



Queensland

Forestry Plantations Queensland Act 2006

Act No. 16 of 2006



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Contents

		Page
Part 1	Preliminary	
1	Short title	6
2	Commencement	6
3	Dictionary	6
4	Declaration of land as State plantation forest	6
5	Things done by responsible Ministers	6
Part 2	Forestry Plantations Queensland	
Division 1	Establishment and capacity of FPQ	
6	Establishment of Forestry Plantations Queensland	7
7	FPQ represents the State	7
8	Legal capacity of FPQ	7
9	Limitation on FPQ's powers in relation to State plantation forests	8
10	FPQ declared to be excluded matter	8
11	FPQ's seal	8
Division 2	Functions of FPQ	
12	Functions of FPQ	9
Division 3	Financial matters	
Subdivision 1	Interpretation	
13	Meaning of financial arrangements	11
Subdivision 2	Application of Financial Administration and Audit Act 1977	
14	FPQ is statutory body	13
Subdivision 3	FPQ's financial powers	
15	Banking	13
16	Borrowing	13
17	Investing	14
18	Giving guarantees	15
19	Entering into derivative transactions	15

20	Entering into other financial arrangements.	15
21	Forming companies	16
Subdivision 4	Dividends	
22	Payment of dividends	16
Division 4	Operational plan	
23	Purpose of div 4	17
24	Requirement to comply with operational plan	17
25	Content of operational plan	17
26	Preparation of draft operational plan	19
27	Responsible Ministers' powers in relation to draft operational plan	19
28	When draft operational plan has effect.	19
29	Execution of operational plan	20
30	Amendment of operational plan	20
Division 5	Reporting	
31	Quarterly reports	20
Division 6	Directions and delegations	
32	Responsible Ministers' power to give directions.	21
33	Delegation by FPQ.	21
Division 7	Work performance arrangements	
34	Work performance arrangements.	22
Division 8	Other matters	
35	Compensation payable to FPQ if State plantation forest revoked etc.	23
36	FPQ to enter into agreement with State about access to land	23
37	Application of Crime and Misconduct Act 2001	24
38	Application of Ombudsman Act 2001	24
39	Application of mineral resources legislation	25
Part 3	Forestry Plantations Queensland Advisory Board	
Division 1	Establishment and functions	
40	Establishment of Forestry Plantations Queensland Advisory Board	26
41	Board's functions	26
Division 2	Board membership	
42	Board membership.	26
43	Disqualification from membership	26
44	Chairperson and deputy chairperson.	26
45	Term of appointment.	27

46	Resignation from office	27
47	Conditions of appointment	27
Division 3	Board meetings	
48	Conduct of board's business	28
49	Times and places of board meetings	28
50	Presiding at board meetings	28
51	Quorum for board meetings	28
52	Meetings held using communication technology	28
53	Board minutes	29
54	Disclosure of interest	29
Division 4	Other provisions	
55	Establishing committees	30
Part 4	Chief plantation forestry officer	
56	Appointment of chief plantation forestry officer	30
57	Functions of chief plantation forestry officer	31
Part 5	Transitional provisions	
58	Definitions for pt 5	31
59	Meaning of relevant assets and liabilities	31
60	Assets and liabilities etc.	31
61	Relevant proceedings	32
62	Document taken to be FPQ's strategic plan	32
63	Document taken to be FPQ's operational plan	33
64	Transitional regulation-making power	33
Part 6	Amendment of Parliament of Queensland Act 2001	
65	Act amended in pt 6	34
66	Amendment of s 114 (Only 1 additional salary is payable)	34
67	Insertion of new ch 7, pt 4	34
	Part 4 Salary sacrifice	
	123A Application of pt 4	34
	123B Member may salary sacrifice	35
	123C Variation or revocation of election	35
Part 7	Amendment of other Acts	
68	Acts amended in sch 1	36
Schedule 1	Amendments of Acts	37
	Biodiscovery Act 2004	37
	Forestry Act 1959	37
	Statutory Bodies Financial Arrangements Act 1982	48

Schedule 2	Dictionary	49
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Queensland

Forestry Plantations Queensland Act 2006

Act No. 16 of 2006

An Act to establish Forestry Plantations Queensland to manage, under the *Forestry Act 1959*, State forests that are plantation forests, including selling particular forest products from those forests, and to own and use other property for plantation-related purposes, and to amend various Acts

[Assented to 24 April 2006]

The Parliament of Queensland enacts—**Part 1 Preliminary****1 Short title**

This Act may be cited as the *Forestry Plantations Queensland Act 2006*.

2 Commencement

This Act, other than part 6, commences on a day to be fixed by proclamation.

3 Dictionary

The dictionary in schedule 2 defines particular words used in this Act.

4 Declaration of land as State plantation forest

- (1) A regulation may declare a stated area of land to be a State plantation forest if the land is, or is part of, a State forest.
- (2) However, land that is a State forest park under the *Forestry Act 1959* may not be declared to be a State plantation forest.
- (3) If the land 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.
- (4) 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.

5 Things done by responsible Ministers

- (1) For this Act—

- (a) if a thing is required to be done, or may be done, by the responsible Ministers, the thing is to be done by the Ministers jointly, and
 - (b) if a thing is required to be, or may be, given to the responsible Ministers, the thing is to be given to each of the Ministers.
- (2) However, if the responsible Ministers' offices are held, or the functions of the offices are being performed, by 1 person, the thing may be done by, or given to, that person alone.

Part 2 Forestry Plantations Queensland

Division 1 Establishment and capacity of FPQ

6 Establishment of Forestry Plantations Queensland

- (1) A corporation sole constituted by the chief plantation forestry officer is established under the name Forestry Plantations Queensland.
- (2) The corporation as established under that name—
 - (a) has perpetual succession and a seal; and
 - (b) may sue and be sued in its corporate name.

7 FPQ represents the State

- (1) FPQ represents the State.
- (2) Without limiting subsection (1), FPQ has all the State's privileges and immunities.

8 Legal capacity of FPQ

- (1) FPQ has all the powers of an individual and may, for example—

- (a) enter into contracts; and
 - (b) acquire, hold, dispose of, and deal with, property; and
 - (c) appoint agents and attorneys; and
 - (d) engage consultants; and
 - (e) fix charges, and other terms, for services it supplies; and
 - (f) do anything necessary or convenient to be done in the performance of its functions under this or another Act.
- (2) FPQ also has the powers conferred on it by this or another Act.
- (3) FPQ may exercise its powers inside and outside Queensland.
- (4) Without limiting subsection (3), FPQ may exercise its powers outside Australia.
- (5) This section applies subject to section 9 and division 3, subdivision 3.¹

9 Limitation on FPQ's powers in relation to State plantation forests

The only powers FPQ may exercise in relation to a State plantation forest are the powers conferred on it under the *Forestry Act 1959* or a profit a prendre mentioned in section 46(1AA) of that Act.

10 FPQ declared to be excluded matter

FPQ is declared to be an excluded matter for the Corporations Act, section 5F,² in relation to all of the Corporations legislation.

11 FPQ's seal

- (1) FPQ's seal is to be kept in the custody of the chief plantation forestry officer.

1 Division 3 (Financial matters), subdivision 3 (FPQ's financial powers)

2 Corporations Act, section 5F (Corporations legislation does not apply to matters declared by State or Territory law to be an excluded matter)

- (2) The seal may only be used by—
- (a) the chief plantation forestry officer; or
 - (b) another person authorised, in writing, by the chief plantation forestry officer.

Division 2 Functions of FPQ

12 Functions of FPQ

- (1) FPQ has the following functions—
- (a) managing State plantation forests by—
 - (i) entering into a profit a prendre for the *Forestry Act 1959*, section 46(1AA),³ in relation to natural resource products on State plantation forests; and
 - (ii) dealing with the natural resource products in accordance with the profit a prendre and the *Forestry Act 1959*; and

Examples of ways FPQ might deal with natural resource products under the profit a prendre—

- establishing, maintaining and felling trees
- marketing and selling natural resource products

- (iii) performing functions, and exercising powers, under the *Forestry Act 1959* in relation to State plantation forests;

Examples of functions performed and powers exercised by FPQ under the Forestry Act 1959—

- marketing and selling services related to State plantation forests
- constructing and maintaining infrastructure, including, for example, roads
- maintaining areas of vegetation, including, for example, for a buffer zone

³ *Forestry Act 1959*, section 46 (Sale of forest products or quarry material)

- (b) owning and using freehold land primarily for plantation purposes and any other purpose consistent with those plantation purposes;

Examples of other purposes that may be consistent with plantation purposes—

- using some of the land for a nursery
 - using some of the land for grazing
 - using some of the land for recreational purposes
- (c) entering into, and complying with, profits a prendre under the *Land Act 1994*, the *Land Title Act 1994* or a law of another State;
- (d) selling plantation-related services to other persons;
- (e) investing, under section 17, in activities performed on, or connected with, any of the following—
- (i) a State plantation forest;
 - (ii) freehold land mentioned in paragraph (b);
 - (iii) land subject to a profit a prendre mentioned in paragraph (c);
 - (iv) the provision of services mentioned in paragraph (d);
- (f) paying dividends to the State under section 22;
- (g) performing community service obligations;
- (h) reporting to the responsible Ministers as required under this Act or the FA&A Act;
- (i) performing other functions given to FPQ under this or another Act;
- (j) taking action incidental to the discharge of the functions mentioned in paragraphs (a) to (i).
- (2) FPQ must perform its functions in a way that is consistent with the following—
- (a) for the functions mentioned in subsection (1)(b) and (c)—best practice principles for sustainable management of plantation forests;
 - (b) directions given to FPQ under section 32;

- (c) FPQ's strategic plan and operational plan.
- (3) In this section—

plantation purposes means planting, maintaining and felling trees for the purpose of sale.

Division 3 Financial matters

Subdivision 1 Interpretation

13 Meaning of *financial arrangements*

In this division—

financial arrangements means arrangements entered into in Queensland or elsewhere, and whether or not the parties are resident or situated in Queensland or elsewhere, that provide for, relate to or are directed towards any of the following—

- (a) the borrowing of money, the raising of money or the obtaining of all forms of financial accommodation in Australia or elsewhere, including by the issue of debentures, bonds, inscribed stock and other securities;
- (b) the lending of money;
- (c) the entering into and performance of deferred payment arrangements as debtor or creditor;
- (d) the granting or taking of leases, or the letting or taking on hire for any term, of land, buildings, plant, machinery, equipment and any other property as lessee, lessor, hirer, owner or tenant;
- (e) the entering into of partnerships, trusts, ventures and the formation of companies;
- (f) the acquisition, holding, dealing with, guaranteeing, consolidation, reissue and disposal of—
 - (i) shares in a corporation, debentures of a corporation, bonds, stock and other securities of a corporation, including debentures, bonds,

- inscribed stock and other securities, including those issued by FPQ; or
- (ii) land, buildings, plant, machinery, equipment and any other property (***relevant property***) and an interest in relevant property or a mortgage or another charge in relation to relevant property;
 - (g) the acceptance of money on deposit;
 - (h) the entering into of covenants, undertakings, arrangements, promises, guarantees and indemnities to meet obligations or liabilities incurred by or to a person, whether or not the person is a party to the covenants, undertakings, arrangements, promises, guarantees and indemnities;
 - (i) the entering into of arrangements directed at the granting of financial accommodation by or to a person, whether or not the person is a party to the arrangements;
 - (j) the entering into of purchase obligations as purchaser or sale obligations as seller, to purchase or sell an output or other product or service of any kind;
 - (k) the investing of money;
 - (l) the issuance, drawing, acceptance, endorsement or discounting of bills of exchange, promissory notes, payment orders or other negotiable instruments;
 - (m) the formation or establishment of, participation in the formation or establishment of, or participation in a business undertaking;
 - (n) the underwriting of issues of shares in, or debentures or other securities of, a business undertaking;
 - (o) the holding of money, real property or other property as trustee or agent;
 - (p) a transaction for the purpose of managing or varying financial returns or managing or varying financial or currency risks, including but not limited to currency exchange rate, interest rate, discount rate, volatility or other risks;
 - (q) a transaction for the purpose of returning a gain or avoiding a loss by reference to currency obligations,

currency exchange rate movements, or interest or discount rate movements;

- (r) other arrangements prescribed under a regulation.

