such act whilst it is, or pursuant to this section is deemed to be, in the custody and possession of a forest officer shall be guilty of an offence against this Act.
- (4) The provisions of subsection (3) shall not derogate from or otherwise affect the provisions of section 86 of this Act.
- (5) Any forest officer, person performing duties under this Act, or other person authorised by the chief executive by writing so to do, may (with such assistants, plant, vehicles, animals, and equipment as may be necessary for the purpose) enter upon any place and thereon or therein remain and do and take all such things and steps as will enable the forest officer or person to obtain and remove anything seized or which has become and remains the property of the Crown.
- (6) Such power of entry shall include such right of ingress, egress, and regress as may be necessary in the circumstances.
- (7) Despite sections 82C to 82F, and 82H, a forest officer may seize any beehive or beehives which have been placed on a State forest otherwise than under the authority of a permit granted under this Act, and may remove such beehive or beehives from such State forest and may sell or otherwise dispose of the same.
- (8) Before seizing a beehive under subsection (7), the forest officer must—

-
- (a) make reasonable inquiries to find the owner (the *apiarist*) of the hive; and
 - (b) if the apiarist can be found—require the apiarist, by written notice, to remove the hive within a stated reasonable time.
- (9) The apiarist must comply with a requirement under subsection (8).
- Maximum penalty—20 penalty units.
- (10) If the apiarist can not be found or contravenes subsection (8), the forest officer may then exercise the power under subsection (7).
- (11) The proceeds (if any) of such sale or disposal shall be paid into consolidated fund.
- (12) The provisions of this section shall be in addition to and not in diminution of or substitution for any other provisions of this Act.

82A Seizure and forfeiture of vehicles

- (1) Any forest officer may, if the forest officer has reasonable grounds for believing—
- (a) that a vehicle presently on a State forest or timber reserve is being or has been used in contravention of section 73; or
 - (b) that a vehicle presently on a State forest is being or has been used in connection with an offence against section 34G;
- seize, remove and detain that vehicle.
- (2) Despite sections 82D and 82E, where the owner or other person claiming a proprietary interest in a vehicle being detained under this section produces to a forest officer at the place where that vehicle is being detained—
- (a) proof to the forest officer's satisfaction of such ownership or interest; and

[s 82B]

- (b) where that person was not using the vehicle at the time of commission of the alleged offence referred to in subsection (1)—proof to the forest officer’s satisfaction of the identity and address of the person who was using the vehicle at that time;

the vehicle shall be returned to the person forthwith upon the person signing a receipt for the same.

82B Receipt to be given

- (1) As soon as practicable after a thing (a *seized thing*) is seized by a forest officer under this Act, the forest officer must give a receipt for it to the person from whom it was seized.
- (2) The receipt must describe generally the condition of the seized thing and, if more than 1 thing is seized, must include an inventory or general description of them.
- (3) If, for any reason, it is not practicable to comply with subsection (1), the forest officer must—
 - (a) leave the receipt at the place where the thing is seized; and
 - (b) ensure the receipt is left in a reasonably secure way in a conspicuous position.
- (4) This section does not apply if—
 - (a) it is not practicable to comply with subsection (1); and
 - (b) it is not practicable to comply with subsection (3); and
 - (c) the owner of the seized thing can not be decided after reasonable inquiries or, having regard to its value, it is not reasonable to make inquiries about its owner.

82C Forest officer to allow inspection etc.

Until a seized thing is forfeited, returned or otherwise finally dealt with under this Act, a forest officer must allow a person who would be entitled to possession of it, if it had not been seized, to inspect it and, if it is a document, make copies of it.

82D Chief executive may return seized thing

- (1) The chief executive may return a seized thing to its owner.
- (2) The chief executive may return the thing to its owner on conditions, including conditions to ensure that the thing is available for forfeiture.
- (3) If the thing is not ordered to be forfeited to the State, the chief executive must return any property, including any security, taken by the chief executive under a condition imposed under subsection (2) at the end of—
 - (a) 6 months after the seizure; or
 - (b) if a prosecution for an offence involving the forest products or quarry material to which the seizure of the thing related is started within the 6 months—the prosecution for the offence and any appeal from the prosecution.

82E Chief executive's obligation to return seized things

- (1) The chief executive must return a seized thing to its owner at the end of—
 - (a) 6 months; or
 - (b) if a prosecution for an offence involving the forest products or quarry material to which the seizure of the thing related is started within the 6 months—the prosecution for the offence and any appeal from the prosecution.
- (2) Despite subsection (1), the chief executive must return the thing to its owner immediately if the chief executive is not satisfied, or stops being satisfied, its retention as evidence is necessary.
- (3) However, the chief executive may keep the thing if the chief executive believes, on reasonable grounds, the thing is liable to forfeiture under this Act.
- (4) This section does not require the return of a thing that has been forfeited under section 82F, 82G or 82L or another law.

[s 82F]

82F Chief executive may order forfeiture of unclaimed seized things

- (1) This section applies if the owner of a seized thing can not be found after reasonable inquiries or, having regard to its value, it is not reasonable to make inquiries about its owner.
- (2) The chief executive may order the forfeiture of the thing.

82G Forfeiture of seized things on conviction

- (1) On the conviction of a person for an offence against section 39, 53 or 54, the court may order the forfeiture of a seized thing including any incidental thing seized in connection with the offence under section 18(1)(ga)(i).
- (2) The court may make an order under subsection (1) in relation to the thing whether or not the thing has been returned to its owner.
- (3) The court may make any order to enforce the forfeiture that it considers appropriate.
- (4) This section does not limit the court's powers under the *Criminal Proceeds Confiscation Act 2002*, the *Penalties and Sentences Act 1992* or any other law.

82H Where and how to start appeal

- (1) A person from whom a seized thing has been seized may appeal to the Magistrates Court nearest to where the thing was seized.
- (2) The appeal is started by—
 - (a) filing a written notice of appeal with the clerk of the court of the Magistrates Court; and
 - (b) giving a copy of the notice to the chief executive.
- (3) Without limiting subsection (2)(b), the chief executive is given a copy of the notice if a copy is given to the forest officer who seized the thing.
- (4) The notice of appeal must state the grounds of the appeal.

82I Hearing procedures

- (1) The power to make rules of court under the *Magistrates Courts Act 1921* includes power to make rules of court for an appeal to Magistrates Courts under section 82H.
- (2) The procedure for the appeal is to be—
 - (a) in accordance with the rules made under the *Magistrates Courts Act 1921*; or
 - (b) in the absence of relevant rules, as directed by a magistrate.
- (3) In deciding the appeal, the Magistrates Court—
 - (a) is not bound by the rules of evidence; and
 - (b) must observe natural justice; and
 - (c) may hear the appeal in court or chambers.
- (4) However, the Magistrates Court is not to require the chief executive or any witness to disclose any evidence or information, including the name of a witness that may prejudice—
 - (a) an investigation of an offence against this Act; or
 - (b) a proceeding for a contravention of this Act, whether or not a proceeding has then been commenced.

82J Powers of Magistrates Court on appeal

- (1) In deciding the appeal, the Magistrates Court may—
 - (a) confirm the seizure of the thing; or
 - (b) set aside the seizure and order the return of the thing.
- (2) Without limiting subsection (1), a Magistrates Court may give any necessary directions about the seized thing before the appeal is heard or to dispose of the appeal.

[s 82K]

82K Appeal to District Court on questions of law only

- (1) A party dissatisfied by the decision of the Magistrates Court may appeal to the District Court, but only on a question of law.
- (2) The District Court may give any necessary directions about the seized thing before the appeal is heard or to dispose of the appeal.

82L Seized forest products and quarry material become State's property

- (1) This section applies—
 - (a) if a seized thing is forest products or quarry material; and
 - (b) despite sections 82E to 82G.
- (2) The forest products and quarry material are forfeited if—
 - (a) their seizure is not the subject of an appeal to a Magistrates Court within 14 days after their seizure; or
 - (b) their seizure is the subject of an appeal to a Magistrates Court within 14 days after their seizure, but the seizure is confirmed on appeal; or
 - (c) the chief executive and the person (the *claimant*) claiming to be entitled to the forest products and quarry material agree, in writing, that the forest products and quarry material are forfeited.

82M Forfeited things seized become State's property

On the forfeiture of a seized thing under section 82F, 82G or 82L, the thing becomes the State's property.

83 Dealing with forfeited forest products etc.

- (1) Forest products, quarry material, earth or any vehicle or incidental thing, forfeited under this Act shall be dealt with or disposed of as the chief executive may direct.

-
- (2) Any such forfeiture, dealing with, or disposal shall not confer upon any person any right to compensation.

Saving of Crown rights in respect of forest products

- (3) The provisions of this section or any other provision of this Act relating to the seizure, detention, removal, or forfeiture of any forest products, quarry material, or earth, shall not prejudice the rights of the Crown with respect to any forest products, quarry material, or earth which are the property of the Crown, and any such right may be exercised at any time by the Crown anything to the contrary in this Act notwithstanding.

83A Particular decisions subject to review

- (1) A person who is dissatisfied with a reviewable decision made by a delegate of the chief executive exercising a delegated function of the chief executive under section 96B (the *original decision maker*) may ask the chief executive to review the decision within 28 days after the person is notified of the decision.
- (2) The person reviewing the decision (the *reviewer*) must be more senior than the person who made the decision.
- (3) The reviewer—
- (a) may—
 - (i) confirm the original decision; or
 - (ii) make another decision and, for that purpose, has the same powers as the original decision maker; and
 - (b) must give the applicant a statement of reasons for his or her decision.
- (4) In this section—
- reviewable decision* means—
- (a) a decision in relation to a permit under section 35;
 - (b) a decision in relation to a licence under section 55;

[s 84]

- (c) a decision in relation to a permit, licence, lease, or other authority, or an agreement or contract, under section 56;
- (d) a decision in relation to a permit under section 73(2).

84 Matters may be completed by different officers

- (1) If an officer has issued any order or given any direction or notice or made any request or taken any action under this Act, the officer or any other officer who is empowered by this Act to issue, give, or make a like order, direction, notice, or request, or, as the case may be, to take any like action, may at any time (and shall if so directed by the chief executive) withdraw or revoke or from time to time vary the order, direction, notice, request, or action, or take further steps thereon.

Prevention of breach of Act

- (2) Any officer may, without further warrant or authority than this subsection, summarily interfere to prevent any actual or attempted breach of this Act.

Certificates of appointment

- (3) Every officer shall be furnished with a certificate of appointment, signed by the chief executive and upon entering any place for the purposes of this Act shall, if required, produce such certificate to the occupier of the place.
- (4) Every person performing duties under this Act or other person authorised by the chief executive to enter upon any place for the purposes of this Act shall, if required, produce the person's authority to the occupier of the place.
- (5) In subsections (1) and (3)—
officer includes plantation officer.

84A Officer may direct person to leave State forest or timber reserve

An officer may direct a person—

- (a) who has committed or attempted to commit; or

- (b) who the officer suspects, on reasonable grounds, of having committed or attempted to commit;

an offence against this Act on a State forest or timber reserve to forthwith leave the State forest or, as the case may be, timber reserve.

85 Owners and occupiers to give all reasonable assistance

The owner or occupier of any place and a person in charge or apparently in charge of any place shall furnish to any officer or other person acting under lawful authority under or pursuant to this Act, all reasonable assistance and all such information which the owner, occupier or other person is capable of furnishing or as required by that officer or person with respect to the exercise of his or her powers and the discharge of his or her duties under this Act.

86 Obstruction of officer etc.

- (1) A person shall not—
 - (a) assault, obstruct, hinder, threaten, abuse, insult, or intimidate any person performing duties under this Act in the exercise of the person's powers or the discharge of the person's duties under this Act, or offer or attempt, or invite or encourage any other person, so to do; or
 - (b) fail to facilitate by all reasonable means the entry and inspection of any place by any person performing duties under this Act; or
 - (c) refuse to allow to be removed, seized or detained under this Act any forest products, quarry material, incidental thing or vehicle; or
 - (d) take, retake, remove or otherwise interfere with or attempt to take, retake, remove or otherwise interfere with forest products, quarry material, incidental thing or vehicle removed, seized, detained or forfeited under this Act; or

[s 86]

- (e) when required by or under this Act to furnish any assistance or to furnish any information to a person performing duties under this Act fail to furnish that assistance or information, as the case may be, or, in the latter case, furnish information which is in any respect false or misleading; or
- (f) fail, without reasonable excuse, the proof whereof shall lie upon the person, to produce any licence, permit, or other authority, book, notice, record, list, document, or writing which the person is required under this Act by a person performing duties under this Act to produce, or fail to allow a person performing duties under this Act to take a copy of or extract from any such licence, permit, or other authority, book, notice, record, list, document, or writing; or
- (g) fail to comply with the lawful requisition or lawful direction or any part of the lawful requisition or lawful direction of any person performing duties under this Act; or
- (h) give or agree to give or offer to any person performing duties under this Act any gift or consideration as an inducement or reward for any act done or to be done, or any forbearance observed or to be observed, or any favour shown or to be shown by such officer or employee in or in relation to the exercise of his or her powers or the discharge of his or her duties under this Act: (For the purpose of this paragraph, a gift or consideration shall be deemed to be given as an inducement or reward if the receipt or any expectation whereof would be in any way likely to influence the person to do or leave undone something contrary to the person's duty); or
- (i) knowingly furnish any officer with a false or incorrect statement of any forest products, quarry material, or earth got by the person or by any person as the person's agent or employee on which royalties, stumpage, fees, charges, or other moneys whatsoever are payable to the Crown or the chief executive; or

-
- (j) without lawful authority, the proof whereof shall lie upon the person, take, destroy, damage, or otherwise interfere with or cause to be taken, destroyed, or otherwise interfered with any buildings, fences, gates, roads, tracks, works, notices, materials, tools, goods, or chattels of any nature the property of the State and being on any State forest or timber reserve; or
 - (k) within any State forest or timber reserve behave in a manner likely to cause danger, inconvenience or annoyance to any person; or
 - (l) having left a State forest or timber reserve pursuant to a direction given to the person under section 84A, on the same day as the direction was given re-enter or enter any State forest or timber reserve.

Person not obliged to criminate himself or herself

- (2) No person shall be obliged under this Act to answer any question, or give any information or evidence, or to sign any declaration tending to criminate himself or herself.
- (3) In this section—

officer includes any person acting under lawful authority under or pursuant to this Act.

87 Forgery of licence etc. and other offences

A person shall not—

- (a) forge or counterfeit any licence, permit, certificate, or other authority granted under and for the purposes of this Act; or
- (b) utter, or make use of any such licence, permit, certificate, or other authority so forged or counterfeited; or
- (c) counterfeit or unlawfully fix to any forest products any mark used by and appropriated for the use of forest officers, or unlawfully alter, remove, disfigure, or obliterate any mark placed upon any forest products by any forest officer; or

[s 88]

- (d) without due authority, make or cause to be made, or use or cause to be used, or have in the person's possession, a brand or stamp which resembles or purports to be a brand or stamp such as is usually used by forest officers; or
- (e) unlawfully alter, obliterate, deface, pull up, remove, or destroy any boundary-mark or any notice which has been posted, erected or displayed in any place for the purposes of this Act; or
- (f) personate any person named in any licence, permit, certificate, or other authority granted under and for the purposes of this Act; or
- (g) make or cause to be made in any book, record, return, declaration, or statement directed by this Act to be kept or made, any entry or writing which is to the person's knowledge false in any material particular; or
- (h) knowingly or recklessly furnish information in a camping form that is false or misleading in a material particular; or
- (i) connive at any such forging, counterfeiting, uttering, making use, fixing, making, using, personating, making of the entry or writing or furnishing of the information, as aforesaid.

Maximum penalty—

- (a) for a first offence—1000 penalty units or 1 year imprisonment; and
- (b) for a subsequent offence—3000 penalty units or 2 years imprisonment.

88 Offences generally

- (1) Any person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence against this Act.
 - (1A) Every person who attempts, aids, abets, counsels, or procures,

or is in any way knowingly concerned in, the commission of an offence against this Act shall be deemed to have committed that offence, and shall be punishable accordingly.

- (1B) Where by this Act any authority is given to any person to direct anything to be done or to forbid anything to be done and anything so directed to be done is not done or anything so forbidden to be done is done, then every person who has offended against such direction or, as the case may be, prohibition shall be guilty of an offence against this Act.

General penalty

- (2) A person guilty of an offence against any provision of this Act is liable, if no specific penalty is provided for the offence, to a penalty of—
- (a) for a first offence—100 penalty units; and
 - (b) for a second or subsequent offence against the same section or that is similar to the first or a previous offence—200 penalty units.

Loss or damage

- (2A) Any person guilty of an offence against any provisions of this Act relating to State forests or timber reserves, or any forest products or quarry material the property of the Crown or a plantation licensee or plantation sublicensee, shall, in every case, be liable for all loss and all damage caused by that offence, in addition to the penalty for the offence, and such loss and damage may be awarded by the court in fixing the penalty, and may be recovered in the same way as a pecuniary penalty.
- (2B) For the purposes of subsection (2A), the loss and damage caused by the offender shall include the value of the forest products or quarry material in respect of which the offence was committed, and also the value of the damage to the forest including any works or improvements thereon caused by the offence.
- (2C) However, all such loss and damage may be recovered by the State or, to the extent the loss or damage related to a licence area or natural resource product and quarry material in which

[s 88]

the plantation licensee or a plantation sublicensee has an interest, the plantation licensee or plantation sublicensee by action as for a debt in any court of competent jurisdiction.

- (2D) Furthermore the value of any tree in relation to which the offence was committed, shall be taken to be the sale price ordinarily obtainable on the sale of the tree then and there standing.
- (2E) Where a person is convicted of an offence in respect of unauthorised interference with forest products on land reserved or dedicated for public purposes under the control of a local government (including any road save a State controlled road within the meaning of the *Transport Infrastructure Act 1994*, chapter 6), the court pronouncing the conviction may, if it is satisfied that the local government in which control of the land is vested is willing to undertake the work, in addition to imposing a penalty upon that person, order the person to pay to the chief executive a sum by way of compensation to cover the cost of—
- (a) clearing from the land debris caused by the offence;
 - (b) replacing trees destroyed by that person and tending trees so replaced for a period of 12 months.
- (2F) The chief executive shall remit to the local government concerned moneys received by the chief executive by way of compensation pursuant to subsection (2E) and that local government shall use those moneys for the purposes for which they were ordered to be paid.

Penalties to be in addition to fines under licences or permits

- (2G) Penalties imposed for offences against this Act shall be in addition to and not in substitution for any penalty or fine (pecuniary or otherwise) imposed by or under any agreement, contract, lease, permit, or licence or other authority under this Act.
- (2H) Any penalty or punishment to which the person committed may be liable under this Act upon the person's conviction shall be in addition to any forfeiture under this Act.

Summary proceeding

- (3) All offences against this Act may be prosecuted and all amounts of fees, royalties, stumpages, charges, or other moneys payable under this Act and not paid may be recovered in a summary way under the *Justices Act 1886* on complaint by—
- (a) if the offence happened in, or related to, a licence area—a plantation officer; or
 - (b) generally—any forest officer or any other person authorised for the purpose either generally, or in the particular case, by the chief executive.

Time for commencement of prosecutions

- (4) A prosecution for an offence against this Act may be instituted at any time within 12 months after the commission of the offence or within 6 months after the commission of the offence comes to the knowledge of the complainant, whichever is the later period.

