

Queensland



DISEASES IN TIMBER ACT 1975

**Reprinted as in force on 19 September 1994
(includes amendments up to Act No. 15 of 1994)**

Reprint No. 1

**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 19 September 1994. The reprint—

- shows the law as amended by all amendments that commenced on or before that day
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind.

The reprint includes a reference to the law by which each amendment was made—see List of legislation and List of annotations in Endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- update citations and references (Pt 4, