

# Nature Conservation (Fee Waivers) and Other Legislation Amendment Regulation 2024

Explanatory notes for SL 2024 No. 20

made under the

*Forestry Act 1959*

*Nature Conservation Act 1992*

*Recreation Areas Management Act 2006*

## General Outline

### Short title

*Nature Conservation (Fee Waivers) and Other Legislation Amendment Regulation 2024*

### Authorising law

Section 97 of the *Forestry Act 1959*

Section 175 of the *Nature Conservation Act 1992*

Section 232 of the *Recreation Areas Management Act 2006*

### Policy objectives and the reasons for them

In December 2023, Tropical Cyclone Jasper and associated rainfall and flooding caused significant disruption and damage in a large number of areas in north Queensland. Approximately 160 tourism businesses operate in over 140 forestry areas, protected areas and a recreation area where disaster recovery funding arrangements were activated to assist with recovery.

The policy objective is to temporarily waive, from 1 January 2024 to 31 March 2024, certain daily fees that apply to commercial activity permits held by tourism businesses operating in forestry areas, protected areas and a recreation area where disaster recovery funding arrangements have been activated for Tropical Cyclone Jasper (the activation area).

A map and list of the local government areas within the activation area is published on the Queensland Reconstruction Authority website – click on ‘Tropical Cyclone Jasper, 13 – 28 December 2023’ at the following link <https://www.qra.qld.gov.au/disaster-funding-activations/activations>.

Operators will still be required to lodge returns for the waiver period showing the number of tours and the visitors taken on these tours in the activation area, but the fee waiver will support tourism businesses by allowing them to retain the daily fees for tours conducted in the above-mentioned areas, from 1 January 2024 to 31 March 2024, as tourist numbers rebuild through the recovery phase.

## **Achievement of policy objectives**

Schedule 6 of the *Forestry Regulation 2015*, Schedule 7A of the *Nature Conservation (Protected Areas Management) Regulation 2017*, and Schedule 2 of the *Recreation Areas Management Regulation 2017* prescribe daily fees that apply to tourism businesses with commercial activity permits that operate tours in forestry areas, protected areas (such as national parks) and recreation areas respectively.

These daily fees apply to each client (over the age of five) participating in a tour in these areas. If operating in a protected area or a forestry area, the fees are currently \$2.37 per person for a tour lasting less than three hours and \$4.18 per person for a tour lasting more than three hours. A flat fee of \$3.19 per person currently applies if operating in the Green Island Recreation Area, which is the only recreation area in the activation area.

The policy objective will be achieved through the following amendments to the *Forestry Regulation 2015*, the *Nature Conservation (Protected Areas Management) Regulation 2017*, and the *Recreation Areas Management Regulation 2017* made by the *Nature Conservation (Fee Waivers) and Other Legislation Amendment Regulation 2024* (Amendment Regulation).

A new section 39A will be inserted into the *Forestry Regulation 2015* to waive the daily activity fees prescribed in schedule 6, item 4(c) for conducting a commercial activity under a commercial activity permit between 1 January 2024 to 31 March 2024 in State forests, timber reserves and forest reserves located within the activation areas..

A new section 159AZA will be inserted into the *Nature Conservation (Protected Areas Management) Regulation 2017* to waive the additional daily fees prescribed in schedule 7A, item 10(d) for conducting a commercial activity under a commercial activity permit between 1 January 2024 to 31 March 2024 in protected areas located within the activation areas. During the drafting process an error was identified in the definition of ‘additional daily fee’ in schedule 8 of the *Nature Conservation (Protected Areas Management) Regulation 2017*, which referred to item 10(e), instead of item 10(d) in schedule 7A, and this is corrected through section 6 of the Amendment Regulation.

A new section 65A will be inserted into the *Recreation Areas Management Regulation 2017* to waive the additional daily fee prescribed in schedule 2, item 13(d)(i) for conducting a commercial activity under a commercial activity permit between 1 January 2024 to 31 March 2024 in the Green Island Recreation Area. This is the only recreation area within the activation area.

As mentioned above, a map and list of the local government areas where disaster recovery funding arrangements have been activated is published on the Queensland Reconstruction Authority website – click on ‘Tropical Cyclone Jasper, 13 – 28 December 2023’ at the following link <https://www.qra.qld.gov.au/disaster-funding-activations/activations>.

Refunds will be provided if an operator pays the relevant daily fees during the waiver period.

There are no legislative provisions that allow these regulatory fees to be waived, so amendments to the three regulations are reasonable and appropriate because they are necessary to achieve the policy objectives.

## **Consistency with policy objectives of authorising law**

The Amendment Regulation is consistent with the objectives of the authorising laws.

The objective of the *Forestry Act 1959* is 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. Section 97 provides that regulations may be made in relation to a range of subject matters identified in Schedule 2, which includes fees.

The objective of the *Nature Conservation Act 1992* is the conservation of nature while allowing for the involvement of Indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or Island custom. Section 175 provides that regulations may be made with respect to fees, costs and charges payable under the Act.

The objective of the *Recreation Areas Management Act 2006* is for the establishment, management and use of recreation areas, and for other purposes. Section 232 provides that regulations may be made about the waiver of fees under the Act.

## **Inconsistency with policy objectives of other legislation**

The Amendment Regulation is consistent with the policy objectives of other legislation. It provides fee waivers for tours conducted by certain tourism businesses in forestry areas, protected areas and recreation areas impacted by a disaster, which is consistent with other State laws. For example, the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2021* and the *Waste Reduction and Recycling Act 2011* provide exemptions from paying certain fees and charges in disaster situations.

## **Benefits and costs of implementation**

Based on daily fees received for the same period in 2023, the financial cost of providing the fee waivers to tourism businesses is estimated to be no more than \$300 000. The amount is dependent on the number of people that undertake tours in the activation area during the waiver period.

The fee waiver will benefit tourism businesses operating by allowing them to retain the fees when they undertake tours in forestry areas, protected areas and the Green Island Recreation Areas within the activation area from 1 January 2024 to 31 March 2024.

HQPlantations Pty Ltd (HQP) will forego 50 per cent of daily fee revenue from a small number of tours that utilise both a Queensland Parks and Wildlife Service managed area and a HQP managed State forest in activation area.

In accordance with *The Queensland Government Better Regulation Policy*, an Impact Analysis Statement was prepared in relation to the regulatory proposal. The proposal will not add to the burden of regulation and is unlikely to result in significant adverse impacts. No further regulatory impact analysis is required.

## **Consistency with fundamental legislative principles**

The Amendment Regulation is generally consistent with fundamental legislative principles. Potential breaches of fundamental legislative principles are addressed below.

### **Legislation should not adversely affect rights and liberties, or impose obligations, retrospectively - Legislative Standards Act 1992, section 4(3)(g)**

Sections 3, 5 and 8 of the Amendment Regulation raise an issue regarding fundamental legislative principles because they apply retrospectively for the period 1 January 2024 to 31 March 2024. However, the retrospective application of the legislation is justified because it does not adversely affect the rights and liberties of individuals, or impose obligations, retrospectively. The amendments are beneficial to tourism businesses by waiving certain fees that would otherwise need to be paid for this period.

### **Subordinate legislation should have sufficient regard to the institution of Parliament - Legislative Standards Act 1992, section 4(5)**

The use of subordinate legislation as opposed to primary legislation may also raise issues with respect to whether legislation has sufficient regard to the institution of Parliament. However, the legislation is considered to have regard to the institution of Parliament because the temporary waiver of certain fees prescribed in subordinate legislation are within power, consistent with the authorising law and are matters appropriate to subordinate legislation.

## **Consultation**

On 28 February 2024, tourism businesses were contacted via email to inform them that, subject to legislative changes, the Queensland Government will be offering eligible operators fee relief for daily fees payable on tours conducted in the activation area between January 2024 and March 2024, and that further advice would be provided on how returns for the period should be completed once the legislative changes are in place.

No issues or concerns were raised by tourism businesses.

Consultation occurred with HQPlantations Pty Ltd (HQP) because it manages State forests that are part of its plantation licence. HQP has agreed to forego 50 per cent of daily fee revenue it would have otherwise received from a small number of tours that utilise both a Queensland Parks and Wildlife Service managed area and a HQP managed State forest within the activation area.

No other external consultation was considered necessary because of the limited and beneficial application of the legislation and because businesses eligible for the fee waiver have been contacted directly by the Department of Environment, Science and Innovation.

In accordance with *The Queensland Government Better Regulation Policy*, the Office of the Best Practice Regulation was notified in relation to the regulatory proposal.

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