88A Recovery of moneys by plantation licensee or plantation sublicensee

- (1) This section applies if a fee or amount—
- (a) may be retained or recovered by a plantation licensee or plantation sublicensee under this Act, including under section 96B(6); and
 - (b) is unpaid.
- (2) The plantation licensee or plantation sublicensee may recover the fee or amount in any court of competent jurisdiction by action as for a debt
- (3) The plantation licensee or plantation sublicensee may bring the action in its own name.

89 Recovery of moneys due

- (1) All moneys due to the Crown in respect of the sale of any forest products or quarry material or in respect of any royalty

[s 91]

or stumps on any forest products or quarry material got in pursuance of this Act or in respect of any loss or damage (including under section 88(2C)) to any forest products or quarry material, the property of the Crown or in respect of any other matter or thing whatsoever under this Act may be recovered by the State in any court of competent jurisdiction by action as for a debt.

- (1A) All moneys owing to a plantation licensee or plantation sublicensee in relation to any loss or damage (including under section 88(2C)) to natural resource product or quarry material the property of the plantation licensee or plantation sublicensee may be recovered by the plantation licensee or plantation sublicensee in any court of competent jurisdiction by action as for a debt.
- (2) Where the liability for the payment of moneys due or owing under subsection (1) or (1A) arises by reason of, or in connection with, a contravention of this Act, such moneys shall be recoverable under this Act in relation to the conduct constituting the contravention whether proceedings in respect of that contravention are commenced or not and whether any person is convicted therefor or not.
- (3) The provisions of this section are in addition to and not in diminution of or substitution for the provisions of any other enactment of this Act.

91 Power to waive proceedings

- (1AA) This section does not apply to natural resource product in a licence area that is got, ringbarked, destroyed, damaged, used, marked or in any way interfered with by the plantation licensee or any plantation sublicensee for the licence area or any employee, agent, contractor, customer or invitee of the plantation licensee or plantation sublicensee.
- (1) Where any forest products are or any quarry material is got, ringbarked, destroyed, damaged, used, marked or in any way interfered with in contravention of this Act the chief executive may demand payment of—

-
- (a) the value of such forest products or quarry material; and
 - (b) the value of the damage to the forest and any property of the State occasioned by the contravention; and
 - (c) the cost and expense of the investigation by or on behalf of the chief executive of the contravention;

in such amount or amounts as the chief executive determines, from the person who actually committed the contravention of this Act or, where the contravention has occurred by reason of any instruction or information given by any other person, from that other person.

- (1A) Upon payment to the chief executive by the person upon whom such demand is made of the amount or amounts so demanded the chief executive may, in the chief executive's discretion, allow such person to gather and remove the whole or any part of the forest products or quarry material in relation to which the contravention of this Act occurred and to retain the same.
 - (1B) Where 2 or more persons have given any instruction or information, by reason of which the contravention of this Act was committed, demand under subsection (1) shall be made on the person who first gave that instruction or information.
 - (1C) Any amount so demanded and not paid may be recovered by the State by summary proceedings upon complaint or by action as for a debt in any court of competent jurisdiction.
 - (1D) A proceeding or action under this section for the recovery of any amount may be commenced whether or not proceedings for prosecution of an offence against this Act are commenced or not and whether any person is convicted therefor or not.
 - (1E) For the purposes of this section the value of any tree shall be taken to be the sale price ordinarily obtainable on the sale of the tree as it stood immediately before the act that has rendered the person concerned liable under this section to a demand upon the person by the chief executive.
- (2) Notwithstanding the provisions of subsection (1) and anything done or omitted to be done thereunder, the chief executive may, at any time, either before or after making a demand upon

[s 92]

any person, sell all or any part of the forest products or quarry material affected by the act which has rendered any person liable to a demand thereunder on such terms and conditions as the chief executive thinks fit.

- (3) The net proceeds of any such sale may be applied towards the reduction of the value demanded or to be demanded by the chief executive under this section.
- (4) Should the net proceeds of any such sale equal or exceed the value demanded, or to be demanded, by the chief executive under this section then the person upon whom the demand has been made, or would otherwise have been made, shall not be required to make a payment in respect of the value of the forest products or quarry material so sold.
- (5) For the purposes of subsections (3) and (4)—

net proceeds means the proceeds of the sale of any forest products or quarry material less such expenses incurred in relation to—

- (a) such forest products or quarry material with a view to the sale thereof or, any part thereof; and
- (b) the sale of such forest products or quarry material or any part thereof;

as the chief executive may determine.

92 All moneys to be property of Crown

- (1) All debts and other moneys whatsoever for the time being owing to the chief executive under this Act by any person on any account whatsoever, are hereby declared to be the property of the Crown and recoverable as from debtors to the Crown with such interest (if any) as prescribed.

Recovery of moneys

- (2) Any money due to the Crown under this Act may be recovered by summary proceedings on complaint, or by action as for a debt in any court of competent jurisdiction.

-
- (3) The several remedies for the recovery of amounts of fees, rents, charges, royalties, stumpages and other sums payable under this Act and not paid shall be alternative and no such remedy shall prejudice or otherwise affect any other excepting that resort shall not be had to more than 1 such remedy in respect of any 1 and the same amount of fees, rents, charges, royalties, stumpages or other sums so payable.

93 Judicial notice

- (1) Judicial notice shall be taken of—
- (aa) the boundaries of every State plantation forest; and
 - (a) the boundaries of every State forest and timber reserve; and
 - (b) every notification under this Act published in the gazette.

Timber presumed to be property of Crown

- (2) When in any proceedings under or for the purpose of this Act a question arises as to whether any forest products or quarry material are the property of the Crown, such forest products or quarry material shall be presumed to be the property of the Crown until the contrary is proved.

94 Mistaken belief as to boundaries

- (1) In every case of a sale of any forest products or quarry material situated on any land or part of any land whereon forest products or, as the case may be, quarry material are not the property of the Crown and which land or part thereof is adjoining or situate in the vicinity of lands whereon the forest products or, as the case may be, quarry material are the property of the Crown, it shall be the duty of the seller to clearly and correctly indicate to the buyer and of the buyer clearly and correctly ascertain the boundaries of that land or, as the case may be, part.
- (2) Any person who is charged with an offence against this Act with respect to the getting, ringbarking, destroying, damaging,

[s 95]

or other interference with any earth, forest products or quarry material, or with respect to trespass or encroachment upon, or unlawful use of, any State forest or timber reserve, shall not escape liability for that offence by pleading any mistaken belief as to the situation of the boundaries of any land or part of any land whereon the person was lawfully entitled to get, ringbark, destroy, damage, or otherwise interfere with any forest products, quarry material, or, as the case may be, earth, or of that State forest or, as the case may be, timber reserve.

95 Facilitation of proof

In any proceedings under or for the purpose of this Act—

- (a) it shall not be necessary to prove the appointment of any person performing duties under this Act, or the authority of any person performing duties under this Act, to do any act or to take the proceedings or to give any direction or order, but this shall not prejudice the right of any defendant to prove the extent of such authority;
- (b) a signature purporting to be that of any person performing duties under this Act shall be taken to be the signature it purports to be until the contrary is proved;
- (c) it shall not be necessary to prove the limits of any area or locality whatsoever, or that any place is within a State forest or timber reserve, or an area or a locality, or part thereof, but this shall not prejudice the right of any defendant to prove the limits of the area or locality or that any place is not within the State forest or timber reserve, area, or locality, or part thereof;
- (d) a document purporting to be a duplicate or a copy of a lease, permit, licence, certificate, or other authority, agreement or contract, notice, or order granted, given or made under this Act shall, upon its production in evidence, be evidence of that lease, permit, licence, certificate, other authority, agreement or contract, notice, or, as the case may be, order, and in the absence of evidence in rebuttal thereof, shall be conclusive evidence thereof;

- (e) a document purporting to be made by the chief executive and stating that at any specified time there was or was not in force a lease, agreement, contract, permit, licence, certificate, or other authority, as described therein granted, given or made under this Act to or with a specified person, and, if stated therein, that such lease, agreement, contract, permit, licence, certificate, or other authority was or was not subject to terms, conditions, or restrictions, or was or was not issued or made subject to the provisions, conditions, and restrictions set out in that document, or that at any specified time a specified person was or was not exempted from any specified provisions of this Act, shall, upon its production in evidence, be evidence of the matters in that document, and in the absence of evidence in rebuttal thereof, shall be conclusive evidence of such matters;
- (f) a document purporting to be a copy of any letter or telegram and purporting to be made by the chief executive and purporting to authorise any person to institute any legal proceedings shall be admissible in evidence at the proceedings, and shall be accepted as evidence of the authority of the person to institute and prosecute the proceedings;
- (g) the averment in any complaint of the date on which the commission of any offence under this Act came to the knowledge of the complainant shall be evidence of that matter and in the absence of evidence in rebuttal shall be conclusive evidence of such matter;
- (h) where an offence is committed by a person in respect of more than 1 Crown holding or area of Crown lands, or State forest, timber reserve, reserve for public purposes, or road, or any combination of these, a complaint may aver that the offence has been so committed and it shall not be necessary to show the extent of the offence in respect to any 1 of such areas;
- (i) a map or plan purporting to be made by the chief executive or by a person performing duties under this Act, or purporting to be issued or published by any

[s 96]

department of the government or any officer thereof, shall, upon its production in evidence, be evidence of the matters stated or delineated thereon, and in the absence of evidence in rebuttal thereof, shall be conclusive evidence of such matters;

- (j) copies of any plans, sections, specifications and books of reference relating to matters arising under this Act, or of any alteration or correction thereof, or extracts therefrom, certified by a person performing duties under this Act in that behalf to be true copies or, as the case may be, extracts thereof (which certificates such officer shall give to all parties interested when required, on payment of such fees as are prescribed) shall, upon production in evidence, be evidence of the contents thereof, and in the absence of evidence in rebuttal thereof, shall be conclusive evidence of the contents thereof;
- (k) a document purporting to be made by the chief executive and certifying that the amount of fees, royalties, stumpages, rents, compensation, costs, charges, expenses, or other sums specified therein is payable under this Act and has not been paid by a specified person shall, upon its production in evidence, be evidence of the matter or matters certified to therein, and in the absence of evidence in rebuttal thereof shall be conclusive evidence of such matter or matters;
- (l) any document whatever purporting to be issued or written by or under the direction of the chief executive shall be received in evidence and shall be deemed to be issued or written by or under the direction of the chief executive until the contrary is proved: (The expression *document* includes any order, direction, and notice).

96 Acknowledgment of service

A person or the person's manager, servant, or agent shall, if thereunto required by a person performing duties under this Act, acknowledge any notice, order, direction, or other

document given, delivered, or served under this Act, by signing the original or, as the case may be, duplicate copy retained by the person performing duties under this Act.

96AA Delegation by Minister

The Minister may delegate the Minister's functions and powers under parts 6D and 6E to the chief executive.

96A Delegation by chief executive—general

- (1) The chief executive may delegate the chief executive's powers under this or another Act to an appropriately qualified officer or employee of a department responsible for the administration of this Act.

- (2) In subsection (1)—

appropriately qualified includes having the qualifications, experience or standing appropriate to exercise the power.

Example of standing—

a person's classification level in the public service

96B Delegation by chief executive—State plantation forests

- (1) Without limiting section 96A, the chief executive may delegate the chief executive's functions under sections 21(2), 34AA, 34AB, 34G, 35(1)(a), (c) or (d) and (2), 55 (other than section 55(1)(g) or (h)), 56 (other than the function of granting sales permits for the sale of natural resource product from a licence area), 58, 59, 72, 73(2) and section 84(3) (to the extent it applies to plantation officers) to—

- (a) a plantation licensee; or
- (b) a plantation sublicensee; or
- (c) a plantation manager; or
- (d) a plantation officer; or

[s 96B]

- (e) a registered mortgagee or an enforcing party exercising power under section 61SQ.

Note—

A plantation licensee or plantation sublicensee may not exercise power under section 56 to grant sales permits for the sale of natural resource product from its licence area but it can contract with other persons to sell natural resource product on its licence area under section 61QD.

- (2) The chief executive may also delegate the chief executive's functions under section 17 to appoint plantation officers to—
- (a) a plantation licensee; or
 - (b) a plantation sublicensee; or
 - (c) a plantation manager; or
 - (d) a registered mortgagee or an enforcing party exercising power under section 61SQ.
- (3) Further, the chief executive may delegate a function under section 83A(1) about reviewable decisions under section 35 or 55 to a person having management responsibility for a plantation licensee or plantation sublicensee.
- (4) A function delegated under subsection (1)—
- (a) is limited in its application to the relevant licence area; and
 - (b) if the delegated function authorises the erection or display of regulatory notices under section 34AA or 34AB or a notice under section 34G, may be exercised only for the following purposes—
 - (i) the protection of the health and safety of persons;
Example—
 - prohibiting or limiting access to an area when tree felling is happening
 - (ii) the protection of a plantation licensee's or plantation sublicensee's interests;

Example—

- prohibiting or limiting access to an area of young trees at risk of damage because of careless behaviour or general use of the area

(iii) the proper maintenance of roads and tracks.

Example—

- prohibiting or limiting use of an unformed road to protect it from traffic damage after heavy rain

(5) Subsection (6) applies if, in relation to a function of the chief executive delegated under this section to a plantation licensee or plantation sublicensee (each a *delegate*) or an appointed person and performed by a delegate or an appointed person, the State is entitled to receive a fee prescribed under a regulation or another amount under this Act in connection with the performance of the function (each a *relevant amount*).

(6) A relevant amount—

- (a) may be recovered by the delegate who performed the function or appointed the appointed person who performed the function; and
- (b) if received or recovered by the delegate who performed the function or appointed the appointed person who performed the function, may be retained by the delegate; and
- (c) does not form part of the consolidated fund.

(7) Subsection (6) does not apply to the performance of a function, or a fee received, under section 72.

(8) In this section—

appointed person means a plantation officer or plantation manager.

function includes power.

relevant licence area means—

- (a) for a plantation licensee—the licence area for the plantation licensee's plantation licence; or

[s 96C]

- (b) for a plantation sublicensee—the licence area for the plantation sublicensee’s plantation sublicense; or
- (c) for a plantation manager—the licence area or part of the licence area for which the plantation manager is appointed; or
- (d) for a plantation officer—the licence area for which the plantation officer is appointed.

96C Delegation by chief executive (lands)

- (1) The chief executive (lands) may delegate his or her functions under this Act to an appropriately qualified public service officer.

- (2) In subsection (1)—

appropriately qualified includes having the qualifications, experience or standing appropriate to exercise the power.

Example of standing—

a person’s classification level in the public service

function includes power.

96D Delegation by FPQ and head of FPQO

- (1) Without limiting any other power of delegation under another Act, FPQ and the head of FPQO may delegate its or his or her functions under this or another Act to—
 - (a) a declared entity within the meaning of the *Infrastructure Investment (Asset Restructuring and Disposal) Act 2009*; or
 - (b) an appropriately qualified person who is an employee of an entity mentioned in paragraph (a).
- (2) In this section—

appropriately qualified, for the performance of a function, includes having the qualifications, experience or standing appropriate to perform the function.

function includes power.

96E Protection from liability

- (1) This section applies to a person appointed as a plantation officer by a plantation operator under a delegated function as mentioned in section 96B(2).
- (2) The person does not incur civil liability for an act done, or an omission made, honestly and without negligence under this Act.
- (3) If subsection (2) prevents a civil liability attaching to the person, the liability attaches instead to the plantation operator.

97 Regulation-making power

- (1) The Governor in Council may from time to time make regulations, not inconsistent with this Act, prescribing all matters and things which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act and, without limiting the generality of the foregoing provisions of this section, regulations may be made for or in respect of all or any of the purposes, matters, and things set forth in schedule 2.
- (2) The power to make with respect to State forests, timber reserves, forest products, quarry material, or matters or things whatsoever, any regulation under this Act shall include power to make that regulation so that it may be of general or specially limited application according to time, place, purposes, classes, or circumstances, or otherwise as is prescribed, and so that any regulation or specially limited application may or may not differ from any other regulation of specially limited application with respect to the same persons, matters, or things.

[s 98]

- (3) The power to make regulations with respect to any matter shall include power to make regulations under this section prohibiting that matter either generally or to meet particular cases.

98 Misnomer, inaccurate description etc.

- (1) No misnomer, inaccurate description, or omission in or from any proclamation, order in council, regulation, order, or notification, shall in anywise prevent or abridge the operation of this Act with respect to the subject matter of that misnomer, inaccurate description, or omission provided the same is designated so as to be understood.
- (2) No proclamation, order in council, or notification purporting to be made under this Act and being within the powers conferred on the Governor in Council or other authority shall be invalid on account of any non-compliance with any of the matters required by this Act as preliminary to the same.

102 Saving of certain Acts

- (1) Unless otherwise expressly provided, the provisions of this Act are in addition to, and do not limit the operation of, the following Acts—
 - (a) *Biodiscovery Act 2004*;
 - (b) *Criminal Code*;
 - (c) *Fire and Rescue Service Act 1990*;
 - (d) *Nature Conservation Act 1992*;
 - (e) *Petroleum (Submerged Lands) Act 1982*.
- (2) If there is any inconsistency between this Act and the *Petroleum (Submerged Lands) Act 1982*, the later Act is to prevail to the extent of the inconsistency.

103 Existing orders in council

- (1) An order in council in force under section 25, 27, 28 or 34A immediately before the commencement of this section continues to have effect after the commencement, and may be repealed or amended as if it were a regulation.
- (2) Without limiting subsection (1), but despite section 26(2), an order in council setting apart and declaring a State forest may be repealed by a regulation without the resolution of the Legislative Assembly if the area of land comprising the State forest is set apart and declared as a State forest under the regulation.

104 Delegations continue until revoked

A delegation made by the chief executive under the *Primary Industries Corporation Act 1992*, section 10, before the commencement of this section—

- (a) is taken to have been made by the chief executive under this Act; and
- (b) continues to have effect until revoked by the chief executive.

Part 9 **Savings and transitional provisions for Primary Industries and Natural Resources Legislation Amendment Act 2000**

Division 1 **Preliminary**

104A Purposes of pt 9

The purposes of this part are—

- (a) to transfer the assets and liabilities of the council to a body corporate appointed by the council (its *replacement corporation*) that is not a public authority; and
- (b) to dissolve the council.

105 Definitions for pt 9

In this part—

authorised person, for the council's replacement corporation, means its secretary or someone else with the written authority of its board of directors.

company limited by guarantee means a company limited by guarantee under the Corporations Law, section 9.

constitution, of a replacement corporation that is a company limited by guarantee, means its constitution, or proposed constitution, under the Corporations Law.

council means the Timber Research and Development Advisory Council established under this Act.

eligible participant means a person who, immediately before the transfer day, held a permit under section 56 that was issued subject to section 22S.

Editor's note—

Section 22S (Additional stumpage) was omitted by 2000 No. 26 section 7.

replacement corporation see section 104A(a).

transfer day means the day the *Primary Industries and Natural Resources Legislation Amendment Act 2000*, section 7, commences.

Division 2 Appointment of replacement corporation

106 Council must appoint its replacement corporation

- (1) The council must appoint its replacement corporation.
- (2) It is the intention of Parliament that, unless this part otherwise provides—
 - (a) the following issues about the council's replacement corporation are to be resolved when making the appointment—
 - (i) its constitution;
 - (ii) its membership and the conditions for becoming a member;
 - (iii) the obligations, restrictions and rights imposed on its members;
 - (iv) its officers; and
 - (b) laws concerning the incorporation of, and laws that apply to, the replacement corporation continue to apply.

107 Conditions for appointment

A replacement corporation may be appointed for the council only if—

- (a) the replacement corporation has, by a notice to the council signed by an authorised person for the corporation, agreed to the appointment; and
- (b) the replacement corporation's constitution allows the transfer of all the assets and liabilities of the council to the corporation; and
- (c) the replacement corporation is a company limited by guarantee.

108 Notice of appointment

- (1) As soon as practicable after the council has appointed its replacement corporation, it must give the Minister notice of the appointment.
- (2) The notice must state the following—
 - (a) the replacement corporation's name;
 - (b) the day the appointment was made;
 - (c) that the replacement corporation's constitution allows the transfer of all the assets and liabilities of the council to the replacement corporation;
 - (d) that the replacement corporation is a company limited by guarantee.
- (3) The notice must also state that the council is satisfied that, on the transfer of the council's assets and liabilities to the replacement corporation—
 - (a) the objects of the replacement corporation will include—
 - (i) the promotion, merchandising and market development of timber and timber products; and
 - (ii) the conduct of research into timber and timber products; and
 - (iii) the provision of advice regarding timber processing and use; and

-
- (iv) the conduct of research into product development and processing costs in the timber processing industry; and
 - (v) education and training in relation to timber processing and use; and
 - (b) having regard to the requirements and purposes of the transfer, the following will be appropriate—
 - (i) the corporation's constitution;
 - (ii) the conditions under which each eligible participant may become a member of the corporation;
 - (iii) the obligations, restrictions and rights that will attach to members of the corporation;
 - (iv) the corporation's officers; and
 - (c) each eligible participant will be given an opportunity to become a member.
- (4) The notice must be accompanied by a copy of the notice mentioned in section 107(a).

Division 3 Transfer to replacement corporation

109 Application of div 3

This division applies on the transfer day.

110 Transfer of council's assets and liabilities

The council's assets and liabilities are transferred to its replacement corporation and become assets and liabilities of the corporation.

111 Registration of transferred assets

- (1) A certificate signed by an authorised person for the council's replacement corporation is evidence of an asset having

become an asset of the corporation on the transfer day if the certificate—

- (a) identifies the asset; and
 - (b) states the asset was, immediately before the transfer day, an asset of the council; and
 - (c) states that, under this division, the asset became an asset of the replacement corporation on the transfer day.
- (2) If the certificate is given to an entity with registration functions for assets of that kind under a law of the State, the entity must do the following as if the certificate were an appropriate instrument of transfer of the asset—
- (a) register the matter in the same way as transactions for assets of that kind;
 - (b) deal with, and give effect to, the certificate.

Examples of entity with registration functions—

- ASIC
 - the registrar of titles
- (3) Subsection (2) applies despite the Corporations Law, section 268 or the Corporations Law, chapter 7, part 7.13.
- (4) A transfer of an asset to the replacement corporation may be registered or given effect to under the law of another State if—
- (a) the certificate is given to an entity with registration functions for assets of that kind under the other State's law; and
 - (b) the entity is permitted by law to do so.

112 References to council

A reference to the council in an Act or document existing before its dissolution, from its dissolution has effect as if it were a reference to the council's replacement corporation, if the context permits.

113 Continuity of proceedings

- (1) A proceeding, other than a proceeding that has ended, by or against the council may be continued or finished by or against its replacement corporation.
- (2) If a proceeding could have been taken by or against the council if it had continued to exist, the proceeding may be taken by or against its replacement corporation.

114 Employees

- (1) A person employed by the council immediately before the transfer day becomes an employee of the council's replacement corporation.
- (2) Subsection (1) does not—
 - (a) constitute a redundancy or retrenchment of the person's employment by the council; or
 - (b) entitle the person to a benefit or payment merely because the person is no longer employed by the council; or
 - (c) interrupt the person's continuity of service.
- (3) For the Industrial Relations Act, the person's period of employment with the council is taken to be an equivalent period of employment with the replacement corporation.
- (4) Subject to the Industrial Relations Act, the person has the same employment rights against the replacement corporation that the person had against the council immediately before the transfer day.
- (5) If an industrial instrument under the Industrial Relations Act bound the person and the council immediately before the transfer day, it binds the person and the replacement corporation.
- (6) In this section—

employment rights includes existing and accruing rights to—

 - (a) remuneration; and

[s 115]

- (b) recreation, long service, sick or other leave; and
- (c) superannuation or other benefits and entitlements.

Industrial Relations Act means the *Industrial Relations Act 1999*.

115 Minister's directions to give effect to transfer

- (1) The Minister may give the council a written direction to give effect to the transfer of the council's assets and liabilities to its replacement corporation.
- (2) After the direction has been given it must be—
 - (a) gazetted as soon as practicable; and
 - (b) tabled in the Legislative Assembly within 14 sitting days.

116 Dissolution of council

- (1) On the transfer day, the council is dissolved and the persons who were members of the council go out of office.
- (2) No compensation is payable to a person because of subsection (1).

Part 10 Other transitional provisions

Division 1 Forestry Plantations Queensland Act 2006

117 Permits and licences etc. relating to State plantation forests

- (1) This section applies to a relevant authority granted or made by the chief executive—

- (a) in relation to land in a State plantation forest or a forest product from a State plantation forest; and
 - (b) that is in force immediately before this part commences.
- (2) From the commencement of this part, the authority is taken to have been granted or made—
- (a) by the administering entity for the provision under which the authority was granted or made; and
 - (b) subject to the power of the administering entity to cancel, suspend or forfeit the authority under section 58(1), as if the authority had been granted or made by the administering entity after that commencement.
- (3) If the authority was granted or made subject to a condition mentioned in section 58(1A) in relation to relevant natural resource products, section 58(1A) and the condition apply, with any necessary changes, as if the money to which the section and condition apply were payable to FPQ.
- (4) Subsections (2) and (3) apply despite section 58.
- (5) In this section—

administering entity see section 61L.

relevant authority means—

- (a) a permit under section 35; or
- (b) a licence under section 55; or
- (c) a permit, licence, lease or another authority, or an agreement or contract, under section 56;
and does not include—
- (d) an instrument or authority mentioned in paragraphs (a) to (c) that relates to, or to the extent it relates to, quarry material.

Division 2 **Natural Resources and Other Legislation Amendment Act 2010**

118 **Definitions for div 2**

In this division—

2010 Amendment Act means the *Natural Resources and Other Legislation Amendment Act 2010*.

administering entity has the meaning given by repealed section 61L.

administering party, in relation to an FPQ sales permit, means—

- (a) if there is a plantation sublicensee for the licence area in relation to which the FPQ sales permit is operative—the plantation sublicensee; or
- (b) otherwise—the plantation licensee for the licence area in relation to which the FPQ sales permit is operative.

commencement means—

- (a) for section 121—the day on which the section commences; or
- (b) otherwise—the day on which section 119 commences.

FPQ sales permit means a permit, licence, lease or another authority, or an agreement or contract, under section 56 granted or made by an administering entity, including by acting under repealed section 61M, under which its holder is entitled to take natural resource product in the form of plantation timber from a future licence area.

future licence area means an area that, immediately before the commencement, is in a State plantation forest, and that, after the commencement, becomes a licence area.

Infrastructure Act means the *Infrastructure Investment (Asset Restructuring and Disposal) Act 2009*.

old, in relation to a provision of this Act, means the provision as in force immediately before its amendment by the 2010 Amendment Act.

119 Provision for s 17 (Appointment of officers)

- (1) This section applies to a person who, before the commencement, is an employee of FPQO and appointed by FPQO as a forest officer if—
- (a) the person is transferred or seconded to a declared entity under the Infrastructure Act, section 9(1)(k); and
 - (b) the declared entity—
 - (i) enters into an agreement with the Minister under section 61QA(1); or
- Note—*
- An agreement under section 61QA(1) is a plantation licence.
- (ii) becomes a plantation sublicensee; or
 - (iii) is appointed, with the Minister's approval, under section 61QG or 61QQ as a plantation manager for a licence area or part of a licence area.
- (2) The person's appointment as a forest officer ends and the person is taken to have been appointed as a plantation officer for the licence area or part by the chief executive under section 17—
- (a) if subsection (1)(b)(i) applies—on the entry into the agreement mentioned in the provision; or
 - (b) if subsection (1)(b)(ii) applies—on the day on which the declared entity becomes a plantation sublicensee; or
 - (c) if subsection (1)(b)(iii) applies—on the appointment of the declared entity as a plantation manager for a licence area or part of a licence area.

120 Provision for s 34AA or 34AB

A notice mentioned in section 34AA(1) or (2) or 34AB(1) erected or displayed by an administering entity, including by acting under repealed section 61M, and having effect immediately before the commencement is taken, immediately after the commencement, to have been authorised by the chief executive under section 34AA(1) or (2) or 34AB(1) as appropriate and continues to have effect accordingly.

121 Provision for s 34A (Specialised management within State forests)

- (1) This section applies if—
 - (a) immediately before the commencement, the whole or a part of a State forest was declared to be a feature protection area or scientific area under old section 34A (*declared land*); and
 - (b) immediately after the commencement, the declared land is also State plantation forest.
- (2) Despite the amendment of old section 34A by the 2010 Amendment Act, declared land continues after the commencement to be a feature protection area or scientific area.
- (3) After the commencement, the Governor in Council may, by regulation and despite the amendment of old section 34A, continue to exercise power under old section 34A to revoke or amend a declaration in relation to declared land.

122 Provision for s 34G (Regulating movement of vehicles on feature protection areas etc.)

A notice mentioned in section 34G(1) erected by the chief executive or an administering entity, including by acting under repealed section 61M, and having effect immediately before the commencement is taken, after the commencement, to have been erected by the chief executive under section 34G(1) and continues to have effect accordingly.

123 Provision for s 34H (Self-registration camping areas)

- (1) A notice mentioned in section 34H(1) erected by the chief executive or an administering entity, including by acting under repealed section 61M, and having effect immediately before the commencement is taken, after the commencement, to have been erected by the chief executive under section 34H(1) and continues to have effect.
- (2) Subsection (1) does not prevent the chief executive from exercising power to remove the notice after the commencement.
- (3) A form approved for use in relation to self-registration camping areas by an administering entity or the chief executive immediately before the commencement may continue to be used after the commencement until another form is approved for use by the chief executive.

124 Provision for s 35 (Granting of permit for land within State forest)

- (1) This section applies to a permit or the extension of a permit under section 35 granted or made by an administering entity, including by acting under repealed section 61M, that is in force or of effect immediately before the commencement.
- (2) After the commencement, the permit—
 - (a) continues in force or effect; and
 - (b) is taken to have been granted or made by the chief executive.

125 Provision for s 55 (Licences to get forest products etc.)

- (1) This section applies to a licence under section 55 granted by an administering entity, including by acting under repealed section 61M, that is in force immediately before the commencement.
- (2) After the commencement, the licence—

[s 126]

- (a) continues in force; and
- (b) is taken to have been granted by the chief executive.

126 Provision for s 56 (Permits etc.)—general

- (1) This section applies to an existing authority, other than an FPQ sales permit, granted or made by an administering entity, including by acting under repealed section 61M, and in force immediately before the commencement.
- (2) After the commencement, the existing authority—
 - (a) continues in force; and
 - (b) is taken to have been granted or made by the chief executive.
- (3) In this section—

existing authority means a permit, licence, lease or another authority, or an agreement or contract, under section 56.

127 Provision for s 56 (Permits etc.)—administering party for FPQ sales permits

After the commencement, an FPQ sales permit—

- (a) continues in force; and
- (b) is taken to have been granted or made by the administering party.

128 Provision for s 56 (Permits etc.)—application of relevant provisions or FPQ sales permits

- (1) In relation to an FPQ sales permit, a function conferred on the chief executive under a relevant provision must be performed by the administering party.
- (2) Power to cancel or suspend an FPQ sales permit under section 58(1) or (1B) may be exercised by the administering party only in relation to an act, omission or event that, under the express terms and conditions of the FPQ sales permit or any

contract (*related contract*) between the administering party and the permittee in relation to the same subject matter, enables the administering party to terminate the FPQ sales permit.

- (3) Subsection (2) does not apply to an FPQ sales permit if neither the FPQ sales permit nor any related contract contains any express term or condition dealing with its termination.
- (4) A person dissatisfied with a decision of the administering party to cancel or suspend an FPQ sales permit if subsection (2) does not apply may ask the chief executive to review the decision within 28 days after receiving written notice of the decision.
- (5) The chief executive—
 - (a) may—
 - (i) reinstate the FPQ sales permit; or
 - (ii) confirm the administering party's decision; or
 - (iii) make another decision that the chief executive considers appropriate; and
 - (b) must give the person and the administering party a statement of reasons for his or her decision.
- (6) For this section—
 - (a) in a relevant provision—
 - (i) a reference to the chief executive, the State or the Crown is taken to be a reference to the administering party; and
 - (ii) a reference to a forest officer is taken to be a reference to a plantation officer employed by the administering party; and
 - (b) in section 88(2C), to the extent it applies to an offence relating to a contravention of an FPQ sales permit, a reference to the State is taken to be a reference to the administering party; and

[s 129]

- (c) in section 89, to the extent it applies to moneys due in relation to natural resource product under an FPQ sales permit, royalty or stumpage on natural resource product got under an FPQ sales permit or loss or damage to natural resource product (including loss or damage occasioned by an employee, contractor, agent or invitee of the holder), or any other matter or thing relating to an FPQ sales permit, a reference to the Crown or the State is taken to be a reference to the administering party.
- (7) In this section—
- function* includes power.
 - relevant provision* means each of the following—
 - (a) section 5, to the extent it is relevant to another relevant provision;
 - (b) section 56(1), to the extent it relates to an extension of an FPQ sales permit;
 - (c) part 4;
 - (d) sections 58, 59, 61(1A) and 80;
 - (e) sections 88(3), 89, 91 and 92.

129 Provision for s 73 (Unlawfully using State forests etc.)

- (1) This section applies to a permit under section 73(2) granted by an administering entity, including by acting under repealed section 61M, that is in force immediately before the commencement.
- (2) After the commencement, the permit—
 - (a) continues in force; and
 - (b) is taken to have been granted by the chief executive.

130 References to FPQ

In an Act or document, a reference to any of the following in relation to a State plantation forest or part of a State plantation

forest may, if the context permits, be taken as a reference to the plantation licensee or a plantation sublicensee for the relevant licence area in the State plantation forest or part—

- (a) FPQ;
- (b) the chief executive of FPQ;
- (c) the head of FPQO.

131 Dissolution of corporation sole under the Forestry Plantations Queensland Act 2006

The corporation sole constituted by the chief plantation forestry officer under the *Forestry Plantations Queensland Act 2006* is dissolved.

132 Amendment of regulations by the 2010 Amendment Act does not affect powers of Governor in Council

The amendment of the *Forestry Regulation 1998* and the *Forestry (State Forests) Regulation 1987* by the 2010 Amendment Act does not affect the power of the Governor in Council to further amend the regulations or to repeal them.

Schedule 2 Subject matters for regulations

section 97

1 Officers

Prescribing the powers, functions, authorities and duties of forest officers and other persons performing duties under this Act.

2 Training of officers

Providing for the training of officers.

3 Mode of action etc.

Prescribing and defining the manner of doing or performing any act or thing under or for the purposes of this Act, and the time when or within which it shall be done or performed.

4 State forests

- (1) Regulating and controlling—
 - (a) the management and control of State forests;
 - (b) the conduct and duties of persons in State forests;
 - (c) recreational and commercial activities within State forests.
- (2) Providing for the payment of charges for the use of facilities and improvements on State forest and prescribing the amount thereof.
- (3) Providing for camping fees payable in relation to camping in self-registration camping areas.

4A State forest parks, feature protection areas and forest drives

- (1) Regulating and controlling recreational activities in or on State forest parks, feature protection areas and forest drives.
- (2) The regulations may vary in respect of different State forest parks, feature protection areas and forest drives.

5 Use etc. of buildings

Providing for, regulating and controlling the use, management, and letting of any building or structure or other improvement the property of the State or FPQ.

6 Method of getting and disposal

Prescribing, regulating, and controlling the method, system, or order of getting and disposal of quarry material and forest products within all or any parts of State forests and timber reserves, or other prescribed lands whereon quarry material or forest products are the property of the Crown or FPQ.

7 Permits etc.

- (1) Prescribing, regulating, and controlling applications for, and the granting and issuing of leases, permits, licences, and other authorities, and the entering into agreements and contracts, under or for the purposes of this Act.
- (2) Prescribing the provisions, conditions, and reservations subject to which all or any such leases, permits, licences, other authorities, agreements and contracts shall be granted or made, held, transferred, mortgaged, extended, determined, cancelled, forfeited, surrendered, or withdrawn.
- (3) Prescribing, regulating, and controlling the exercise of the powers and authority conferred by leases, permits, licences, other authorities, agreements and contracts, and all or any matters incidental thereto.
- (4) Prescribing the conditions under which, and the period or maximum period for which, the obligations under this Act of

the holder of a lease, permit, licence, or other authority, or of a party to a contract or agreement to perform any conditions thereof may be suspended.

- (5) Prescribing the manner and form of forfeiture or cancellation or suspension of leases, permits, licences, other authorities, and agreements and contracts, and the conditions under which such may be made, and the procedure to be observed.

8 Deposits etc.

Prescribing the deposits to be lodged with an application or tender under this Act and prescribing the conditions under which such deposits may be forfeited.

9 Auction etc. of forest products

- (1) Prescribing and regulating the method and the procedure for the sale, whether by auction, tender, or otherwise, of forest products or quarry material, and enabling upset prices or minimum royalties, stumpages, or charges to be fixed.
- (2) Providing for the drawing up from time to time of price lists for various timbers and other forest products and various classes and specifications of timbers and other forest products whether in the forest or converted in any way or delivered to any place.

10 Auction etc. of grazing permits etc.

Prescribing the procedure for the sale by auction or tender or otherwise of rights, stock grazing permits, occupation permits, or apiary permits, and enabling upset prices or minimum charges to be fixed.

11 Declarations etc.

- (1) Providing in respect of forest products or quarry material, irrespective of source, for the making of declarations or statements in writing as to the quantity and description of forest products or quarry material got, held, treated,

consigned, or exported, or otherwise disposed of, and as to the place where any forest products or quarry material were obtained, and as to the place to which they were or were intended to be consigned or otherwise disposed of.

- (2) Prescribing the time within which such declarations or statements shall be made.

12 Inspection

- (1) Providing for the inspection of forest products or quarry material for export and for local uses.
- (2) Prescribing the forms and certificates to be used, the fees to be paid, and the brands or marks to be used.

13 Grading

Prescribing rules for the naming, classifying, and grading of timber and other forest products for export and for local use.

14 Sizes, quantities etc.

- (1) Prescribing the kinds, sizes, and quantities of any forest products or quarry material which may be got.
- (2) Prohibiting the removal of any forest products or quarry material until branded or marked, or otherwise permitted by a forest officer.

15 Brands

- (1) Prescribing for all or any purposes of this Act the mode in which any forest products are to be branded or marked, and the mode in which such brands or marks shall be registered.
- (2) Requiring the registration of brands by all or any timber-workers operating under agreements, contracts, permits, or licences.
- (3) Prescribing the manner of and the fees to be paid for all or any such registrations.

- (4) Requiring the holders of permits or licences and all owners of private forests to register and retain the use of a brand whereby timber or other forest products cut or removed under their permits or licences or cut in or removed from their holdings may be distinguished from any other timber or other forest products.
- (5) Prescribing the manner of and the fees to be paid for all or any such registrations.

16 Records

Prescribing the books and records to be kept and the returns to be made by persons working or taking delivery of forest products or quarry material.

17 Production of permits etc.

Requiring the production of any lease, permit, licence, or other authority, agreement or contract by the holder thereof, for the purpose of making an endorsement thereon, or for any other purposes.

18 Fire prevention etc.

Prescribing means for fire prevention and protection in State forests and timber reserves.

19 Felling trees

Regulating and controlling the felling or cutting of trees which are on any State forest or timber reserve.

20 Prevention of pollution

Prescribing with respect to the depositing or discharge of effluent, rubbish, refuse, garbage, litter or other matter whether in a solid or fluid state on State forests or timber reserves.

22 Honorary rangers

Prescribing the powers, functions and authorities of honorary rangers.

23 Reservation of trees

- (1) Reserving from sale any tree or kind or class of trees within State forests or timber reserves or other place whereon the forest products are the property of the Crown, either wholly or to such extent as is considered necessary.
- (2) Prohibiting the getting, destroying, or damaging of reserved trees.

24 Forms

Prescribing forms (including registers, records, books, documents, instruments, licences, permits, agreements, contracts, and other writings) under and for the purposes of this Act and the respective purposes for which such forms, or forms to the like effect, shall be used and specifying such information as is required to be contained in such forms, and requiring the verification of any statements inserted in or on any prescribed forms by declaration made under the *Oaths Act 1867*.

25 Fees etc.

Prescribing the matters or things in respect whereof fees, costs, royalties, stumpages, charges, and expenses shall be payable under this Act (including royalties, stumpages, and charges to be paid to the Crown or FPQ) in respect of any forest products or quarry material cut or got and removed pursuant to licences, permits, agreements or contracts under this Act, and the amounts of such fees, costs, royalties, stumpages, charges, and expenses, and prescribing the persons who shall be liable for the payment of such fees, costs, royalties, stumpages, charges, and expenses, and when such fees, costs, royalties, stumpages, charges, and expenses shall be payable and paid, and providing for the manner of

payment thereof and for the recovery of any amount thereof not duly paid.

26 Stock

Prescribing all or any matters and things necessary or desirable with respect to the disposal of or dealing with stock found on State forests, timber reserves and forest entitlement areas.

27 Penalties

Prescribing a penalty of not more than 20 penalty units for a contravention of a regulation.

Schedule 3 Dictionary

section 5

accepted representations, for part 6D, division 6, see section 61QZ(2).

animal life means all mammals, birds, reptiles, frogs, fish, molluscs, crustaceans, insects, and all other species of animal life and the eggs and young thereof.

application for division see section 61RC.

approved form means a form approved by the chief executive (lands) under section 61RU.

beds and banks, used with reference to any watercourse the bed and banks thereof as defined in the *Water Act 2000* and where elevations or slopes of land contiguous to the bed and banks as hereinbefore in this definition defined of any watercourse confine or tend to confine the waters flowing in, into or out of such watercourse during the period of any flood or cyclone, the term ***bed and banks*** shall include all land covered by the waters so confined or tending to be so confined.

camp includes—

- (a) pitch, place or erect a tent, caravan, hut or other structure for the purpose of camping; and
- (b) place other camping equipment in position for the purpose of camping; and
- (c) stay overnight.

camping form means a form required to be made available by the chief executive under section 34H for use in relation to a self-registration camping area.

carbon sequestration, for a tree or vegetation, includes the process by which the tree or vegetation absorbs carbon dioxide from the atmosphere.

chief executive (fire) means the chief executive of the department in which the *Fire and Rescue Service Act 1990* is administered.

chief executive (lands) means the chief executive within the meaning of the *Land Act 1994*.

compensation event, for part 6D, see section 61Q.

contiguous, when used in relation to lands set apart and declared as State forests, or timber reserves, includes lands that are separated only by a road or roads or by a watercourse, body of water or other natural feature.

conviction includes a finding of guilt, and the acceptance of a plea of guilty by a court.

Crown holding means land—

- (a) held under the *Land Act 1962* as a pastoral lease, stud holding, grazing homestead perpetual lease, special lease, development lease (issued on or after 31 December 1991), occupation licence, permissive occupancy or road licence; or
- (b) held as a perpetual town lease (non-competitive lease), perpetual suburban lease (non-competitive lease) or perpetual country lease (non-competitive lease)—
 - (i) that issued under the *Land Act 1962* over Crown land on or after 31 December 1991; or
 - (ii) that issued on or after 31 December 1991 on an application under the *Land Act 1962*, section 207 that was received—
 - (A) on or after 5 February 1990; or
 - (B) in respect of a lease issued under this Act and under an arrangement under the *Industrial Development Act 1963*, section 9 or issued before the commencement of the *Industrial Development Act 1963* under a recommendation of the Minister administering industrial development—on or after 3 October 1991; or

-
- (c) held as a term lease, a perpetual lease, a licence or permit issued under the *Land Act 1994*; or
 - (d) held under a lease or licence prescribed under the regulations.

Crown land means all land in Queensland, except land which is, for the time being—

- (a) lawfully granted or contracted to be granted in fee simple by the Crown; or
- (b) reserved for or dedicated to public purposes; or
- (c) subject to any lease or licence lawfully granted by the Crown; or
- (d) set apart and declared as a State forest, protected area, national park (recovery) or timber reserve or deemed so to be.

However, land held under an occupation licence, other than an occupation licence referred to in the definition *Crown holding*, and an occupation licence granted over a timber reserve or any part thereof, shall be deemed to be ***Crown land***.

deed of grant means land granted in fee simple under the *Land Act 1994*, and includes an indefeasible title under the *Land Act 1994*.

destroy, used in relation to any tree, means cut down, fell, ringbark, push over, poison or destroy by any means whatsoever.

enforcement warrant, for part 6E, division 9, see section 61SU.

enforcing party means a person appointed by a mortgagee under a registered mortgage.

entrance, in relation to a State forest or a part of a State forest, is an area of land—

- (a) developed with the authority of the chief executive for use as a vehicular entrance to the State forest or that part of the State forest; and
- (b) that is commonly used by persons for the purpose of

driving or riding vehicles into the State forest or that part of the State forest.

feature protection area means the whole or part of a State forest declared as such under this Act.

fire commissioner means the commissioner of the Queensland Fire and Rescue Service.

forest drive means that part of a State forest declared as such under this Act.

forest entitlement area has the same meaning as in the *Land Act 1994*.

forest officer means a person appointed as a forest officer under section 17.

forest products means all vegetable growth and material of vegetable origin whether living or dead and whether standing or fallen, including timber, and, in relation to a State forest, timber reserve or forest entitlement area the term includes—

- (a) honey;
- (b) all form of indigenous animal life;
- (c) any nest, bower, shelter or structure of any form of indigenous animal life;
- (d) fossil remains;
- (e) relics;
- (f) quarry material;

but does not include grasses on a stock route under the *Land Protection (Pest and Stock Route Management) Act 2002*, or grasses (indigenous or introduced) or crops grown on a Crown holding by the lessee or by the licensee or on a forest entitlement area by the lessee or owner.

FPQ means Forestry Plantations Queensland.

FPQO means the public service office called Forestry Plantations Queensland Office.

freeholding lease means a freeholding lease under the *Land Act 1994*, if the deed of grant that will issue from the

freeholding lease would be required, under the *Land Act 1994*, section 22, to contain a reservation mentioned in the section.

Geothermal Act means the *Geothermal Energy Act 2010*.

get, used in relation to any forest products, includes get, win, cut, saw, fell, dig, gather, remove, convert, or obtain; and used in relation to any earth, soil, or quarry material, includes dig, gather, remove, convert, or obtain.

GHG storage Act means the *Greenhouse Gas Storage Act 2009*.

incidental thing see section 18(1)(ga)(i).

interfere with, used in relation to any forest products, earth, soil, or quarry material, includes destroy, get, damage, mark, move, use, or in any way interfere with.

lake see the *Water Act 2000*, schedule 4.

licence means a licence under this Act, but does not include a plantation licence.

licence area means the area of State plantation forest specified in a plantation licence or plantation sublicense as the licence area for the plantation licence or plantation sublicense.

management includes control, regulation, construction, maintenance and protection.

Mining Acts means the *Coal Mining Safety and Health Act 1999*, the *Mineral Resources Act 1989*, the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*.

mortgage, in relation to a plantation licence or plantation sublicense, means a mortgage, charge or other security interest granted by—

- (a) a plantation licensee over its rights under a plantation licence; or
- (b) a plantation sublicensee over its rights under a plantation sublicense.

mortgagee means the person entitled to the benefit of a mortgage.

motor vehicle has the same meaning as in the *Transport Operations (Road Use Management) Act 1995*.

National Credit Code means the *National Credit Code* in Schedule 1 of the *National Consumer Credit Protection Act 2009* (Cwlth).

native forest hardwood sawlogs means native hardwood timber for use for sawmilling.

native forest sawlog allocation system see section 69A.

natural resource product includes the following—

- (a) all parts of a tree or vegetation, whether alive or dead, including parts below the ground;
- (b) carbon stored in a tree or vegetation;
- (c) carbon sequestration by a tree or vegetation.

notice means a notice, sign, pictograph or other device, of whatever material and whether fixed or movable, erected or displayed in or near a State forest with the authority of the chief executive.

officer means the chief executive or a forest officer.

official traffic sign means an official traffic sign within the meaning of the *Transport Operations (Road Use Management) Act 1995*.

original plantation licence, for part 6D, division 7, see section 61RC(1)(a).

owner means, in relation to—

- (a) a vehicle that is registered under a law of a State or Territory providing for the registration of vehicles—the person in whose name the vehicle is registered; or
- (b) a deed of grant—the registered proprietor; or
- (c) a freeholding lease—the lessee.

permit means a permit granted or taken to have been granted under this Act and in force at the material time and, with

reference to any particular provision of this Act, a permit of the description appropriate according to that provision.

place includes any house, office, room, tent, building, erection, structure, premises (whether upon land or water), ship, vessel, vehicle or aircraft, and any road, street, thoroughfare, alley, right of way (whether public or private), and any land, whether public or private and whether enclosed or otherwise, and also includes any part of any place.

plantation forestry, for part 6D, see section 61Q.

plantation licence see section 61QA(1).

plantation licence sketch plan, for part 6E, see section 61RL.

plantation licensee see section 61QA(1).

plantation manager means a person appointed as a plantation manager under section 61QG or 61QQ.

plantation officer means a person appointed as a plantation officer under section 17.

plantation operator means any of the following persons—

- (a) a plantation licensee;
- (b) a plantation sublicensee;
- (c) a plantation manager;
- (d) a registered mortgagee or an enforcing party exercising power under section 61SQ.

plantation sublicense see section 61QO(2).

plantation sublicensee see section 61QO(1).

prescribed means prescribed by this Act.

protected area means an area dedicated under the *Nature Conservation Act 1992* as a national park (scientific), national park, national park (Aboriginal land), national park (Torres Strait Islander land), conservation park or resources reserve.

public purposes means any purposes included within the definition of the term *public purpose* under the *Land Act 1994*, schedule 6.

quarry material includes—

- (a) guano; and
- (b) stone, gravel, sand, rock, clay, earth and soil;

but does not include—

- (c) minerals within the meaning of the *Mineral Resources Act 1989*; or
- (d) topsoil, if quarry material is reserved in a deed of grant; or
- (e) topsoil on a freeholding lease.

reasonably believes means believes on grounds that are reasonable in the circumstances.

reasonably suspects means suspects on grounds that are reasonable in the circumstances.

recreational purposes means any purpose other than a purpose of business.

register means the register of plantation licences.

registered means registered in the register.

register of plantation licences means the register kept by the chief executive (lands) under section 61RM.

registry means the land registry under the *Land Act 1994*, section 275.

regulatory notice means a notice referred to in section 34AA(1).

related agreement means an agreement under section 61QB(1).

relevant State land, for part 6D, see section 61Q.

requirement, in relation to a regulatory notice or self-registration camping notice, includes a direction, instruction, indication, condition or other provision contained on the notice.

requisition see section 61TQ(1).

sales permit means a permit granted under section 56.

scientific area means the whole or part of a State forest declared as such under this Act.

seized thing see section 82B.

self-registration camping area means a State forest or a part of a State forest to which a self-registration camping notice relates.

self-registration camping notice means a notice referred to in section 34H(1).

show cause notice, for part 6D, division 6, see section 61QY(2).

show cause period, for part 6D, division 6, see section 61QY(2)(d).

sketch plan, for part 6E, see section 61RL.

State forest means land set apart and declared or deemed to be set apart and declared under this Act as a State forest.

State forest information notice means a notice erected or displayed under section 34AB(1).

State forest park means the whole or part of a State forest declared as such under this Act.

State plantation forest means an area of land declared to be a State plantation forest under section 32A.

stock means cattle, horses, sheep, goats, or swine, or the young of any such animals.

timber includes the trunks, branches, stumps and roots of trees, whether standing or not, and all wood, whether or not the same is cut up, sawn, hewn, split, or otherwise fashioned.

timber reserve means land set apart and declared or deemed to be set apart and declared under this Act as a timber reserve.

topsoil means that part of the soil profile from the earth's surface down to the limit of major biological activity that—

- (a) generally contains most of the root systems of native perennial plants; and
- (b) is generally darker in colour than underlying material.

trees includes not only timber trees, but all other trees, and shrubs, bushes, seedlings, saplings, and re-shoots of every description and any parts thereof.

unformed plantation forest road see section 61QM(7).

vehicle includes—

- (a) a motor vehicle, trailer, bicycle, carriage, cart, wagon and any other means of transport or conveyance designed for movement upon wheels, whether or not the vehicle is for the time being capable of being operated or used in a normal manner; and
- (b) a hovercraft.

watercourse includes any river, stream or creek (whether subject to tidal influence or not) in which water flows in a natural channel, either permanently, intermittently, or occasionally.

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

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

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

Endnotes

1 Index to endnotes

	Page
2 Date to which amendments incorporated	215
3 Key	216
4 Table of reprints	216
5 List of legislation	218
6 List of annotations	225
7 Forms notified or published in the gazette	254

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 1 September 2012. Future amendments of the Forestry Act 1959 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
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

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	1993 Act No. 70	19 December 1994	27 May 1994
2	1994 Act No. 81	1 July 1995	7 July 1995
2A	1995 Act No. 57	28 November 1995	25 June 1996
2B	1996 Act No. 37	1 December 1996	21 March 1997
2C	1997 Act No. 20	1 July 1997	8 August 1997
3	1997 Act No. 20	1 July 1997	31 October 1997
3A	1997 Act No. 78	5 December 1997	10 February 1998
3B	1998 Act No. 50	27 November 1998	2 December 1998
3C	1999 Act No. 19	30 April 1999	13 May 1999
3D	1999 Act No. 79	14 December 1999	31 January 2000
3E	2000 Act No. 5	23 March 2000	30 March 2000
4	2000 Act No. 34	13 September 2000	6 October 2000
4A rv	2000 Act No. 44	25 October 2000	10 November 2000
4B rv	2000 Act No. 62	1 July 2001	1 July 2001

Reprint No.	Amendments to	Effective	Reprint date
4C rv	2001 Act No. 57	1 July 2001	24 August 2001
4D rv	2001 Act No. 57	1 October 2001	12 October 2001
Reprint No.	Amendments included	Effective	Notes
4E 2rv	2000 Act No. 16 2002 Act No. 72	13 December 2002	
4F rv	2002 Act No. 68	1 January 2003	
4G	2002 Act No. 12	1 July 2003	R4G withdrawn, see R5
5	—	1 July 2003	
5A	1994 Act No. 8 (amd 2003 Act No. 54)	1 December 2003	
5B	2002 Act No. 72	14 December 2003	
5C	2003 Act No. 79	16 April 2004	
5D	2004 Act No. 4	6 May 2004	
5E	2004 Act No. 19	12 November 2004	
5F	2004 Act No. 25	31 December 2004	
5G	2005 Act No. 3	3 March 2005	R5G withdrawn, see R6
6	—	3 March 2005	
6A	2005 Act No. 53	18 November 2005	
6B	2005 Act No. 42	2 December 2005	
6C	2006 Act No. 16	1 May 2006	
6D	2005 Act No. 53	19 November 2006	
6E	2006 Act No. 59	7 December 2006	R6E withdrawn, see R7
7	—	7 December 2006	
7A	—	2 May 2007	prov exp 1 May 2007
7B	2007 Act No. 36	29 August 2007	
7C	2009 Act No. 3	23 February 2009	
7D	2009 Act No. 25	2 November 2009	
7E	—	28 November 2009	provs exp 27 November 2009
7F	2010 Act No. 12	26 March 2010	
7FA	2010 Act No. 12	30 June 2010	
7G rv	2009 Act No. 17 2010 Act No. 16	1 July 2010	
7H	2010 Act No. 12	30 November 2010	
7HA	—	27 March 2011	provs exp 26 March 2011
7I	2011 Act No. 6	4 April 2011	
7J	2010 Act No. 44	30 January 2012	
7K	2010 Act No. 31	2 March 2012	
7L	2011 Act No. 45	1 September 2012	

5 List of legislation

Forestry Act 1959 8 Eliz 2 No. 58

date of assent 22 December 1959

commenced 1 August 1960 (proc pubd gaz 16 July 1960 p 1613)

amending legislation—

Forestry Act Amendment Act 1964 No. 15

date of assent 6 April 1964

commenced on date of assent

Acquisition of Land Act 1967 No. 48 s 3(2) sch 1

date of assent 22 December 1967

commenced 23 March 1968 (proc pubd gaz 23 March 1968 p 1206)

Forestry Act Amendment Act 1968 No. 33

date of assent 19 November 1968

commenced on date of assent

Forestry Act Amendment Act 1971 No. 25

date of assent 22 April 1971

commenced on date of assent

Metric Conversion Act 1972 No. 31 pt 2 sch 1

date of assent 21 December 1972

commenced 1 February 1974 (proc pubd gaz 19 January 1974 p 228)

Land Act and Other Acts Amendment Act 1973 No. 41 pt 3

date of assent 26 April 1973

commenced on date of assent

Forestry Act and Another Act Amendment Act 1974 No. 33

date of assent 2 May 1974

commenced on date of assent

Land Act and Another Act Amendment Act 1975 No. 12 s 12

date of assent 15 May 1975

commenced on date of assent

Forestry Act Amendment Act 1976 No. 9

date of assent 2 April 1976

commenced on date of assent

Fisheries Act 1976 No. 80 s 93

date of assent 16 December 1976

commenced 1 January 1978 (proc pubd gaz 10 December 1977 p 1305)

Forestry Act Amendment Act 1979 No. 10

date of assent 30 April 1979

commenced 1 June 1979 (proc pubd gaz 2 June 1979 p 851)

Land Act and Another Act Amendment Act 1981 No. 21 s 87

date of assent 14 May 1981
commenced on date of assent

Land Act (Aboriginal and Islander Land Grants) Amendment Act 1982 No. 17 pt 3

date of assent 23 April 1982
commenced 15 June 1985 (proc pubd gaz 15 June 1985 p 1247)

Mining Act and Other Acts Amendment Act 1982 No. 23 pt 3

date of assent 29 April 1982
commenced 1 August 1982 (proc pubd gaz 24 July 1982 p 2422)

National Parks and Wildlife Act and Another Act Amendment Act 1982 No. 73 pt 3

date of assent 14 December 1982
commenced 12 March 1983 (proc pubd gaz 12 March 1983 p 1007)

Forestry Act Amendment Act 1984 No. 86

date of assent 2 November 1984
ss 1–2 commenced on date of assent
ss 8–16 commenced 1 July 1985 (proc pubd gaz 1 June 1985 p 1001)
remaining provisions commenced 1 February 1985 (proc pubd gaz 26 January 1985 p 308)

Forestry Act Amendment Act 1987 No. 44

date of assent 21 August 1987
ss 1–2 commenced on date of assent
remaining provisions commenced 1 January 1988 (proc pubd gaz 19 December 1987 p 1657)

Fire Service Act 1990 No. 10 s 4 sch 2

date of assent 25 May 1990
commenced 1 July 1990 (proc pubd gaz 16 June 1990 p 964)

Public Service (Administrative Arrangements) Act 1990 (No. 2) No. 80 s 3 sch 7

date of assent 14 November 1990
commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1990 No. 88 s 3 sch

date of assent 6 December 1990
commenced on date of assent

Forestry Act Amendment Act 1991 No. 13

date of assent 1 May 1991
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 1991 (proc pubd gaz 22 June 1991 p 975)

Lands Legislation Amendment Act 1991 No. 83 pts 1, 6 s 89 sch 5

date of assent 9 December 1991
ss 1–2 commenced on date of assent
remaining provisions commenced 31 December 1991 (1991 SL No. 227)

Statute Law (Miscellaneous Provisions) Act 1991 No. 97 ss 1–3 sch 2

date of assent 17 December 1991
commenced on date of assent

Primary Industries Corporation Act 1992 No. 15 ss 1–2, 13 sch

date of assent 13 May 1992
ss 1–2 commenced on date of assent
remaining provisions commenced 30 September 1992 (1992 SL No. 271)

Nature Conservation Act 1992 No. 20 ss 1–2, 159 sch 2 (this Act is amended, see amending legislation below)

date of assent 22 May 1992
ss 1–2 commenced on date of assent
remaining provisions commenced 19 December 1994 (1994 SL No. 472)
amending legislation—

Nature Conservation Amendment Act 1994 No. 42 ss 1–2 sch (amends 1992 No. 20 above)

date of assent 14 September 1994
commenced on date of assent

Lands Legislation Amendment Act 1992 No. 64 ss 1–2, ch 4 pt 1, s 3 sch 1

date of assent 7 December 1992
ss 1–2 commenced on date of assent
remaining provisions commenced 31 January 1993 (1992 SL No. 448)

Statute Law (Miscellaneous Provisions) Act (No. 2) 1992 No. 68 ss 1–2, 3 sch 1

date of assent 7 December 1992
commenced on date of assent

Local Government Act 1993 No. 70 ss 1–2, 804 sch

date of assent 7 December 1993
ss 1–2 commenced on date of assent
remaining provisions commenced 19 December 1994 (see s 2(3), 1994 SL No. 472)

Fisheries Act 1994 No. 37 ss 1–2, 244 sch 2

date of assent 8 September 1994
ss 1–2 commenced on date of assent
remaining provisions commenced 27 January 1995 (1995 SL No. 9)

Fossicking Act 1994 No. 63 ss 1–2, 110(2) sch

date of assent 1 December 1994
ss 1–2 commenced on date of assent
remaining provisions commenced 1 February 1995 (1994 SL No. 465)

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)

Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 2

date of assent 28 November 1995
commenced on date of assent

Public Service Act 1996 No. 37 ss 1–2, 147 sch 2

date of assent 22 October 1996
ss 1–2 commenced on date of assent
remaining provisions commenced 1 December 1996 (1996 SL No. 361)

Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 ss 1–2, 9 sch

date of assent 20 November 1996
ss 1–2 commenced on date of assent
remaining provisions commenced 1 June 1997 (1997 SL No. 128)

Miscellaneous Acts (Non-bank Financial Institutions) Amendment Act 1997 No. 17 ss 1–2, 74 sch

date of assent 15 May 1997
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 1997 (1997 SL No. 163)

Primary Industries Legislation Amendment Act 1997 No. 20 pts 1–2

date of assent 15 May 1997
commenced on date of assent

Natural Resources and Other Legislation Amendment Act 1997 No. 78 s 1 pt 5

date of assent 5 December 1997
commenced on date of assent

Primary Industries Legislation Amendment Act 1998 No. 50 pts 1, 5

date of assent 27 November 1998
commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1999 No. 19 ss 1–3 sch

date of assent 30 April 1999
commenced on date of assent

Coal Mining Safety and Health Act 1999 No. 39 ss 1–2, 299 sch 1

date of assent 2 September 1999
ss 1–2 commenced on date of assent
remaining provisions commenced 16 March 2001 (2001 SL No. 14)

Road Transport Reform Act 1999 No. 42 ss 1–2(1), 54(3) sch pt 3

date of assent 2 September 1999
ss 1–2 commenced on date of assent
remaining provisions commenced 1 December 1999 (see s 2(1))

Forestry Amendment Act 1999 No. 79

date of assent 14 December 1999
commenced on date of assent

Police Powers and Responsibilities Act 2000 No. 5 ss 1–2(1)–(2), 373 sch 2

date of assent 23 March 2000
commenced on date of assent (see s 2(1)–(2))

Mental Health Act 2000 No. 16 ss 1–2, 590 sch 1 pt 2

date of assent 8 June 2000

ss 1–2, 590 commenced on date of assent (see s 2(1))

remaining provisions commenced 28 February 2002 (2002 SL No. 27)

Primary Industries and Natural Resources Legislation Amendment Act 2000 No. 26 ss 1, 2(2), pt 3, s 12 sch 1

date of assent 27 June 2000

ss 7, 8 (to the extent it ins pt 9 div 3) commenced 30 June 2000 (2000 SL No. 181)

remaining provisions commenced on date of assent

Water Act 2000 No. 34 ss 1–2, 1145 sch 3

date of assent 13 September 2000

commenced on date of assent (see s 2(2))

Nature Conservation and Other Legislation Amendment Act 2000 No. 44 ss 1, 42 sch

date of assent 25 October 2000

commenced on date of assent

Property Agents and Motor Dealers Act 2000 No. 62 ss 1–2, 601 sch 2

date of assent 24 November 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2001 (2001 SL No. 54)

Forestry and Land Title Amendment Act 2001 No. 57 pts 1–2, s 3 sch

date of assent 16 August 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 1 October 2001 (2001 SL No. 171)

Land Protection (Pest and Stock Route Management) Act 2002 No. 12 ss 1–2, 329 sch 2

date of assent 24 April 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2003 (2003 SL No. 116)

Criminal Proceeds Confiscation Act 2002 No. 68 ss 1–2(1), 339 sch 4

date of assent 29 November 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2003 (see s 2(1))

Environmental Legislation Amendment Act 2002 No. 72 pts 1, 3

date of assent 13 December 2002

ss 1–2 commenced on date of assent

ss 12, 16–17 commenced 14 December 2003 (automatic commencement under AIA s 15DA(2))

remaining provisions commenced on date of assent

Transport Infrastructure Act 1994 No. 8 s 491(3) sch 5 (this Act is amended, see amending legislation below)

amending legislation—

Transport Infrastructure and Another Act Amendment Act 2003 No. 54 ss 1–2, 34, 39 (amends 1994 No. 8 above)

date of assent 18 September 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2003 (2003 SL No. 294)

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)

Natural Resources and Other Legislation Amendment Act 2004 No. 4 s 1, pt 3

date of assent 6 May 2004

commenced on date of assent

Biodiscovery Act 2004 No. 19 ss 1–2, 128–129

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 Gas (Production and Safety) Act 2004 No. 25 ss 1, 2(2), 964–965 (prev ss 904–905)

date of assent 12 October 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 31 December 2004 (2004 SL No. 308)

Petroleum and Other Legislation Amendment Act 2004 No. 26 ss 1, 2(2), pt 5

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)

Petroleum and Other Legislation Amendment Act 2005 No. 3 ss 1, 105 sch

date of assent 3 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 pts 1, 5, s 159 sch

date of assent 18 November 2005

ss 1–2 commenced on date of assent

s 101 commenced 19 November 2006 (automatic commencement under AIA s 15DA(2))

remaining provisions commenced on date of assent

Forestry Plantations Queensland Act 2006 No. 16 ss 1–2, 68 sch 1

date of assent 24 April 2006

ss 1–2 commenced on date of assent

remaining provisions commenced 1 May 2006 (2006 SL No. 77)

Wild Rivers and Other Legislation Amendment Act 2006 No. 59 pts 1, 6, s 85 sch

date of assent 7 December 2006

commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 2007 No. 36

date of assent 29 August 2007

commenced on date of assent

Greenhouse Gas Storage Act 2009 No. 3 s 1, ch 9 pt 10

date of assent 23 February 2009

commenced on date of assent

Local Government Act 2009 No. 17 ss 1–2(4), 331 sch 1

date of assent 12 June 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2010 (2010 SL No. 122)

Criminal Code and Other Legislation (Misconduct, Breaches of Discipline and Public Sector Ethics) Amendment Act 2009 No. 25 pt 1, s 83 sch

date of assent 11 August 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 2 November 2009 (2009 SL No. 241)

Natural Resources and Other Legislation Amendment Act 2010 2010 No. 12 ss 1–2, pt 7

date of assent 26 March 2010

ss 1–2 commenced on date of assent

ss 19(5), 25, 32, 33, 44, 55, 66, 72 (other than to the extent it inserts ss 118, 121, 131, 132), 73, 74(1) commenced 30 June 2010 (see 2010 No. 12 ss 2(2)–(3) and Minister's gaz notice pubd Qld gov gaz 30 June 2010 p 919)

s 72 (to the extent it inserts s 131) commenced 30 November 2010 (2010 SL No. 318)

remaining provisions commenced on date of assent

Credit (Commonwealth Powers) Act 2010 No. 16 ss 1–2, 35 sch

date of assent 21 April 2010

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2010 (2010 SL No. 112)

Geothermal Energy Act 2010 No. 31 ss 1–2(1), s 585 sch 2 pt 4

date of assent 1 September 2010

ss 1–2 commenced on date of assent

remaining provisions commenced 2 March 2012 (automatic commencement under AIA s 15DA(2) (2011 SL No. 156 s 2))

Personal Property Securities (Ancillary Provisions) Act 2010 No. 44 ss 1–2, ch 4 pt 39

date of assent 14 October 2010

ss 1–2 commenced on date of assent

remaining provisions commenced 30 January 2012 (2011 SL No. 262)

Environmental Protection and Other Legislation Amendment Act 2011 No. 6 ss 1, 142 sch

date of assent 4 April 2011
commenced on date of assent

Waste Reduction and Recycling Act 2011 No. 31 ss 1, 2(2), ch 16 pt 4

date of assent 28 October 2011
ss 1–2 commenced on date of assent
remaining provisions not yet proclaimed into force (see s 2(2))

Civil Proceedings Act 2011 No. 45 ss 1–2, 217 sch 1A

date of assent 6 December 2011
ss 1–2 commenced on date of assent
remaining provisions commenced 1 September 2012 (2012 SL No. 146)

6 List of annotations

Long title amd 1968 No. 33 s 2; 1982 No. 73 s 36

Short title

s 1 amd R2 (see RA s 37)

Construction of this Act

s 2 om 1991 No. 97 s 3 sch 2

Parts of this Act

s 3 amd 1968 No. 33 s 3; 1974 No. 33 s 2; 1982 No. 73 s 37; 1987 No. 44 s 4
om 1991 No. 97 s 3 sch 2

Repeals and savings: First Sch

s 4 om 1991 No. 97 s 3 sch 2

Definitions

prov hdg sub 1997 No. 20 s 4(1)

s 5 amd 1997 No. 20 s 4(4); 2007 No. 36 s 2 sch

Note—prev s 5 contained definitions for this Act. Definitions are now located in schedule 3 (Dictionary). Annotations for definitions contained in prev s 5 are located in annotations for sch 3.

Administration of this Act

s 6 amd 1990 No. 80 s 3 sch 7
om 1992 No. 15 s 13 sch

Conservator of Forests

s 7 om 1992 No. 14 s 13 sch

Conservator of Forests to be corporation sole

s 8 amd 1984 No. 86 s 5
om 1992 No. 15 s 13 sch

Conservator of Forests to succeed Forestry Board

s 9 om 1992 No. 15 s 13 sch

Department of Forestry

s 10 om 1990 No. 80 s 3 sch 7

Functions etc. of the corporation

prov hdg amd 1990 No. 80 s 3 sch 7

om 2000 No. 26 s 12 sch 1

s 11 amd 1968 No. 33 s 5; 1971 No. 25 s 3; 1974 No. 33 s 4; 1982 No. 73 s 39;

1990 No. 80 s 3 sch 7; 1992 No. 15 s 13 sch; 1992 No. 64 s 3 sch 1

om 2000 No. 26 s 12 sch 1

Powers of the corporation etc.

prov hdg amd 1991 No. 15 s 13 sch

om 2000 No. 26 s 12 sch 1

s 12 amd 1990 No. 80 s 3 sch 7; 1992 No. 15 s 13 sch

om 2000 No. 26 s 12 sch 1

Corporation is statutory body

s 13 orig s 13 sub 1967 No. 48 s 3(2) sch 1

om 1992 No. 15 s 13 sch

prev s 13 ins 1996 No. 54 s 9 sch

om 2000 No. 26 s 12 sch 1

Joint Ministerial power

s 14 orig s 14 om 1992 No. 15 s 13 sch

prev s 14 ins 2010 No. 12 s 18

exp 26 March 2011 (see s 15(1))

Expiry of ss 14–15

s 15 orig s 15 amd 1984 No. 86 s 6; 1990 No. 80 s 3 sch 7

om 1992 No. 15 s 13 sch

prev s 15 ins 2010 No. 12 s 18

exp 26 March 2011 (see s 15(1))

Defects in appointment not in invalidate acts of Conservator of Forests

s 16 om 1992 No. 15 s 13 sch

Appointment of officers

s 17 amd 1990 No. 80 s 3 sch 7; 1991 No. 13 s 4

sub 1992 No. 15 s 13 sch

amd 2006 No. 16 s 68 sch 1; 2010 No. 12 s 19

General powers of forest officers

s 18 amd 1968 No. 33 s 6; 1971 No. 25 s 4; 1974 No. 33 s 5; 1982 No. 73 s 40;

1984 No. 86 s 7; 1997 No. 20 s 5; 1997 No. 78 s 32; 2000 No. 5 s 373 sch 2

General powers of plantation officers

s 18A ins 2010 No. 12 s 20

Powers of plantation officers in relation to fire

s 18B ins 2010 No. 12 s 20

Plantation operator and plantation officer are persons performing duties under this Act only for particular provisions

s 18C ins 2010 No. 12 s 20

Retention of document produced to forest officer

s 19 prev s 19 amd 1990 No. 80 s 3 sch 7
om 1992 No. 15 s 13 sch
pres s 19 ins 1997 No. 78 s 33

Retention of document produced to plantation officer

prov hdg sub 1990 No. 80 s 3 sch 7
s 20 prev s 20 amd 1990 No. 80 s 3 sch 7
om 1992 No. 15 s 13 sch
pres s 20 ins 2010 No. 12 s 21

Officers not to trade in timber etc.

s 21 amd 1992 No. 15 s 13 sch; 2010 No. 12 s 22

Auctioneer's licence not required by officers

s 22 amd 2000 No. 62 s 601 sch 2

PART 2A—TIMBER RESEARCH AND DEVELOPMENT ADVISORY COUNCIL

pt hdg ins 1974 No. 33 s 6
amd 1987 No. 44 s 6
om 2000 No. 26 s 7

Division 1—Timber Research and Development Advisory Council of South and Central Queensland

div hdg ins 1974 No. 33 s 6
om 1987 No. 44 s 7

Constitution

s 22A ins 1974 No. 33 s 6
amd 1987 No. 44 s 8
om 2000 No. 26 s 7

Composition

s 22B ins 1974 No. 33 s 6
sub 1979 No. 10 s 3
amd 1987 No. 44 s 9; 1990 No. 80 s 3 sch 7; 1992 No. 15 s 13 sch
om 2000 No. 26 s 7

Functions

s 22C ins 1974 No. 33 s 6
amd 1987 No. 44 s 10
om 2000 No. 26 s 7

Savings and transitional

s 22D ins 1974 No. 33 s 6
sub 1987 No. 44 s 11
om 1992 No. 15 s 13 sch

Division 2—Timber Research and Development Advisory Council of North Queensland

div hdg ins 1974 No. 33 s 6
om 1987 No. 44 s 12

Tenure of office

s 22E orig s 22E ins 1974 No. 33 s 6
om 1987 No. 44 s 13
prev s 22E (prev s 22I) ins 1974 No. 33 s 6
sub 1979 No. 10 s 5
renum 1987 No. 44 s 15
amd 1987 No. 44 s 16
om 2000 No. 26 s 7

Non-application of Public Service Management and Employment Act

s 22F orig s 22F ins 1974 No. 33 s 6
sub 1979 No. 10 s 4
om 1987 No. 44 s 13
prev s 22F (prev s 22J) ins 1974 No. 33 s 6
renum 1987 No. 44 s 15
amd 1987 No. 44 s 17
om 1996 No. 37 s 147 sch 2

Casual vacancies

s 22G orig s 22G ins 1974 No. 33 s 6
om 1987 No. 44 s 13
prev s 22G (prev s 22K) ins 1974 No. 33 s 6
renum 1987 No. 44 s 15
amd 1987 No. 44 s 18
om 2000 No. 26 s 7

Failure to nominate

s 22H orig s 22H ins 1974 No. 33 s 6
om 1987 No. 44 s 13
prev s 22H (prev s 22L) ins 1974 No. 33 s 6
amd 1979 No. 10 s 6
renum 1987 No. 44 s 15
amd 1987 No. 44 s 19
om 2000 No. 26 s 7

Division 3—Miscellaneous Provisions

div hdg ins 1974 No. 33 s 6
om 1987 No. 44 s 14

Disqualification

s 22I (prev s 22M) ins 1974 No. 33 s 6
renum 1987 No. 44 s 15
amd 1987 No. 44 s 20; 2000 No. 16 s 590 sch 1 pt 2 (amdt could not be given effect)
om 2000 No. 26 s 7

Proceedings

s 22J (prev s 22N) ins 1974 No. 33 s 6
renum 1987 No. 44 s 15
amd 1987 No. 44 s 21
om 2000 No. 26 s 7

Appointment of employees

s 22K (prev s 22O) ins 1974 No. 33 s 6
renum 1987 No. 44 s 15
amd 1987 No. 44 s 22
om 2000 No. 26 s 7

Superannuation scheme

s 22L (prev s 22P) ins 1974 No. 33 s 6
sub 1984 No. 86 s 8
renum 1987 No. 44 s 15
amd 1987 No. 44 s 23; 1992 No. 15 s 13 sch
om 2000 No. 26 s 7

Funds

s 22M (prev s 22Q) ins 1974 No. 33 s 6
sub 1984 No. 86 s 9
renum 1987 No. 44 s 15
amd 1987 No. 44 s 24; 1997 No. 17 s 74 sch
om 2000 No. 26 s 7

Council is statutory body

s 22N ins 1987 No. 44 s 25
sub 1996 No. 54 s 9 sch
om 2000 No. 26 s 7

Budget of the council

prov hdg amd 1987 No. 44 s 28(a)
s 22O (prev s 22QE) ins 1984 No. 86 s 12
renum 1987 No. 44 s 27
amd 1987 No. 44 s 28(b)–(d)
om 2000 No. 26 s 7

Observance of budget

s 22P (prev s 22QF) ins 1984 No. 86 s 12
renum 1987 No. 44 s 27
amd 1987 No. 44 s 29
om 2000 No. 26 s 7

Treatment of ordinary expenditure, surplus and deficit

s 22Q (prev s 22QG) ins 1984 No. 86 s 13
renum 1987 No. 44 s 27
om 2000 No. 26 s 7

Financial records

s 22QA ins 1984 No. 86 s 10
om 1987 No. 44 s 25

Endnotes

Annual statements of account

s 22QB ins 1984 No. 86 s 10
om 1987 No. 44 s 25

Audit

s 22QC ins 1984 No. 86 s 11
om 1987 No. 44 s 25

Investment of Funds

s 22QD ins 1984 No. 86 s 11
om 1987 No. 44 s 25

Control of moneys and property of a Council

s 22QI ins 1984 No. 86 s 13
om 1987 No. 44 s 26

Budget statement to be presented to meeting

s 22R orig s 22R ins 1974 No. 33 s 6
amd 1984 No. 86 s 14
om 1987 No. 44 s 26
prev s 22R (prev s 22QH) ins 1984 No. 86 s 13
renum 1987 No. 44 s 27
amd 1987 No. 44 s 30
om 2000 No. 26 s 7

Additional stumpage

s 22S ins 1974 No. 33 s 6
amd 1979 No. 10 s 7; 1984 No. 86 s 15; 1987 No. 44 s 31; 1992 No. 15 s 13
sch
om 2000 No. 26 s 7

Estimate by chief executive

prov hdg sub 1984 No. 86 s 16(a)
s 22T ins 1974 No. 33 s 6
amd 1984 No. 86 s 16(b)–(c); 1987 No. 44 s 32; 1992 No. 15 s 13 sch
om 2000 No. 26 s 7

Interpretation

s 22U ins 1974 No. 33 s 6
om 1992 No. 15 s 13 sch

Saving

s 22V ins 1974 No. 33 s 6
amd 1990 No. 80 s 3 sch 7; 1992 No. 15 s 13 sch
om 2000 No. 26 s 7

**PART 3—CLASSIFICATION AND RESERVATION OF STATE FORESTS AND
TIMBER RESERVES**

pt hdg amd 1968 No. 33 s 7; 1991 No. 13 s 5

Classification of lands

s 23 amd 1971 No. 25 s 5; 1982 No. 73 s 41; 1992 No. 15 s 13 sch

Recommendation for reservation

s 24 amd 1971 No. 25 s 6; 1982 No. 73 s 42
om 1992 No. 15 s 13 sch

Power to set apart and declare State forests

s 25 amd 1992 No. 15 s 13 sch; 1992 No. 68 s 3 sch 1

Restriction on alienation etc.

s 26 amd 1992 No. 68 s 3 sch 1

Amalgamation etc. of State forests

prov hdg amd 1968 No. 33 s 8(a)
sub 1991 No. 13 s 6(a)
s 27 amd 1968 No. 33 s 8(b)–(c); 1976 No. 9 s 2; 1991 No. 13 s 6(b)–(c)
sub 1992 No. 68 s 3 sch 1

Power to set apart and declare timber reserves

s 28 amd 1964 No. 15 s 3; 1968 No. 33 s 9; 1976 No. 9 s 3; 1992 No. 15 s 13 sch;
1992 No. 68 s 3 sch 1

National Parks

hdg prec s 29 amd 1968 No. 33 s 10
om 1982 No. 73 s 43

Power to set apart and declare National Parks

s 29 sub 1968 No. 33 s 11
amd 1971 No. 25 s 7; 1976 No. 9 s 4; 1976 No. 80 s 93
om 1982 No. 73 s 44

Existing National Parks

s 30 amd 1964 No. 15 s 4
sub 1968 No. 33 s 13
amd 1971 No. 25 s 8; 1976 No. 9 s 5
om 1982 No. 73 s 44

Restriction on alienation

s 31 amd 1968 No. 33 s 14; 1971 No. 25 s 9
om 1982 No. 73 s 44

Unlawful use of expression “National Park”

s 31A ins 1976 No. 9 s 6
om 1982 No. 73 s 44

Land for tourist purposes or use as road

s 32 amd 1964 No. 15 s 5; 1968 No. 33 s 15; 1982 No. 73 s 45; 1992 No. 15 s 13
sch; 1992 No. 68 s 3 sch 1
sub 2002 No. 72 s 13

Chief executive to notify chief executive (lands) of change to State forest

s 32AA ins 2010 No. 12 s 23

PART 3A—STATE PLANTATION FOREST

pt 3A (ss 32A–32C) ins 2010 No. 12 s 24

PART 4—MANAGEMENT OF STATE FORESTS, TIMBER RESERVES AND FOREST ENTITLEMENT AREAS

pt hdg sub 1974 No. 33 s 7

Cardinal principle of management of State forests

s 33 sub 1976 No. 9 s 7
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Application of pt 4 to a State plantation forest

s 33AA ins 2006 No. 16 s 68 sch 1
om 2010 No. 12 s 25

Management in a wild river area

s 33A ins 2005 No. 42 s 52 sch 1
amd 2006 No. 59 s 41

Use of State forests

prov hdg sub 2000 No. 26 s 12 sch 1
s 34 amd 1976 No. 9 s 8; 1984 No. 86 s 17; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1; 2010 No. 12 s 26

Regulation of use of State forests by notices

prov hdg amd 1992 No. 15 s 13 sch
sub 2000 No. 26 s 12 sch 1
s 34AA ins 1991 No. 13 s 7
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Display in State forests of information notices in conjunction with regulatory notices

s 34AB ins 1991 No. 13 s 7
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Specialised management within State forests

s 34A ins 1984 No. 86 s 18
sub 1992 No. 15 s 13 sch
amd 1992 No. 68 s 3 sch 1; 2010 No. 12 s 27

Application of Transport Operations (Road Use Management) Act 1995

prov hdg amd 2011 No. 6 s 142 sch
s 34B ins 1984 No. 86 s 18
sub 2001 No. 57 s 3 sch

Feature protection area

s 34C ins 1984 No. 86 s 18
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

State forest park

s 34D ins 1984 No. 86 s 19
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Scientific area

s 34E ins 1984 No. 86 s 19
amd 1991 No. 13 s 8; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Forest drive

s 34F ins 1984 No. 86 s 20
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Regulating movement of vehicles on feature protection areas etc.

s 34G ins 1984 No. 86 s 20
amd 1991 No. 13 s 9; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Self-registration camping areas

s 34H ins 1991 No. 13 s 10
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1; 2007 No. 36 s 2 sch; 2010 No. 12 s 28

Granting of permit for land within State forest

prov hdg sub 2000 No. 26 s 12 sch 1
s 35 amd 1964 No. 15 s 6; 1972 No. 31 s 6 sch 1; 1982 No. 23 s 70; 1984 No. 86 s 21; 1992 No. 15 s 13 sch; 1994 No. 81 s 527 sch 5; 2000 No. 26 s 12 sch 1; 2001 No. 57 s 3 sch; 2005 No. 53 s 100; 2010 No. 12 s 29

Permit to camp in State forest may be taken to have been granted by chief executive

prov hdg amd 1992 No. 15 s 13 sch
s 35A ins 1991 No. 13 s 11
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1; 2002 No. 72 s 14

Dealings with respect to timber reserves

s 36 sub 1964 No. 15 s 7
amd 1992 No. 15 s 13 sch; 1994 No. 81 s 527 sch 5

Particular authorities over State forest, timber reserve or forest entitlement area

prov hdg amd 2009 No. 3 s 478(1)
s 37 amd 1974 No. 33 s 8; 1990 No. 80 s 3 sch 7; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1; 2009 No. 3 s 478(2)–(4); 2010 No. 12 s 30; 2010 No. 31 s 585 sch 2 pt 4

Permits for destruction of trees on State forests and timber reserves

s 38 om 1992 No. 15 s 13 sch

Interfering with forest products on State forests etc.

s 39 amd 1974 No. 33 s 9; 1991 No. 13 s 12; 1992 No. 15 s 13 sch; 1997 No. 20 s 6; 2009 No. 3 s 479; 2010 No. 12 s 31; 2010 No. 31 s 585 sch 2 pt 4

Forest entitlement areas

s 39A ins 1974 No. 33 s 10
amd 1990 No. 80 s 3 sch 7; 1991 No. 97 s 3 sch 2; 1992 No. 15 s 13 sch; 1994 No. 81 s 527 sch 5; 2000 No. 26 s 12 sch 1

Rights and liabilities of contracting party in respect of forest entitlement areas

s 39B ins 1974 No. 33 s 11
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Interpretation

s 39C ins 1974 No. 33 s 11
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

PART 5—MANAGEMENT OF NATIONAL PARKS

pt hdg amd 1968 No. 33 s 16
 om 1982 No. 73 s 46(a)

Principle of management of National Park

s 40 sub 1968 No. 33 s 17
 om 1982 No. 73 s 46(b)

Specialized management within National Park

s 40A ins 1968 No. 33 s 17
 om 1982 No. 73 s 46(b)

Primitive area

s 40B ins 1968 No. 33 s 17
 amd 1971 No. 25 s 10
 om 1982 No. 73 s 46(b)

Primitive and Recreation Area

s 40C ins 1968 No. 33 s 17
 amd 1974 No. 33 s 12
 om 1982 No. 73 s 46(b)

Recreation Area

s 40D ins 1968 No. 33 s 17
 amd 1971 No. 25 s 11; 1972 No. 31 s 6 sch 1
 om 1982 No. 73 s 46(b)

Scientific Area

s 40E ins 1968 No. 33 s 17
 amd 1971 No. 25 s 12
 om 1982 No. 73 s 46(b)

Historic Area

s 40F ins 1968 No. 33 s 17
 om 1982 No. 73 s 46(b)

Power of the Conservator of Forests to carry out works

s 41 amd 1968 No. 33 s 18
 om 1982 No. 73 s 46(b)

Power to grant special leases

s 42 amd 1964 No. 15 s 8; 1968 No. 33 s 19; 1971 No. 25 s 13; 1976 No. 80 s 93
 om 1982 No. 73 s 46(b)

Application of pt 6 to forest products from a licence area

s 43 prev s 43 amd 1968 No. 33 s 20; 1971 No. 25 s 14; 1976 No. 80 s 93
 om 1982 No. 73 s 46(b)
 pres s 43 ins 2006 No. 16 s 68 sch 1
 sub 2010 No. 12 s 32

Construction of other Acts etc.

s 44 amd 2009 No. 3 s 480; 2010 No. 31 s 585 sch 2 pt 4

Code of practice for getting forest products in wild river areas

s 44A ins 2005 No. 42 s 52 sch 1
amd 2006 No. 59 s 42

Getting forest products in wild river areas

s 44B ins 2005 No. 42 s 52 sch 1
amd 2006 No. 59 s 43

Forest products etc. which are the property of the Crown

s 45 amd 1964 No. 15 s 9; 1968 No. 33 s 21; 1974 No. 33 s 13; 1982 No. 17 s 17;
1991 No. 83 s 91; 1992 No. 15 s 13 sch; 1992 No. 20 s 159 sch 2 (amd
1994 No. 42 s 2 sch); 1992 No. 64 s 3 sch 1; 1994 No. 81 s 527 sch 5; R2
(see RA s 37); 2000 No. 26 s 12 sch 1; 2009 No. 3 s 481; 2010 No. 31 s 585
sch 2 pt 4

Owner of quarry material

s 45A ins 1991 No. 83 s 92
amd 2001 No. 57 s 3 sch

Sale of forest products or quarry material

prov hdg sub 2000 No. 26 s 12 sch 1
s 46 amd 1968 No. 33 s 22; 1973 No. 41 s 21; 1992 No. 15 s 13 sch; 1992 No. 20 s
159 sch 2 (amd 1994 No. 42 s 2 sch); 1999 No. 79 s 4; 2000 No. 26 s 12
sch 1; 2006 No. 16 s 68 sch 1; 2010 No. 12 s 33

Sale of fossils and quarry materials to fossicker

s 46A ins 1994 No. 63 s 110(2) sch
amd 2000 No. 26 s 12 sch 1

Sale of forest products on Crown holdings or mining leases etc.

prov hdg amd 2010 No. 31 s 585 sch 2 pt 4
s 47 amd 1964 No. 15 s 10; 1981 No. 21 s 87(3); 1984 No. 86 s 22; 1990 No. 80 s
3 sch 7; 1991 No. 83 ss 93, 89 sch 5; 1992 No. 15 s 13 sch
sub 1992 No. 15 s 13 sch
amd 1992 No. 64 s 3 sch 1; 1994 No. 81 s 527 sch 5; 2000 No. 26 s 12 sch 1;
2009 No. 3 s 482; 2010 No. 31 s 585 sch 2 pt 4

Getting or selling forest products

prov hdg sub 2000 No. 26 s 12 sch 1
s 48 amd 1964 No. 15 s 11; 1973 No. 41 s 22; 1990 No. 80 s 3 sch 7; 1992 No. 15
s 13 sch; 1992 No. 20 s 159 sch 2; 2000 No. 26 s 12 sch 1

Power to purchase forest products

s 49 amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Contracts for the supply of forest products

s 50 amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Power to purchase etc. plant etc.

s 51 amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Power to subsidise road works

s 52 amd 1968 No. 33 s 23; 1982 No. 73 s 47; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Interference with forest products on Crown holdings and particular entitlements

prov hdg ins 1992 No. 64 s 3 sch 1

amd 2009 No. 3 s 483(1)

s 53 amd 1964 No. 15 s 12; 1991 No. 83 ss 94, 89 sch 5; 1992 No. 64 s 3 sch 1; 1994 No. 81 s 527 sch 5; R2 (see RA s 37); 1997 No. 20 s 7; 2009 No. 3 s 483(2)–(3); 2010 No. 31 s 585 sch 2 pt 4

Interfering with forest products on Crown lands etc.

s 54 amd 1991 No. 83 s 95; 1992 No. 64 s 3 sch 1; 1997 No. 20 s 8

Interfering with quarry material in deeds of grant or freeholding leases

s 54A ins 1991 No. 83 s 96

sub 1992 No. 64 s 3 sch 1

amd 1994 No. 81 s 527 sch 5

Licences to get forest products etc.

s 55 amd 1964 No. 15 s 13; 1973 No. 41 s 23; 1991 No. 83 s 97; 1992 No. 15 s 13 sch; 1992 No. 20 s 159 sch 2; 1992 No. 64 s 3 sch 1; 1994 No. 81 s 527 sch 5; 2000 No. 26 s 12 sch 1; 2005 No. 42 s 52 sch 1; 2006 No. 59 s 40 sch; 2010 No. 12 s 34

Permits etc.

s 56 amd 1964 No. 15 s 14; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1; 2005 No. 42 s 52 sch 1; 2006 No. 59 s 40 sch; 2010 No. 12 s 35

Power of entry under licence or permit

s 57 amd 1981 No. 21 s 87(4); 1992 No. 15 s 13 sch; 1994 No. 81 s 527 sch 5

Power to cancel, suspend, permit, licence etc.

s 58 amd 1990 No. 10 s 4 sch 2; 1992 No. 15 s 13 sch; 1999 No. 79 s 5; 2000 No. 26 s 12 sch 1; 2001 No. 57 s 3 sch; 2005 No. 53 s 159 sch; 2010 No. 12 s 37

Transfer of permits etc.

s 59 amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1; 2010 No. 12 s 38

Failure to comply with provisions of lease etc.

s 60 amd 2010 No. 12 s 39

Removal of forest products

s 61 amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1; 2010 No. 44 s 158

Prohibition on sale of Aboriginal artefacts etc.

s 61A ins 1968 No. 33 s 24

amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

om 2003 No. 79 s 170 sch 1

PART 6A—QUARRY MATERIAL IN DEED OF GRANT OR FREEHOLDING LEASE

pt hdg ins 1991 No. 83 s 98

sub 1992 No. 64 s 3 sch 1

Interpretation

s 61B ins 1991 No. 83 s 98
amd 1992 No. 64 s 3 sch 1

Entitlement under permit

s 61C ins 1991 No. 83 s 98
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Withdrawal of consent

s 61D ins 1991 No. 83 s 98
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Provision of security

s 61E ins 1991 No. 83 s 98
amd 1992 No. 15 s 13 sch; 1997 No. 17 s 74 sch; 2000 No. 26 s 12 sch 1; 2010
No. 16 s 35 sch

Compensation

s 61F ins 1991 No. 83 s 98

Prior notice of entry to be served

s 61G ins 1991 No. 83 s 98

Appeal to Land Court

s 61H ins 1991 No. 83 s 98
amd 2010 No. 12 s 40

Appeal against Land Court's determination

s 61I ins 1991 No. 83 s 98
amd 1994 No. 81 s 527 sch 5

PART 6B—NATURAL RESOURCE PRODUCTS

pt hdg ins 2001 No. 57 s 4

Agreement about natural resource products

s 61J ins 2001 No. 57 s 4
amd 2004 No. 4 s 5; 2006 No. 16 s 68 sch 1; 2010 No. 12 s 41

PART 6C—MANAGEMENT OF STATE PLANTATION FORESTS

pt hdg ins 2006 No. 16 s 68 sch 1
om 2010 No. 12 s 44

Purpose of pt 6C

s 61K ins 2006 No. 16 s 68 sch 1
om 2010 No. 12 s 44

Definitions

s 61L ins 2006 No. 16 s 68 sch 1
def “**relevant provisions**” amd 2010 No. 12 s 42
om 2010 No. 12 s 44