Subdivision 2 Application of Financial Administration and Audit Act 1977

14 FPQ is statutory body

FPQ is a statutory body under the FA&A Act.

Note—

FPQ is not a statutory body under the *Statutory Bodies Financial Arrangements Act 1982* (see section 6(1) of that Act).

Subdivision 3 FPQ's financial powers

15 Banking

- (1) FPQ may, to the extent necessary or convenient for its day-to-day operations, operate a deposit and withdrawal account with a financial institution.
- (2) The account may be operated with an overdraft facility only with the approval of the responsible Ministers.
- (3) The account must be operated in Australian currency.

16 Borrowing

- (1) FPQ may borrow an amount only with, and subject to any conditions of, the approval of the responsible Ministers.
- (2) For subsection (1), the responsible Ministers' approval may—
 - (a) relate to a stated class of borrowings or a particular borrowing; and
 - (b) be subject to any conditions the responsible Ministers consider necessary or desirable.

- (3) Subject to a regulation under subsection (4), FPQ does not borrow only because, in the ordinary course of business of performing its functions, it enters into any of the following—
- (a) a hire-purchase agreement;
 - (b) an operating lease;
 - (c) a credit card facility.
- (4) A regulation may declare that something is, or is not, a form of financial accommodation for the definition *borrow*, including, for example, a particular type of hire-purchase agreement, operating lease or credit card facility.
- (5) In this section—
- borrow* includes raise and obtain, in any way, money, credit and other financial accommodation.
- other financial accommodation* includes—
- (a) finance leases primarily to raise amounts to buy, or to finance the purchase of, property the subject of the leases; and
 - (b) guarantees, letters of credit and any other form of undertaking, provided by a financial institution or other person to meet the liabilities or obligations of FPQ.

17 Investing

- (1) FPQ may invest funds only with, and subject to any conditions of, the approval of the responsible Ministers.
- (2) For subsection (1), the responsible Ministers' approval may—
- (a) relate to a stated class of investments or a particular investment; and
 - (b) be subject to any conditions the responsible Ministers consider necessary or desirable.
- (3) This section does not apply to an investment stated in FPQ's operational plan.

18 Giving guarantees

FPQ may guarantee the performance of another entity's obligations under a financial arrangement only with the approval of the responsible Ministers.

19 Entering into derivative transactions

(1) FPQ may enter into a derivative transaction only with the approval of the responsible Ministers.

(2) In this section—

derivative transaction means a transaction mentioned in section 13(p) or (q).

20 Entering into other financial arrangements

(1) FPQ may enter into another financial arrangement only with, and subject to any conditions of, the approval of the responsible Ministers.

(2) For subsection (1), the responsible Ministers' approval may—

(a) relate to—

(i) if the financial arrangement is mentioned in subsection (3)—a stated class of financial arrangements or a particular financial arrangement; or

(ii) otherwise—a particular financial arrangement; and

(b) be subject to any conditions the responsible Ministers consider necessary or desirable.

(3) For subsection (2)(a)(i), the financial arrangements are those arrangements providing for, relating to or directed towards—

(a) a matter mentioned in section 13(d), (f)(ii), (g), (j), (l), (m) or (o); or

(b) a matter mentioned in section 13(h), other than a guarantee or indemnity given by FPQ.

(4) Subsection (1) does not apply to another financial arrangement—

- (a) stated in FPQ's operational plan for the relevant financial year; or
 - (b) relating to a proposed activity, proposed investment or community service obligation stated in FPQ's operational plan.
- (5) In this section—
- another financial arrangement* means a financial arrangement other than a financial arrangement to which section 16, 17, 18 or 19 applies.

21 Forming companies

- (1) FPQ may—
- (a) form, or participate in the formation of, a company; or
 - (b) otherwise become a parent entity in relation to a company;
- only with the approval of the responsible Ministers.
- (2) In this section—
- parent entity* see the FA&A Act, schedule 3.

Subdivision 4 Dividends

22 Payment of dividends

- (1) FPQ must pay the State a dividend for each financial year.
- (2) On or after 1 May, but before 16 May, of the financial year, FPQ must recommend to the responsible Ministers the amount of the dividend to be paid by FPQ for the financial year.
- (3) The recommendation must be accompanied by an estimate of FPQ's profits for the financial year, after—
 - (a) provision has been made for income tax or its equivalent; and
 - (b) any unrealised capital gains from upwards revaluation of non-current assets have been excluded.

- (4) Before the end of the financial year, the responsible Ministers must—
 - (a) approve the recommendation; or
 - (b) give FPQ a direction under section 32 to pay a stated dividend.
- (5) The amount of the dividend must not be more than FPQ's estimated profits for the financial year.
- (6) The dividend must be paid within—
 - (a) 6 months after the end of the financial year; or
 - (b) if a longer period is allowed by the responsible Ministers—the longer period.

Division 4 Operational plan

23 Purpose of div 4

- (1) The purpose of this division is to provide for requirements for FPQ's operational plan and for compliance with the plan.
- (2) The requirements stated in this division apply in addition to the requirements for the plan under the FA&A Act.
- (3) If there is an inconsistency between a requirement under this division and a requirement under the FA&A Act, a requirement under this division prevails to the extent of the inconsistency.

24 Requirement to comply with operational plan

FPQ must comply with its operational plan for a financial year.

25 Content of operational plan

- (1) FPQ's operational plan must include the following matters—
 - (a) FPQ's objectives;

- (b) the nature and scope of the activities proposed to be undertaken by FPQ during the financial year to which the operational plan relates;
 - (c) FPQ's capital structure;
 - (d) FPQ's proposed investments for the financial year, other than investments of a class approved by the responsible Ministers under section 17;
 - (e) the total amount of FPQ's outstanding and proposed borrowings;
 - (f) community service obligations FPQ must perform during the financial year;
 - (g) FPQ's policies about managing the risk associated with investments or borrowings that may adversely affect FPQ's financial position;
 - (h) FPQ's policies and strategies about each of the following—
 - (i) providing other persons with access to State plantation forests under the *Forestry Act 1959*;
 - (ii) providing the services in State plantation forests that were available to recreational users of the forests immediately before this section commenced, unless otherwise agreed by the responsible Ministers;
 - (iii) coordinating FPQ's activities with other managers of public land;
 - (iv) managing the risk of fire in State plantation forests;
 - (i) the information required to be given by FPQ in its quarterly reports to the responsible Ministers;
 - (j) any other matter relevant to FPQ's functions and required to be included in the operational plan by the responsible Ministers.
- (2) Without limiting subsection (1)(j), the responsible Ministers may require FPQ to include in its operational plan an undertaking to comply with a stated Government policy.

26 Preparation of draft operational plan

FPQ must prepare, and give to the responsible Ministers for their agreement, a draft operational plan—

- (a) within 2 months of the commencement of this section for—
 - (i) if the commencement is within 2 months of the end of the financial year in which the commencement falls—the financial year after the financial year in which the commencement falls; or
 - (ii) otherwise—the financial year in which the commencement falls; and
- (b) for a later financial year—not later than 2 months before the start of the financial year.

27 Responsible Ministers' powers in relation to draft operational plan

- (1) The responsible Ministers may, in relation to a draft operational plan given to them under section 26—
 - (a) agree to the draft operational plan; or
 - (b) return the draft operational plan to FPQ and ask it to—
 - (i) consider or further consider any matter; and
 - (ii) revise the draft operational plan in light of its consideration or further consideration; and
 - (iii) give the revised draft operational plan to the responsible Ministers for their agreement; or
 - (c) give FPQ a direction under section 32 to make stated changes to the draft operational plan.
- (2) FPQ must comply with a request under subsection (1)(b).

28 When draft operational plan has effect

- (1) A draft operational plan becomes FPQ's operational plan for the financial year to which the draft plan relates when it is agreed to by the responsible Ministers.

- (2) Until the draft operational plan is agreed to by the responsible Ministers, the operational plan for the most recently ended financial year continues to apply.

Note—

See also section 63 in relation to the operational plan that has effect until the first draft operational plan is agreed to by the responsible Ministers.

29 Execution of operational plan

A draft operational plan agreed to by the responsible Ministers must be executed by FPQ and the responsible Ministers.

30 Amendment of operational plan

The responsible Ministers may amend FPQ's operational plan at any time by giving FPQ written notice of the amendments.

Division 5 Reporting

31 Quarterly reports

- (1) FPQ must give the responsible Ministers a report on its operations for each quarter in a financial year.
- (2) A quarterly report must be given to the responsible Ministers—
- (a) within 6 weeks after the end of the quarter; or
 - (b) if another period after the end of the quarter is agreed between FPQ and the responsible Ministers—within the agreed period.
- (3) A quarterly report must contain the information required to be given in the report under FPQ's operational plan.
- (4) In this section—

quarter, in a financial year, means the following periods in the year—

- (a) 1 July to 30 September;

- (b) 1 October to 31 December;
- (c) 1 January to 31 March;
- (d) 1 March to 30 June.

Division 6 Directions and delegations

32 Responsible Ministers' power to give directions

- (1) The responsible Ministers may give FPQ a written direction about a matter relevant to the performance of FPQ's function under this or another Act, including a direction mentioned in section 22 or 27.⁴
- (2) FPQ must comply with the direction.
- (3) If the responsible Ministers give FPQ a direction under subsection (1), FPQ's annual report under the FA&A Act must include—
 - (a) particulars of the direction; and
 - (b) particulars of FPQ's response to the direction.

33 Delegation by FPQ

- (1) FPQ may delegate its functions under this or another Act to the board, a member of the board or another appropriately qualified person.
- (2) However, FPQ may not delegate its power to approve remuneration under section 55(5).⁵
- (3) In this section—
 - appropriately qualified* includes having the qualifications, experience or standing appropriate to perform the function.
 - functions* includes powers.

4 Section 22 (Payment of dividends) or 27 (Responsible Ministers' powers in relation to draft operational plan)

5 Section 55 (Establishing committees)

Division 7 Work performance arrangements

34 Work performance arrangements

- (1) FPQ may enter into, and give effect to, a work performance arrangement with—
 - (a) the chief executive of a department; or
 - (b) the appropriate authority of another government entity, including, for example, the head of a public service office.
- (2) A work performance arrangement may make provision for all matters necessary and convenient to be provided under the arrangement.
- (3) For example, a work performance arrangement may provide—
 - (a) for the appointment of a public service employee or another person to an office, and the holding of the office by the person, for the arrangement; and
 - (b) for the authorising of a public service employee or another person to exercise powers for the arrangement; and
 - (c) whether payment is to be made for work done under the arrangement and, if so, what payment is to be made and who is to make the payment.
- (4) If a public service employee or another person performs work for FPQ under a work performance arrangement, the person—
 - (a) is not employed by FPQ; and
 - (b) remains an officer or employee of the government entity that is a party to the arrangement.
- (5) To remove any doubt, it is declared that FPQ does not have power to employ a public service employee or another person performing work for FPQ under a work performance arrangement.
- (6) In this section—

government entity see the *Public Service Act 1996*, section 21.

work performance arrangement means an arrangement under which a public service employee of a department, or an employee of another government entity, performs work for FPQ.

Division 8 Other matters

35 Compensation payable to FPQ if State plantation forest revoked etc.

- (1) This section applies if—
 - (a) land is a State plantation forest; and
 - (b) all or part of the land stops being a State forest (the ***excluded land***) under the *Forestry Act 1959*, section 26(2) or 32, or the *Nature Conservation Act 1992*, section 30 or 70G, or otherwise.
- (2) The State must pay compensation to FPQ for the reasonable value of the natural resource products on the excluded land when it stops being a State plantation forest.

36 FPQ to enter into agreement with State about access to land

- (1) FPQ must enter into an agreement with the State under which—
 - (a) FPQ agrees to provide the State with prescribed entry rights in relation to State plantation forests; and
 - (b) the State agrees to provide FPQ with prescribed entry rights in relation to State land.
- (2) The agreement must state—
 - (a) for subsection (1)(a)—
 - (i) who may exercise the prescribed entry rights on behalf of the State; and
 - (ii) the State plantation forest, or the part of the State plantation forest, in relation to which the rights may be exercised; and

- (iii) the functions that may be carried out, or the powers that may be exercised, on the land by the State; and
- (b) for subsection (1)(b)—
 - (i) the areas of State land to which the prescribed entry rights apply; and
 - (ii) the functions that may be carried out, or the powers that may be exercised, on the land by FPQ.
- (3) In this section—

prescribed entry rights means the following rights, to the extent they are reasonably required by the State or FPQ to carry out functions under an Act—

- (a) to enter and traverse the relevant land;
- (b) to carry out functions, and exercise powers, under an Act on the relevant land.

State land means all land in Queensland, other than land that is—

- (a) lawfully granted or contracted to be granted in fee simple by the State; or
- (b) dedicated for public purposes; or
- (c) subject to a lease or licence lawfully granted by the State.

37 Application of *Crime and Misconduct Act 2001*

FPQ is a unit of public administration under the *Crime and Misconduct Act 2001*.

38 Application of *Ombudsman Act 2001*

- (1) The *Ombudsman Act 2001* does not apply to—
 - (a) the making of a recommendation by FPQ to the responsible Ministers; or
 - (b) a decision by FPQ about its commercial policy or commercially competitive activities.
- (2) In this section—

commercially competitive activities means activities carried on—

- (a) on a commercial basis; and
- (b) either—
 - (i) in competition with a person, other than an excluded person; or
 - (ii) in a market where there is competition between other persons, other than excluded persons only.

excluded person means the following—

- (a) the Commonwealth or a State;
- (b) a State authority;
- (c) a local government.

39 Application of mineral resources legislation

- (1) To remove any doubt, it is declared that FPQ does not have property in minerals or petroleum on or below the surface of a State plantation forest.

Note—

See also—

- (a) the *Mineral Resources Act 1989*, section 8 (Crown's property in minerals); and
- (b) the *Petroleum Act 1923*, section 9 (Petroleum the property of the Crown); and
- (c) the *Petroleum and Gas (Production and Safety) Act 2004*, section 26 (Petroleum the property of the State).

- (2) In this section—

mineral see the *Mineral Resources Act 1989*, section 6.

petroleum see the *Petroleum and Gas (Production and Safety) Act 2004*, section 10.

Part 3 Forestry Plantations Queensland Advisory Board

Division 1 Establishment and functions

40 Establishment of Forestry Plantations Queensland Advisory Board

The Forestry Plantations Queensland Advisory Board is established.

41 Board's functions

The board has the following functions—

- (a) to advise FPQ about matters relevant to the performance of FPQ's functions;
- (b) to exercise powers delegated to the board by FPQ;
- (c) other functions prescribed under a regulation.

Division 2 Board membership

42 Board membership

The board consists of not more than 5 members appointed by the responsible Ministers.

43 Disqualification from membership

A person can not become, or continue as, a board member if the person is a public service employee.

44 Chairperson and deputy chairperson

- (1) The responsible Ministers must appoint a board member to be the chairperson of the board and may appoint another member to be the deputy chairperson of the board.

- (2) The chairperson or deputy chairperson holds office as chairperson or deputy chairperson—
 - (a) for the term decided by the responsible Ministers; or
 - (b) if the person's term of office as a board member ends before the person's term of office as chairperson or deputy chairperson ends—until the person's term of office as a board member ends; or
 - (c) if the person's term of office as a board member and the person's term of office as chairperson or deputy chairperson end on the same day—until the day the person's offices end.
- (3) A vacancy occurs in the office of chairperson or deputy chairperson if the person holding office—
 - (a) resigns from office by signed notice of resignation given to the responsible Ministers; or
 - (b) is removed from office by signed notice from the responsible Ministers.
- (4) However, a person removed from, or resigning from, the office of chairperson or deputy chairperson may continue to be a board member.

45 Term of appointment

A board member may be appointed for a term not exceeding 3 years.

46 Resignation from office

A board member may resign by signed notice given to the responsible Ministers.

47 Conditions of appointment

- (1) A board member is entitled to be paid the remuneration decided by the responsible Ministers.
- (2) A board member holds office—
 - (a) on the conditions stated in this Act; and

- (b) on the other conditions decided by the responsible Ministers.

Division 3 Board meetings

48 Conduct of board's business

Subject to this Act, the board may conduct its business in the way it considers appropriate.

49 Times and places of board meetings

Board meetings are to be held at the times and places the board decides.

50 Presiding at board meetings

- (1) The chairperson must preside at all board meetings at which the chairperson is present.
- (2) If the chairperson is absent, the deputy chairperson, if present, must preside.
- (3) If the chairperson and the deputy chairperson are absent, the board member chosen by the board members present must preside.

51 Quorum for board meetings

A quorum for a board meeting is 3 board members.

52 Meetings held using communication technology

- (1) The board may hold meetings by using any technology allowing reasonably contemporaneous and continuous communication between the board members taking part in the meeting.

Example of technology allowing reasonably contemporaneous and continuous communication—

teleconferencing

- (2) A board member who participates in a board meeting under subsection (1) is taken to be present at the meeting.

53 Board minutes

The board must keep minutes of its meetings.

54 Disclosure of interest

- (1) This section applies to a board member (the *interested person*) if—
- (a) the interested person has a direct or indirect interest in an issue being considered, or about to be considered, by the board; and
 - (b) the interest could conflict with the proper performance of the person's duties about the consideration of the issue.
- (2) As soon as practicable after the relevant facts come to the interested person's knowledge, the person must disclose the nature of the interest to a board meeting.
- (3) Unless the board otherwise directs, the interested person must not—
- (a) be present when the board considers the issue; or
 - (b) take part in a decision of the board about the issue.
- (4) The interested person must not be present when the board is considering whether to give a direction under subsection (3).
- (5) If there is another person who must, under subsection (2), also disclose an interest in the issue, the other person must not—
- (a) be present when the board is considering whether to give a direction under subsection (3) about the interested person; or
 - (b) take part in making the decision about giving the direction.
- (6) Subsection (7) applies if—
- (a) because of this section, a board member is not present at a board meeting for considering or deciding an issue, or

for considering or deciding whether to give a direction under subsection (3); and

- (b) there would be a quorum if the member were present.
- (7) The remaining persons present are a quorum of the board for considering or deciding the issue, or for considering or deciding whether to give the direction, at the meeting.
- (8) A disclosure under subsection (2) must be recorded in the board's minutes.

Division 4 Other provisions

55 Establishing committees

- (1) The board may, with the approval of FPQ, establish committees to help it perform its functions.
- (2) However, FPQ's approval is not required for establishing a committee that consists only of persons who are board members.
- (3) Appointments to a committee must be made by the board by written notice.
- (4) The board may appoint any person who has skills or experience appropriate to the committee's terms of reference or functions.
- (5) A committee member is not entitled to any remuneration, unless the remuneration is approved in writing by FPQ.
- (6) A committee may decide its own procedures.

Part 4 Chief plantation forestry officer

56 Appointment of chief plantation forestry officer

- (1) There is to be a chief plantation forestry officer.
- (2) The chief plantation forestry officer is to be appointed by the Governor in Council.

57 Functions of chief plantation forestry officer

The chief plantation forestry officer has the functions given under this or another Act.

Part 5 Transitional provisions**58 Definitions for pt 5**

In this part—

commencement means the commencement of this part.

FPQO means the public service office called Forestry Plantations Queensland Office declared under the *Public Service Act 1996*.

relevant assets and liabilities see section 59.

59 Meaning of *relevant assets and liabilities*

- (1) The *relevant assets and liabilities* are the assets and liabilities of the State that are controlled by FPQO immediately before the commencement and stated in a register of assets and liabilities prepared for FPQO and approved by the responsible Ministers.
- (2) The responsible Ministers may approve the register for the purpose of subsection (1).

60 Assets and liabilities etc.

- (1) On the commencement—
 - (a) the State is divested of all relevant assets and liabilities and the relevant assets and liabilities become the assets and liabilities of FPQ; and
 - (b) contracts, agreements, arrangements and deeds, relating to the relevant assets and liabilities, to which the State is a party, in force immediately before the commencement,

are taken to have been entered into by FPQ and may be enforced against or by FPQ; and

- (c) any property relating to the relevant assets and liabilities that, immediately before the commencement, was held on trust, or subject to a condition, by the State continues to be held on the same trust, or subject to the same condition, by FPQ; and
 - (d) a lease relating to the relevant assets and liabilities granted by, or to, the State, in force immediately before the commencement, is taken to have been granted by, or to, FPQ; and
 - (e) proceedings by or against the State, or that could have been started by or against the State before the commencement, relating to the relevant assets or liabilities may be continued or started by or against FPQ.
- (2) The registrar of titles or other person responsible for keeping a register for dealings in property must, if asked by FPQ, record the vesting of the property under this section in FPQ.

61 Relevant proceedings

- (1) A relevant proceeding that could have been started by or against the State before the commencement, but was not started before the commencement, may be started by or against FPQ.
- (2) In this section—

relevant proceeding means a proceeding related to the performance of functions, or the exercise of powers, by the State under the *Forestry Act 1959* in relation to a State forest that is, on the commencement, a State plantation forest.

62 Document taken to be FPQ's strategic plan

- (1) The document that is, immediately before the commencement, FPQO's business plan is, on the commencement, taken to be FPQ's strategic plan.

- (2) Subsection (1) applies to the extent FPQO's business plan provides for matters mentioned in the *Financial Management Standard 1997*, section 18.
- (3) Subsection (1) stops applying when a strategic plan for FPQ is developed under the FA&A Act.

63 Document taken to be FPQ's operational plan

- (1) The relevant annual performance contract is, on the commencement, taken to be FPQ's operational plan.
- (2) Subsection (1) applies to the extent the relevant annual performance contract provides for matters mentioned in section 25 or the *Financial Management Standard 1997*, section 21.
- (3) Subsection (1) stops applying when the responsible Ministers agree to a draft operational plan under part 2, division 4.
- (4) In this section—

commercialisation document means the document called 'Commercialisation of Government Service Functions in Queensland' mentioned in the *Financial Management Standard 1997*, schedule 1, item 4.

DPI Forestry means the commercialised business unit of the department in which the *Fisheries Act 1994* is administered known as DPI Forestry.

relevant annual performance contract means the annual performance contract entered into by DPI Forestry under the commercialisation document and in force for that entity immediately before the establishment of FPQO.

64 Transitional regulation-making power

- (1) A regulation (a **transitional regulation**) may make provision about a matter for which—
 - (a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of the *Forestry Act 1959* as in force immediately before the commencement to the operation

‘123B Member may salary sacrifice

- ‘(1) A member may, by written notice given to the Clerk, elect that the annual salary and any additional salary of the member—
- (a) be provided—
 - (i) in part by the payment of salary to the member; and
 - (ii) in part by the payment of superannuation contributions to the State Public Sector Superannuation Fund for the member; or
 - (b) be provided entirely by the payment of superannuation contributions to the State Public Sector Superannuation Fund for the member.
- ‘(2) Despite part or all of the annual salary or any additional salary of the member being paid to the State Public Sector Superannuation Fund under the election, the member is taken to have received the annual salary and any additional salary the member is entitled to.
- ‘(3) In this section—

additional salary, of a member, means salary the member is entitled to under part 2.

annual salary, of a member, means the annual salary the member is entitled to under part 1.

State Public Sector Superannuation Fund means the State Public Sector Superannuation Fund under the *Superannuation (State Public Sector) Act 1990*.

‘123C Variation or revocation of election

‘A member may vary or revoke an election made under section 123B by written notice given to the Clerk.’

Part 7**Amendment of other Acts****68 Acts amended in sch 1**

Schedule 1 amends the Acts it mentions.

Schedule 1 Amendments of Acts

section 68

Biodiscovery Act 2004

1 Section 14—

insert—

‘(2A) Also, if the application relates to State land that is a State plantation forest under the *Forestry Plantations Queensland Act 2006*, the chief executive may approve the application only if the chief plantation forestry officer has approved the granting of the application.

‘(5) In this section—

chief plantation forestry officer means the chief plantation forestry officer under the *Forestry Plantations Queensland Act 2006*.’

Forestry Act 1959

1 Section 5—

insert—

‘administering entity, for part 6C, see section 61L.

FPQ means Forestry Plantations Queensland.

FPQO means the public service office called Forestry Plantations Queensland Office declared under the *Public Service Act 1996*.

relevant natural resource product means a natural resource product the subject of a profit a prendre under section 46(1AA).

relevant provisions, for part 6C, see section 61L.

Schedule 1 (continued)

State plantation forest means a State forest, or part of a State forest, that is a State plantation forest under the *Forestry Plantations Queensland Act 2006*.

2 Section 17—

insert—

Note—

See also part 6C in relation to the appointment of forest officers by the head of FPQO in relation to State plantation forests.’.

3 After section 33—

insert—

‘33AA Application of pt 4 to a State plantation forest

‘The application of this part in relation to a State plantation forest is subject to part 6C.’.

4 Part 6—

insert—

‘43 Application of pt 6 to forest products from a State plantation forest

‘The application of this part in relation to forest products from a State plantation forest is subject to part 6C.’.

5 Section 46, after subsection (1)—

insert—

‘(1AA) Without limiting subsection (1), the chief executive may enter into a profit a prendre giving FPQ the right to deal with natural resource products on State plantation forests.’.

6 Section 61J(7), definitions *carbon sequestration* and *natural resource product*—

relocate to section 5.

Schedule 1 (continued)

7 After section 61J—*insert—***‘Part 6C Management of State
plantation forests****‘61K Purpose of pt 6C**

‘The purpose of this part is to provide for particular functions and powers of the chief executive under this Act to be performed or exercised by FPQ or the head of FPQO in relation to State plantation forests.

‘61L Definitions

‘In this part—

administering entity, for a relevant provision, means the entity identified in schedule 1, column 2 for the provision.

relevant provisions means each of the following—

- (a) section 5, to the extent it is relevant to another relevant provision;
- (b) sections 17 and 21;
- (c) part 4;
- (d) sections 46, 48, 50 to 52, 55 to 59 and 61;
- (e) sections 62(2), 65 and 68;
- (f) sections 70 to 73, 74, 76, 80 to 82, 82D to 82L, 83, 84(1), (3) and (4), 88(2F) and (3), 91 and 92.

**‘61M Functions to be performed, and powers to be exercised,
by administering entity**

‘(1) In relation to a State plantation forest—

- (a) a function conferred on the chief executive under a relevant provision must be performed by the administering entity for the provision; and

Schedule 1 (continued)

- (b) a power conferred on the chief executive under a relevant provision may be exercised only by the administering entity.
- ‘(2) However, a function or power conferred on the chief executive under part 4⁶ may be performed or exercised by either administering entity.
- ‘(3) Subsection (1) applies subject to a provision of an Act allowing the administering entity to delegate its functions or powers.
- ‘(4) To remove any doubt, it is declared that—
 - (a) the head of FPQO may appoint a person to act as a forest officer under section 17 only for functions and powers of a forest officer relating to State plantation forests or forest products from State plantation forests; and
 - (b) FPQ may not exercise the power under section 55⁷ to grant a licence in relation to a State plantation forest for a purpose mentioned in section 55(1)(g).

‘61N Application of relevant provisions

‘For section 61M, the relevant provisions apply, with any necessary changes, as if—

- (a) a reference in the relevant provisions to the chief executive were a reference to the administering entity; and
- (b) a reference in the relevant provisions to the Minister were a reference to the responsible Ministers under the *Forestry Plantations Queensland Act 2006*; and
- (c) a reference in the following provisions to the Crown were a reference to FPQ—

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

7 Section 55 (Licences to get forest products etc.)

Schedule 1 (continued)

- (i) section 61(2), to the extent it applies to relevant natural resource products;
- (ii) section 72(8);
- (iii) section 82(5), to the extent it applies to relevant natural resource products;
- (iv) section 83(3), to the extent it applies to seized things that are relevant natural resource products;
- (v) section 92; and
- (d) a reference in sections 37(2B), 58(1A) and 65(2) and (3) to the State were a reference to the administering entity; and
- (e) to the extent section 82D(3) applies to seized things that are relevant natural resource products, a reference in the section to the State were a reference to FPQ; and
- (f) to the extent section 91(1) and (1C) applies to proceedings related to relevant natural resource products, a reference in the section to the State were a reference to FPQ.

‘61O Application of other provisions

‘For the application of this Act in relation to a State plantation forest or a relevant natural resource product—

- (a) sections 64(1) and 69(1) apply as if a reference to the Minister were a reference to the responsible Ministers under the *Forestry Plantations Queensland Act 2006*; and
- (b) a reference in section 77 to forest products on a State forest includes a reference to relevant natural resource products; and
- (c) to the extent section 82M applies to seized things that are relevant natural resource products, a reference in the section to the State’s property is a reference to FPQ’s property; and

Schedule 1 (continued)

- (d) a reference in section 86(1)(i) to forest products on which moneys are payable to the Crown or the chief executive includes a reference to relevant natural resource products on which moneys are payable to FPQ; and
- (e) a reference in section 86(1)(j) to chattels the property of the State includes a reference to chattels the property of FPQ; and
- (f) to the extent section 88 applies to relevant natural resource products—
 - (i) a reference in section 88(2A) to the property of the Crown is a reference to the property of FPQ; and
 - (ii) a reference to the State in section 88(2C) to the State is a reference to FPQ; and
- (g) a reference in section 88(2E) to the chief executive is a reference to the head of FPQO; and
- (h) a reference in section 89 to the Crown or the State is a reference to FPQ.

‘61P Sale of natural resource products from State plantation forests by FPQ under profit a prendre

- ‘(1) This section applies if—
 - (a) the head of FPQO enters into a profit a prendre under sections 46(1AA) and 61M; and
 - (b) FPQ sells natural resource products from a State plantation forest under the profit a prendre.
- ‘(2) Section 46 applies to the sale of the relevant natural resource products by FPQ as if the natural resource products were sold by the head of FPQO on behalf of the State.
- ‘(3) For subsection (2), section 46(1A) and (2) apply as if—
 - (a) a reference to the chief executive were a reference to FPQ; and

Schedule 1 (continued)

- (b) a reference to the chief executive acting on behalf of the Crown were a reference to FPQ acting on its own behalf.’.

8 Part 7—

insert—

‘61Q Application of pt 7 to a State plantation forest

‘The application of this part in relation to a State plantation forest is subject to part 6C.’.

9 Part 8—

insert—

‘69E Application of pt 8 to a State plantation forest

‘The application of this part in relation to a State plantation forest is subject to part 6C.’.

10 Section 93(1)—

insert—

‘(aa) the boundaries of every State plantation forest; and’.

11 Section 95(e) and (f), after ‘by the chief executive’—

insert—

‘or, in relation to a State plantation forest, by FPQ or the head of FPQO,’.

12 Section 95(k), after ‘by the chief executive’—

insert—

‘, FPQ or the head of FPQO’.

Schedule 1 (continued)

13 Section 95(l), after ‘chief executive’—*insert—*

‘, FPQ or the head of FPQO’.

14 Section 97—*insert—*

‘(4) The Minister may recommend to the Governor in Council the making of a regulation that applies to or affects a State plantation forest only with the approval of the responsible Ministers under the *Forestry Plantations Queensland Act 2006*.’.

15 After section 116—*insert—***‘Part 10 Transitional provisions for
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

Schedule 1 (continued)

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.

‘118 Transitional regulation-making power

‘(1) A regulation (a *transitional regulation*) may make provision about a matter for which—

- (a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of this Act as in force immediately before the commencement of this section to the operation of this Act as amended by the *Forestry Plantations Queensland Act 2006*; and

(b) this Act does not make provision or sufficient provision.

‘(2) A transitional regulation must declare it is a transitional regulation.

Schedule 1 (continued)

‘(3) This section and any transitional regulation expire 1 year after the commencement of this section.’.

16 Before schedule 2—

insert—

‘Schedule 1 Administering entity for State plantation forests

section 61L, definition *administering entity*

Column 1	Column 2	
Relevant provision	Administering entity	
	FPQ	Head of FPQO
section 5, to the extent it is relevant to another relevant provision	•	
sections 17 and 21		•
part 4 ^a	•	•
section 46		•
sections 48, 50 to 52, 55 to 57, 59 and 61, to the extent they apply to—		
(a) relevant natural resource products; or	•	
(b) other forest products		•
section 58	•	
sections 62(2), 65 and 68	•	
sections 70 to 73, 74, 76, 80 and 81	•	
sections 82, 82D to 82L and 83, to the extent they apply to—		

Schedule 1 (continued)

Column 1	Column 2	
Relevant provision	Administering entity	
	FPQ	Head of FPQO
(a) seized or forfeited things that are relevant natural resource products; or	•	
(b) other forest products		•
sections 84(1) and (4), 88(3) and 91, to the extent they apply to an officer acting in relation to, or proceedings related to—		
(a) relevant natural resource products; or	•	
(b) other forest products		•
sections 84(3) and 88(2F)		•
section 92	•.	

a See also section 61M(2).

17 Schedule 2, section 5, after ‘State’—

insert—

‘or FPQ’.

18 Schedule 2, sections 6 and 25, after ‘the Crown’—

insert—

‘or FPQ’.

Schedule 1 (continued)

Statutory Bodies Financial Arrangements Act 1982**1 Section 6(1)—***insert—*

‘(ia) Forestry Plantations Queensland;’.

Schedule 2 Dictionary

section 3

approval means written approval.

board means the Forestry Plantations Queensland Advisory Board established under section 40.

chief plantation forestry officer means the chief plantation forestry officer appointed under section 56.

commencement, for part 5, see section 58.

community service obligation means an obligation on FPQ—

- (a) to perform an activity or provide a service that—
 - (i) is not in FPQ’s commercial interests to perform or provide; and
 - (ii) is purchased by the Government; and
- (b) arising—
 - (i) from a direction given to FPQ by the responsible Ministers under section 32; or
 - (ii) because of its inclusion in FPQ’s operational plan.

FA&A Act means the *Financial Administration and Audit Act 1977*.

Finance Minister means the Minister responsible for administering the FA&A Act.

financial arrangements, for part 2, division 3, see section 13.

FPQ means the corporation established under section 6 under the name Forestry Plantations Queensland.

FPQO, for part 5, see section 58.

natural resource product see the *Forestry Act 1959*, section 5.

operational plan, of FPQ, means the operational plan FPQ is required to develop under the FA&A Act.

Schedule 2 (continued)

Note—

See the *Financial Management Standard 1997*, part 2 (Planning), division 2 (Strategic and operational planning for agencies). See also the additional requirements for FPQ's operational plan in part 2, division 4.

Primary Industries Minister means the Minister responsible for administering the *Fisheries Act 1994*.

relevant assets and liabilities, for part 5, see section 59.

responsible Ministers means the Finance Minister and the Primary Industries Minister.

State forest see the *Forestry Act 1959*, section 5.

State plantation forest means land declared under section 4 to be a State plantation forest.

strategic plan, of FPQ, means the strategic plan FPQ is required to develop under the FA&A Act.

Note—

See the *Financial Management Standard 1997*, part 2 (Planning), division 2 (Strategic and operational planning for agencies).