Functions to be performed, and powers to be exercised, by administering entity

s 61M ins 2006 No. 16 s 68 sch 1

om 2010 No. 12 s 44

Application of relevant provisions

s 61N ins 2006 No. 16 s 68 sch 1
amd 2010 No. 12 s 43
om 2010 No. 12 s 44

Application of other provisions

s 61O ins 2006 No. 16 s 68 sch 1
om 2010 No. 12 s 44

**Sale of natural resource products from State plantation forests by FPQ under profit
a prendre**

s 61P ins 2006 No. 16 s 68 sch 1
om 2010 No. 12 s 44

PART 6D—PLANTATION FORESTRY

pt hdg ins 2010 No. 12 s 45

Division 1—Preliminary

div 1 (s 61Q) ins 2010 No. 12 s 45

Division 2—Plantation licences

div 2 (ss 61QA–61QN) ins 2010 No. 12 s 45

Division 3—Plantation sublicences

div 3 (ss 61QO–61QT) ins 2010 No. 12 s 45

Division 4—Mortgages

div 4 (s 61QV) ins 2010 No. 12 s 45

Division 5—Ownership of improvements

div 5 (ss 61QW–61QX) ins 2010 No. 12 s 45

Division 6—Cancellation

div 6 (ss 61QY–61RA) ins 2010 No. 12 s 45

Division 7—Surrender or division of plantation licence

div 7 (ss 61RB–61RG) ins 2010 No. 12 s 45

Division 8—Compensation

div 8 (ss 61RH–61RK) ins 2010 No. 12 s 45

**PART 6E—REGISTRATION OF INTERESTS IN STATE PLANTATION
FORESTS**

pt hdg ins 2010 No. 12 s 45

Division 1—Preliminary

div 1 (s 61RL) ins 2010 No. 12 s 45

Division 2—Register

div 2 (ss 61RM–61RT) ins 2010 No. 12 s 45

Division 3—General requirements for documents in the register

div 3 (ss 61RU–61RX) ins 2010 No. 12 s 45

Division 4—Registration of documents**div 4** (ss 61RY–61SD) ins 2010 No. 12 s 45**Division 5—Consequences of registration****div 5** (ss 61SE–61SG) ins 2010 No. 12 s 45**Division 6—Transfers****div 6** (s 61SH) ins 2010 No. 12 s 45**Division 7—Mortgages****div 7** (ss 61SI–61SS) ins 2010 No. 12 s 45**Division 8—Trusts****div 8** (s 61ST) ins 2010 No. 12 s 45**Division 9—Enforcement warrants****div hdg** ins 2010 No. 12 s 45**Definition for division****s 61SU** ins 2010 No. 12 s 45def “**enforcement warrant**” amd 2011 No. 45 s 217 sch 1A**Registering an enforcement warrant****s 61SV** ins 2010 No. 12 s 45**Effect of registering an enforcement warrant****s 61SW** ins 2010 No. 12 s 45

amd 2011 No. 45 s 217 sch 1A

Cancellation of registration of an enforcement warrant**s 61SX** ins 2010 No. 12 s 45**Discharging or satisfying an enforcement warrant****s 61SY** ins 2010 No. 12 s 45**Transfer of plantation licence or plantation sublicence sold in execution****s 61SZ** ins 2010 No. 12 s 45**Effect on enforcement warrant of transfer after sale by mortgagee****s 61T** ins 2010 No. 12 s 45**Division 10—Powers of attorney****div 10** (s 61TA) ins 2010 No. 12 s 45**Division 11—Caveats****div hdg** ins 2010 No. 12 s 45**Subdivision 1—Caveats—general****sdiv 1** (ss 61TB–61TK) ins 2010 No. 12 s 45**Subdivision 2—Caveats—chief executive (lands)****sdiv 2** (s 61TL) ins 2010 No. 12 s 45**Division 12—Relationship with other laws****div 12** (ss 61TM–61TN) ins 2010 No. 12 s 45

Division 13—General

div 13 (ss 61TO–61TV) ins 2010 No. 12 s 45

PART 7—FIRES ON STATE FORESTS, TIMBER RESERVES AND FOREST ENTITLEMENT AREAS

pt hdg amd 1968 No. 33 s 25; 1973 No. 41 s 24(a); 1974 No. 33 s 14; 1982 No. 73 s 48
sub 2010 No. 12 s 46

Application of pt 7 to a State plantation forest

s 61TW (prev s 61Q) ins 2006 No. 16 s 68 sch 1
renum 2010 No. 12 s 47
om 2010 No. 12 s 44

Control of fires on State forests etc.

s 62 amd 1968 No. 33 s 26; 1973 No. 41 s 24(b); 1974 No. 33 s 15; 1982 No. 73 s 49; 1990 No. 10 s 4 sch 2; 1991 No. 13 s 13; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1; 2001 No. 57 s 3 sch; 2005 No. 53 s 159 sch; 2010 No. 12 s 48

Duty of lessee of State forest etc.

s 63 amd 1968 No. 33 s 27; 1973 No. 41 s 24(b); 1974 No. 33 s 15; 1982 No. 73 s 49; 1990 No. 10 s 4 sch 2; 1992 No. 15 s 13 sch; 2001 No. 57 s 3 sch; 2005 No. 53 s 159 sch; 2010 No. 12 s 49

Duty of plantation licensee etc.

s 63A ins 2010 No. 12 s 50

Certain person to be incapable of holding permits etc.

s 64 amd 1968 No. 33 s 28; 1973 No. 41 s 24(b); 1974 No. 33 s 15; 1982 No. 73 s 49; 1990 No. 10 s 4 sch 2; 1992 No. 15 s 13 sch; 2001 No. 57 s 3 sch; 2005 No. 53 s 159 sch; 2010 No. 12 s 51

Control of fires on lands adjoining State forest etc.

s 65 amd 1964 No. 15 s 15; 1968 No. 33 s 29; 1972 No. 31 s 6 sch 1; 1973 No. 41 s 24(b); 1974 No. 33 s 15; 1982 No. 73 s 49; 1990 No. 10 s 4 sch 2; 1990 No. 88 s 3 sch; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1; 2001 No. 57 s 3 sch; 2005 No. 53 s 159 sch; 2010 No. 12 s 52

Recovery of expenses incurred in extinguishing fires on State forests

s 65A ins 2010 No. 12 s 53

Recovery of expenses incurred in extinguishing fires on State forests within licence areas

s 65B ins 2010 No. 12 s 53

Lighted match etc. not to be dropped near flammable material

prov hdg amd 1991 No. 13 s 14(a)

s 66 amd 1968 No. 33 s 30; 1972 No. 31 s 6 sch 1; 1973 No. 41 s 24(b); 1974 No. 33 s 15; 1982 No. 73 s 49; 1991 No. 13 s 14(b)

Lighting of small fires on State forests etc.

s 67 amd 1968 No. 33 s 31; 1972 No. 31 s 6 sch 1; 1973 No. 41 s 24(b); 1974 No. 33 s 15; 1982 No. 73 s 49; 1991 No. 13 s 15

Cooperative burnings

s 68 amd 1968 No. 33 s 32; 1972 No. 31 s 6 sch 1; 1973 No. 41 s 24(b); 1974 No. 33 s 15; 1982 No. 73 s 49; 1990 No. 10 s 4 sch 2; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1; 2001 No. 57 s 3 sch; 2005 No. 53 s 159 sch

Forfeiture of leases and the like and cancellation of agreements

prov hdg sub 1974 No. 33 s 16(a)

s 69 amd 1968 No. 33 s 33; 1973 No. 41 s 24(b); 1974 No. 33 s 16(b)–(c); 1982 No. 73 s 50; 1990 No. 10 s 4 sch 2; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1; 2001 No. 57 s 3 sch; 2005 No. 53 s 159 sch; 2010 No. 12 s 54

PART 7A—COMPETITION POLICY REFORM EXEMPTIONS

pt hdg ins 1998 No. 50 s 22
exp 27 November 2009 (see s 69D)

Definitions for pt 7A

s 69A ins 1998 No. 50 s 22
def “**native forest sawlog allocation system**” amd 2000 No. 26 s 12 sch 1
exp 27 November 2009 (see s 69D)

Specific authorisation for allocation and sale of native forest sawlogs

s 69B ins 1998 No. 50 s 22
amd 2000 No. 26 s 12 sch 1
exp 27 November 2009 (see s 69D)

Specific authorisation for grant of permit to get native forest sawlogs

s 69C ins 1998 No. 50 s 22
amd 1999 No. 79 s 6; 2000 No. 26 s 12 sch 1
exp 27 November 2009 (see s 69D)

Expiry of pt 7A

s 69D ins 1998 No. 50 s 22
amd 1999 No. 79 s 7
exp 27 November 2009 (see s 69D)

PART 8—MISCELLANEOUS**Chief executive must consult with plantation licensee or plantation sublicensee if considering exercising power in relation to a licence area**

s 69E ins 2006 No. 16 s 68 sch 1
sub 2010 No. 12 s 55

Destruction of trees on roads

s 70 amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Impounding

s 71 sub 1964 No. 15 s 16
amd 1968 No. 33 s 34; 1982 No. 73 s 51; 1991 No. 13 s 16; 1992 No. 15 s 13 sch
sub 1992 No. 20 s 159 sch 2

om 1993 No. 70 s 804 sch

Wild stock

s 72 sub 1964 No. 15 s 17
amd 1968 No. 33 s 35; 1974 No. 33 s 17; 1982 No. 73 s 52; 1991 No. 13 s 17;
1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1; 2010 No. 12 s 56; 2009 No.
17 s 331 sch 1

Unlawfully using State forests etc.

s 73 amd 1968 No. 33 s 36; 1971 No. 25 s 15; 1974 No. 33 s 18; 1982 No. 23 s 71;
1982 No. 73 s 53; 1984 No. 86 s 23; 1991 No. 13 s 18; 1992 No. 15 s 13
sch; 2000 No. 26 s 12 sch 1; 2005 No. 53 s 101; 2010 No. 12 s 57

Display of camping form if permit to camp granted

s 73A ins 1991 No. 13 s 19
sub 2002 No. 72 s 15

Offence to display camping form if no permit to camp

s 73B ins 2002 No. 72 s 15

Unauthorised building etc. within State forest etc.

s 74 amd 1968 No. 33 s 37; 1974 No. 33 s 18; 1982 No. 73 s 54; 1991 No. 13 s 20;
1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1; 2010 No. 12 s 57A

Removal of trespassers

s 75 amd 1968 No. 33 s 38; 1971 No. 25 s 16; 1974 No. 33 s 18; 1982 No. 73 s 55;
2010 No. 12 s 58

Entry on to reserves may be prohibited

s 76 amd 1974 No. 33 s 19; 1991 No. 13 s 21; 1992 No. 15 s 13 sch; 2000 No. 26 s
12 sch 1; 2010 No. 12 s 59

Persons found in possession of forest products

s 77 amd 1968 No. 33 s 39; 1974 No. 33 s 20; 1982 No. 73 s 56

Receiving forest products

s 78 amd 1991 No. 13 s 22

Subpurchase

s 79 amd 2010 No. 12 s 59A

Accounts of forest products

s 80 amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1; 2010 No. 12 s 60

Power to enter land

s 81 amd 1971 No. 25 s 17; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Powers for seized timber etc.

prov hdg sub 1997 No. 20 s 9(1)
s 82 amd 1968 No. 33 s 40; 1971 No. 25 s 18; 1982 No. 73 s 57; 1991 No. 13 s 23;
1992 No. 15 s 13 sch; 1997 No. 20 s 9(2)–(16); 1997 No. 78 s 34; 2000 No.
26 s 12 sch 1

Seizure and forfeiture of vehicles

s 82A ins 1984 No. 86 s 24

amd 1991 No. 13 s 24; 1997 No. 20 s 10

Receipt to be given

s 82B ins 1997 No. 20 s 11

Forest officer to allow inspection etc.

s 82C ins 1997 No. 20 s 11

Chief executive may return seized thing

prov hdg sub 2000 No. 26 s 12 sch 1

s 82D ins 1997 No. 20 s 11
amd 2000 No. 26 s 12 sch 1

Chief executive's obligation to return seized things

prov hdg sub 2000 No. 26 s 12 sch 1

s 82E ins 1997 No. 20 s 11
amd 2000 No. 26 s 12 sch 1

Chief executive may order forfeiture of unclaimed seized things

prov hdg sub 2000 No. 26 s 12 sch 1

s 82F ins 1997 No. 20 s 11
amd 2000 No. 26 s 12 sch 1

Forfeiture of seized things on conviction

s 82G ins 1997 No. 20 s 11
amd 2002 No. 68 s 339 sch 4

Where and how to start appeal

s 82H ins 1997 No. 20 s 11
amd 2000 No. 26 s 12 sch 1

Hearing procedures

s 82I ins 1997 No. 20 s 11
amd 2000 No. 26 s 12 sch 1

Powers of Magistrates Court on appeal

s 82J ins 1997 No. 20 s 11

Appeal to District Court on questions of law only

s 82K ins 1997 No. 20 s 11
amd 1999 No. 19 s 3 sch

Seized forest products and quarry material become State's property

s 82L ins 1997 No. 20 s 11
amd 2000 No. 26 s 12 sch 1

Forfeited things seized become State's property

s 82M ins 1997 No. 20 s 11

Dealing with forfeited forest products etc.

prov hdg amd 1984 No. 86 s 25(a); 1992 No. 15 s 13 sch
sub 2000 No. 26 s 12 sch 1

s 83 amd 1984 No. 86 s 25(b); 1992 No. 15 s 13 sch; 1997 No. 20 s 12; 2000 No.
26 s 12 sch 1

Particular decisions subject to review

s 83A ins 2010 No. 12 s 61

Matters may be completed by different officers

s 84 amd 1992 No. 15 s 13 sch; 2010 No. 12 s 62

Officer may direct person to leave State forest or timber reserve

s 84A ins 1984 No. 86 s 26

Obstruction of officer etc.

s 86 amd 1968 No. 33 s 41; 1971 No. 25 s 19; 1982 No. 73 s 58; 1984 No. 86 s 27;
1991 No. 13 s 25; 1992 No. 15 s 13 sch; 1997 No. 20 s 13; 2000 No. 26 s
12 sch 1

Forgery of licence etc. and other offences

s 87 amd 1976 No. 9 s 9; 1991 No. 13 s 26; 1997 No. 20 s 14

Interference with infringement notices or camping forms

s 87A ins 1991 No. 12 s 27
om 2002 No. 72 s 16

Offences generally

s 88 amd 1968 No. 33 s 42; 1971 No. 25 s 20; 1974 No. 33 s 21; 1976 No. 9 s 10;
1982 No. 73 s 59; 1991 No. 13 s 28; 1992 No. 15 s 13 sch; 2000 No. 26 s
12 sch 1; 2010 No. 12 s 63

Recovery of moneys by plantation licensee or plantation sublicensee

s 88A prev s 88A ins 1991 No. 13 s 29
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1
om 2002 No. 72 s 17
pres s 88A ins 2010 No. 12 s 64

Service of infringement notices

s 88B ins 1991 No. 13 s 29
om 2002 No. 72 s 17

Effect of service of infringement notice

s 88C ins 1991 No. 13 s 29
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1
om 2002 No. 72 s 17

Liability for forest infringements

s 88D ins 1991 No. 13 s 30
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1
om 2002 No. 72 s 17

Evidentiary provisions

s 88E ins 1991 No. 13 s 30
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1; 2001 No. 57 s 3 sch; 1994
No. 8 s 491(3) sch 5 (amd 2003 No. 54 ss 34, 39)
om 2002 No. 72 s 17

Service of copies of statutory declaration

s 88F ins 1991 No. 13 s 30
om 2002 No. 72 s 17

Recovery of moneys due

s 89 amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1; 2010 No. 12 s 64A

Conservator of Forests may appear by Secretary or other officer

s 90 amd 1964 No. 15 s 18
om 1992 No. 15 s 13 sch

Power to waive proceedings

prov hdg sub 2000 No. 26 s 12 sch 1

s 91 amd 1964 No. 15 s 19; 1979 No. 10 s 8; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1; 2010 No. 12 s 65

All moneys to be property of Crown

s 92 amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Judicial notice

s 93 amd 1968 No. 33 s 43; 1982 No. 73 s 60; 1992 No. 15 s 13 sch; 2006 No. 16 s 68 sch 1

Mistaken belief as to boundaries

s 94 amd 1968 No. 33 s 44; 1971 No. 25 s 21; 1982 No. 73 s 61

Facilitation of proof

s 95 amd 1968 No. 33 s 45; 1982 No. 73 s 62; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1; 2006 No. 16 s 68 sch 1; 2010 No. 12 s 66

Acknowledgment of service

prov hdg sub 1992 No. 15 s 13 sch
s 96 amd 1992 No. 15 s 13 sch

Delegation by Minister

s 96AA ins 2010 No. 12 s 67

Delegation by chief executive—general

prov hdg amd 2010 No. 12 s 68
s 96A ins 2000 No. 26 s 12 sch 1

Delegation by chief executive—State plantation forests

s 96B ins 2010 No. 12 s 69

Delegation by chief executive (lands)

s 96C ins 2010 No. 12 s 69

Delegation by FPQ and head of FPQO

s 96D ins 2010 No. 12 s 69

Protection from liability

s 96E ins 2010 No. 12 s 69

Regulation-making power

prov hdg sub 2007 No. 36 s 2 sch

s 97 amd 1968 No. 33 s 46; 1971 No. 25 s 22; 1976 No. 80 s 93; 1982 No. 73 s 63;
1992 No. 15 s 13 sch; 2006 No. 16 s 68 sch 1; 2010 No. 12 s 70

Publication of proclamations and orders in council etc.

s 99 sub 1991 No. 97 s 3 sch 2

om 1992 No. 68 s 3 sch 1

Protection of the Minister, officers, etc.

s 100 amd 1990 No. 80 s 3 sch 7

om 1992 No. 15 s 13 sch

Annual report

s 101 om 1990 No. 80 s 3 sch 7

Saving of certain Acts

s 102 amd 1971 No. 25 s 23; 1990 No. 10 s 4 sch 2

sub 1991 No. 97 s 3 sch 2

amd 1992 No. 20 s 159 sch 2; 1994 No. 37 s 244 sch 2; 2001 No. 57 s 3 sch;
2004 No. 19 s 129; 2005 No. 53 s 159 sch; 2007 No. 36 s 2 sch; 2010 No.
31 s 585 sch 2 pt 4

Existing orders in council

s 103 ins 1992 No. 68 s 3 sch 1

Delegations to continue until revoked

s 104 ins 2000 No. 26 s 12 sch 1

**PART 9—SAVINGS AND TRANSITIONAL PROVISIONS FOR PRIMARY
INDUSTRIES AND NATURAL RESOURCES LEGISLATION
AMENDMENT ACT 2000**

pt hdg ins 2000 No. 26 s 8

Division 1—Preliminary

div hdg ins 2000 No. 26 s 8

Purposes of pt 9

s 104A (prev s 104) ins 2000 No. 26 s 8

renum 2001 No. 57 s 3 sch

Definitions for pt 9

s 105 ins 2000 No. 26 s 8

def “**replacement corporation**” amd 2001 No. 57 s 3 sch

Division 2—Appointment of replacement corporation

div 2 (ss 106–108) ins 2000 No. 26 s 8

Division 3—Transfer to replacement corporation

div 3 (ss 109–116) ins 2000 No. 26 s 8

PART 10—OTHER TRANSITIONAL PROVISIONS

pt hdg ins 2006 No. 16 s 68 sch 1

sub 2010 No. 12 s 71

Division 1—Forestry Plantations Queensland Act 2006**div hdg** ins 2010 No. 12 s 71**Permits and licences etc. relating to State plantation forests****s 117** ins 2006 No. 16 s 68 sch 1**Division 2—Natural Resources and Other Legislation Amendment Act 2010****div hdg** ins 2010 No. 12 s 72**Definitions for div 2****s 118** prev s 118 ins 2006 No. 16 s 68 sch 1
exp 1 May 2007 (see s 118(3))
pres s 118 ins 2010 No. 12 s 72**Provision for s 17 (Appointment of officers)****s 119** ins 2010 No. 12 s 72**Provision for s 34AA or 34AB****s 120** ins 2010 No. 12 s 72**Provision for s 34A (Specialised management within State forests)****s 121** ins 2010 No. 12 s 72**Provision for s 34G (Regulating movement of vehicles on feature protection areas etc.)****s 122** ins 2010 No. 12 s 72**Provision for s 34H (Self-registration camping areas)****s 123** ins 2010 No. 12 s 72**Provision for s 35 (Granting of permit for land within State forest)****s 124** ins 2010 No. 12 s 72**Provision for s 55 (Licences to get forest products etc.)****s 125** ins 2010 No. 12 s 72**Provision for s 56 (Permits etc.)—general****s 126** ins 2010 No. 12 s 72**Provision for s 56 (Permits etc.)—administering party for FPQ sales permits****s 127** ins 2010 No. 12 s 72**Provision for s 56 (Permits etc.)—application of relevant provisions for FPQ sales permits****s 128** ins 2010 No. 12 s 72**Provision for s 73 (Unlawfully using State forests etc.)****s 129** ins 2010 No. 12 s 72**References to FPQ****s 130** ins 2010 No. 12 s 72**Dissolution of corporation sole under the Forestry Plantations Queensland Act 2006****s 131** ins 2010 No. 12 s 72

Amendment of regulations by the 2010 Amendment Act does not affect powers of Governor in Council

s 132 ins 2010 No. 12 s 72

SCHEDULES

hdg om 1991 No. 97 s 3 sch 2

SCHEDULE 1—ADMINISTERING ENTITY FOR STATE PLANTATION FORESTS

orig sch 1 om 1991 No. 97 s 3 sch 2
prev sch 1 ins 2006 No. 16 s 68 sch 1
om 2010 No. 12 s 73

SCHEDULE 2—SUBJECT MATTERS FOR REGULATIONS

Officers

s 1 amd 1992 No. 15 s 13 sch

State forests

s 4 amd 1968 No. 33 s 47(a); 1982 No. 73 s 64(a)
sub 1984 No. 86 s 28
amd 1991 No. 13 s 31(a)

State forest parks, feature protection areas and forest drives

s 4A ins 1984 No. 86 s 28

Use etc. of buildings

s 5 amd 2000 No. 26 s 12 sch 1; 2006 No. 16 s 68 sch 1

Method of getting and disposal

s 6 amd 2006 No. 16 s 68 sch 1

Fire prevention etc.

s 18 amd 1968 No. 33 s 47(b); 1982 No. 73 s 64(b)

Felling trees

s 19 amd 1968 No. 33 s 47(c); 1982 No. 73 s 64(c)

Prevention of pollution

s 20 amd 1968 No. 33 s 47(d)
sub 1971 No. 25 s 24(a)
amd 1982 No. 73 s 64(d)

National Parks

prov hdg sub 1968 No. 33 s 47(e)
s 21 amd 1968 No. 33 s 47(f)
sub 1971 No. 25 s 24(b)
amd 1976 No. 9 s 11(a)
om 1982 No. 73 s 64(e)

Fees etc.

s 25 amd 2006 No. 16 s 68 sch 1

Stock

s 26 amd 1968 No. 33 s 47(g); 1974 No. 33 s 22(a); 1982 No. 73 s 64(f); 2000 No. 26 s 12 sch 1

Penalties

s 27 amd 1976 No. 9 s 11(b)
sub 1991 No. 13 s 31(b); 2002 No. 72 s 18

Advisory Council

prov hdg amd 1987 No. 44 s 33(a)
s 28 ins 1974 No. 33 s 22(b)
amd 1984 No. 86 s 28(b); 1987 No. 44 s 33(b)–(d)
om 2000 No. 26 s 12 sch 1

SCHEDULE 3—DICTIONARY

ins 2007 No. 36 s 2 sch

Note—definitions for this Act were originally located in prev s 5

def **“accepted representations”** ins 2010 No. 12 s 74(3)

def **“administering entity”** ins 2006 No. 16 s 68 sch 1

reloc 2007 No. 36 s 2 sch

om 2010 No. 12 s 74(1)

def **“animal life”** ins 1968 No. 33 s 4(a)

amd 1971 No. 25 s 2(a); 1982 No. 73 s 38(a)

reloc 2007 No. 36 s 2 sch

def **“application for division”** ins 2010 No. 12 s 74(3)

def **“approved form”** ins 2010 No. 12 s 74(3)

def **“beds and banks”** amd 2000 No. 34 s 1145 sch 3

reloc 2007 No. 36 s 2 sch

def **“camp”** ins 1991 No. 13 s 3(a)

reloc 2007 No. 36 s 2 sch

def **“camping form”** ins 1991 No. 13 s 3(a)

amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

reloc 2007 No. 36 s 2 sch

def **“carbon sequestration”** reloc 2006 No. 16 s 68 sch 1

reloc 2007 No. 36 s 2 sch

def **“chief executive”** ins 1992 No. 15 s 13 sch

om from prev s 5 R1 (see RA s 39)

def **“chief executive (fire)”** ins 2010 No. 12 s 74(3)

def **“chief executive (lands)”** ins 1992 No. 64 s 21(2)

reloc 2007 No. 36 s 2 sch

def **“compensation event”** ins 2010 No. 12 s 74(3)

def **“Conservator of Forests”** amd 1990 No. 80 s 3 sch 7

om from prev s 5 1992 No. 15 s 13 sch

def **“contiguous”** ins 1964 No. 15 s 2(a)

amd 1968 No. 33 s 4(b)

sub 1971 No. 25 s 2(b)

amd 1982 No. 73 s 38(b)

reloc 2007 No. 36 s 2 sch

def **“conviction”** ins 1997 No. 20 s 4(2)

reloc 2007 No. 36 s 2 sch

- def **“corporation”** ins 1992 No. 15 s 13 sch
om from prev s 5 2000 No. 26 s 12 sch 1
- def **“Crown holding”** sub 1964 No. 15 s 2(b)
amd 1975 No. 12 s 12(1)
sub 1991 No. 83 s 90; 1992 No. 64 s 21
amd 1994 No. 81 s 527 sch 5; 2001 No. 57 s 3 sch
reloc 2007 No. 36 s 2 sch
- def **“Crown land”** amd 1964 No. 15 s 2(c); 1968 No. 33 s 4(c); 1992 No. 20 s
159 sch 2 (amd 1994 No. 42 s 2 sch); 2000 No. 44 s 42 sch
reloc 2007 No. 36 s 2 sch
- def **“deed of grant”** ins 1991 No. 83 s 90(2)
sub 1994 No. 81 s 527 sch 5
reloc 2007 No. 36 s 2 sch
- def **“Department”** ins 1990 No. 80 s 3 sch 7
om from prev s 5 1991 No. 97 s 3 sch 2
- def **“Department of Forestry”** or **“Department”** om from prev s 5 1990 No.
80 s 3 sch 7
- def **“Deputy Conservator of Forests”** om from prev s 5 1992 No. 15 s 13 sch
- def **“destroy”** reloc 2007 No. 36 s 2 sch
- def **“Director-General”** ins 1990 No. 80 s 3 sch 7
om from prev s 5 1992 No. 15 s 13 sch
- def **“enforcement warrant”** ins 2010 No. 12 s 74(3)
- def **“enforcing party”** ins 2010 No. 12 s 74(3)
- def **“entrance”** ins 1991 No. 13 s 3(b)
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1
reloc 2007 No. 36 s 2 sch
- def **“Environmental Park”** ins 1973 No. 41 s 20(a)
om from prev s 5 1992 No. 20 s 159 sch 2 (amd 1994 No. 42 s 2 sch)
- def **“feature protection area”** ins 1984 No. 86 s 4(a)
reloc 2007 No. 36 s 2 sch
- def **“fire commissioner”** ins 2010 No. 12 s 74(3)
- def **“forest drive”** ins 1984 No. 86 s 4(a)
reloc 2007 No. 36 s 2 sch
- def **“forest entitlement area”** ins 1974 No. 33 s 3(a)
sub 1994 No. 81 s 527 sch 5
reloc 2007 No. 36 s 2 sch
- def **“forest infringement”** ins 1991 No. 13 s 3(c)
om from prev s 5 2002 No. 72 s 12
- def **“forest officer”** sub 1992 No. 15 s 13 sch
reloc 2007 No. 36 s 2 sch
sub 2010 No. 12 s 74(2)–(3)
- def **“forest products”** amd 1964 No. 15 s 2(d)
sub 1968 No. 33 s 4(d); 1971 No. 25 s 2(c)
amd 1973 No. 41 s 20(b); 1974 No. 33 s 3(b); 1982 No. 73 s 38(c);
1991 No. 97 s 3 sch 2; 1997 No. 20 s 4(3); 2002 No. 12 s 329 sch 2; 2003
No. 79 s 170 sch 1
reloc 2007 No. 36 s 2 sch

- def **“FPQ”** ins 2006 No. 16 s 68 sch 1
reloc 2007 No. 36 s 2 sch
- def **“FPQO”** ins 2006 No. 16 s 68 sch 1
reloc 2007 No. 36 s 2 sch
amd 2009 No. 25 s 83 sch
- def **“freeholding lease”** ins 1992 No. 64 s 21(2)
sub 1994 No. 81 s 527 sch 5
amd 1995 No. 57 s 4 sch 2
reloc 2007 No. 36 s 2 sch
- def **“Geothermal Act”** ins 2010 No. 31 s 585 sch 2 pt 4
- def **“get”** reloc 2007 No. 36 s 2 sch
- def **“GHG storage Act”** ins 2009 No. 3 s 484
- def **“Historic area”** ins 1968 No. 33 s 4(e)
om from prev s 5 1982 No. 73 s 38(d)
- def **“incidental thing”** ins 1997 No. 20 s 4(2)
reloc 2007 No. 36 s 2 sch
- def **“interfere with”** reloc 2007 No. 36 s 2 sch
- def **“lake”** ins 2005 No. 42 s 52 sch 1
reloc 2007 No. 36 s 2 sch
- def **“Land”** ins 1971 No. 25 s 2(d)
om from prev s 5 1982 No. 73 s 38(d)
- def **“Land Administration Commission”** om 1992 No. 64 s 21(1)
reloc 2007 No. 36 s 2 sch
- def **“Land Commissioner”** om 1992 No. 64 s 21(1)
reloc 2007 No. 36 s 2 sch
- def **“licence”** ins 2010 No. 12 s 74(3)
- def **“licence area”** ins 2010 No. 12 s 74(3)
- def **“Local Authority”** om 1992 No. 15 s 13 sch
reloc 2007 No. 36 s 2 sch
- def **“Magistrates Court”** ins 1974 No. 33 s 3(c)
om from prev s 5 1991 No. 97 s 3 sch 2
- def **“management”** reloc 2007 No. 36 s 2 sch
- def **“Mining Acts”** sub 1992 No. 15 s 13 sch
amd 1999 No. 39 s 299 sch 1; 2004 No. 25 s 965; 2004 No. 26 s 272; 2005
No. 3 s 105 sch
reloc 2007 No. 36 s 2 sch
- def **“Minister”** sub 1964 No. 15 s 2(e); 1990 No. 80 s 3 sch 7
om from prev s 5 1991 No. 97 s 3 sch 2
- def **“mortgage”** ins 2010 No. 12 s 74(3)
- def **“mortgagee”** ins 2010 No. 12 s 74(3)
- def **“motor vehicle”** ins 1991 No. 13 s 3(d)
amd 1999 No. 42 s 54(3) sch pt 3
reloc 2007 No. 36 s 2 sch
- def **“National Credit Code”** ins 2010 No. 16 s 35 sch
- def **“National Park”** sub 1971 No. 25 s 2(e); 1982 No. 73 s 38(e)
om from prev s 5 1992 No. 20 s 159 sch 2 (amd 1994 No. 42 s 2 sch)
- def **“native forest hardwood sawlogs”** ins 1999 No. 79 s 3
reloc 2007 No. 36 s 2 sch

- def **“native forest sawlog allocation system”** ins 1999 No. 79 s 3
reloc 2007 No. 36 s 2 sch
- def **“natural resource product”** reloc 2006 No. 16 s 68 sch 1; 2007 No. 36 s 2 sch
- def **“notice”** ins 1991 No. 13 s 3(e)
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1
reloc 2007 No. 36 s 2 sch
- def **“officer”** sub 1992 No. 15 s 13 sch
reloc 2007 No. 36 s 2 sch
- def **“official traffic sign”** ins 1991 No. 13 s 3(f)
amd 1999 No. 42 s 54(3) sch pt 3
reloc 2007 No. 36 s 2 sch
- def **“Order in Council”** om from prev s 5 1991 No. 97 s 3 sch 2
- def **“original plantation licence”** ins 2010 No. 12 s 74(3)
- def **“owner”** ins 1991 No. 13 s 3(g)
sub 1991 No. 83 s 90
amd 1992 No. 64 s 3 sch 1
reloc 2007 No. 36 s 2 sch
- def **“permit”** amd 1991 No. 13 s 3(h)
reloc 2007 No. 36 s 2 sch
- def **“place”** reloc 2007 No. 36 s 2 sch
- def **“plantation forestry”** ins 2010 No. 12 s 74(3)
- def **“plantation licence”** ins 2010 No. 12 s 74(3)
- def **“plantation licence sketch plan”** ins 2010 No. 12 s 74(3)
- def **“plantation licensee”** ins 2010 No. 12 s 74(3)
- def **“plantation manager”** ins 2010 No. 12 s 74(3)
- def **“plantation officer”** ins 2010 No. 12 s 74(3)
- def **“plantation operator”** ins 2010 No. 12 s 74(3)
- def **“plantation sublicense”** ins 2010 No. 12 s 74(3)
- def **“plantation sublicensee”** ins 2010 No. 12 s 74(3)
- def **“prescribed”** reloc 2007 No. 36 s 2 sch
- def **“Primitive and recreation area”** ins 1968 No. 33 s 4(f)
om from prev s 5 1982 No. 73 s 38(f)
- def **“Primitive area”** ins 1968 No. 33 s 4(f)
om from prev s 5 1982 No. 73 s 38(f)
- def **“Proclamation”** om from prev s 5 1991 No. 97 s 3 sch 2
- def **“protected area”** ins 1992 No. 20 s 159 sch 2 (amd 1994 No. 42 s 2 sch)
reloc 2007 No. 36 s 2 sch
- def **“public purposes”** reloc 2007 No. 36 s 2 sch
amd 2011 No. 6 s 142 sch
- def **“quarry material”** sub 1964 No. 15 s 2(f); 1991 No. 83 s 90
amd 1992 No. 64 s 3 sch 1
reloc 2007 No. 36 s 2 sch
- def **“reasonably believes”** ins 2010 No. 12 s 74(3)
- def **“reasonably suspects”** ins 2010 No. 12 s 74(3)
- def **“recreational purposes”** ins 1971 No. 25 s 2(f)
reloc 2007 No. 36 s 2 sch

-
- def “**Recreation area**” ins 1968 No. 33 s 4(g)
om from prev s 5 1982 No. 73 s 38(f)
- def “**register**” ins 2010 No. 12 s 74(3)
- def “**registered**” ins 2010 No. 12 s 74(3)
- def “**register of plantation licences**” ins 2010 No. 12 s 74(3)
- def “**registry**” ins 2010 No. 12 s 74(3)
- def “**Regulations**” om from prev s 5 1991 No. 97 s 3 sch 2
- def “**regulatory notice**” ins 1991 No. 13 s 3(i)
reloc 2007 No. 36 s 2 sch
- def “**related agreement**” ins 2010 No. 12 s 74(3)
- def “**relevant natural resource product**” ins 2006 No. 16 s 68 sch 1
reloc 2007 No. 36 s 2 sch
om 2010 No. 12 s 74(1)
- def “**relevant provisions**” ins 2006 No. 16 s 68 sch 1
reloc 2007 No. 36 s 2 sch
om 2010 No. 12 s 74(1)
- def “**relevant State land**” ins 2010 No. 12 s 74(3)
- def “**requirement**” ins 1991 No. 13 s 3(i)
reloc 2007 No. 36 s 2 sch
- def “**requisition**” ins 2010 No. 12 s 74(3)
- def “**sales permit**” ins 1999 No. 42 s 54(3) sch pt 3
reloc 2007 No. 36 s 2 sch
- def “**Scenic area**” om from prev s 5 1968 No. 33 s 4(h)
- def “**scientific area**” ins 1968 No. 33 s 4(h)
om 1982 No. 73 s 38(f)
ins 1984 No. 86 s 4(c)
reloc 2007 No. 36 s 2 sch
- def “**Sea bed**” ins 1971 No. 25 s 2(g)
om from prev s 5 1982 No. 73 s 38(f)
- def “**Secretary**” amd 1990 No. 80 s 3 sch 7
om from prev s 5 1992 No. 15 s 13 sch
- def “**seized thing**” ins 1997 No. 20 s 4(2)
reloc 2007 No. 36 s 2 sch
- def “**self-registration camping area**” ins 1991 No. 13 s 3(j)
reloc 2007 No. 36 s 2 sch
- def “**self-registration camping notice**” ins 1991 No. 13 s 3(j)
reloc 2007 No. 36 s 2 sch
- def “**show cause notice**” ins 2010 No. 12 s 74(3)
- def “**show cause period**” ins 2010 No. 12 s 74(3)
- def “**sketch plan**” ins 2010 No. 12 s 74(3)
- def “**State forest**” reloc 2007 No. 36 s 2 sch
- def “**State forest information notice**” ins 1991 No. 13 s 3(k)
reloc 2007 No. 36 s 2 sch
- def “**State forest park**” ins 1984 No. 86 s 4(b)
reloc 2007 No. 36 s 2 sch
- def “**State plantation forest**” ins 2006 No. 16 s 68 sch 1
reloc 2007 No. 36 s 2 sch
sub 2010 No. 12 s 74(2)–(3)

- def “**stock**” reloc 2007 No. 36 s 2 sch
- def “**This Act**” om from prev s 5 1991 No. 97 s 3 sch 2
- def “**timber**” reloc 2007 No. 36 s 2 sch
- def “**timber reserve**” reloc 2007 No. 36 s 2 sch
- def “**topsoil**” ins 1991 No. 83 s 90(2)
 - reloc 2007 No. 36 s 2 sch
- def “**trees**” reloc 2007 No. 36 s 2 sch
- def “**unformed plantation forest road**” ins 2010 No. 12 s 74(3)
- def “**vehicle**” ins 1991 No. 13 s 3(1)
 - reloc 2007 No. 36 s 2 sch
- def “**warden**” om from prev s 5 2007 No. 36 s 2 sch
- def “**watercourse**” reloc 2007 No. 36 s 2 sch
- def “**wild river**” ins 2005 No. 42 s 52 sch 1
 - amd 2006 No. 59 s 40 sch
 - reloc 2007 No. 36 s 2 sch
- def “**wild river area**” ins 2005 No. 42 s 52 sch 1
 - amd 2006 No. 59 s 40 sch
 - reloc 2007 No. 36 s 2 sch
- def “**wild river declaration**” ins 2006 No. 59 s 40 sch
 - reloc 2007 No. 36 s 2 sch

7 Forms notified or published in the gazette

Lists of forms are no longer included in reprints. Now see the separate forms document published on the website of the Office of the Queensland Parliamentary Counsel at <www.legislation.qld.gov.au> under Information—Current annotations. This document is updated weekly and the most recent changes are marked with a change bar.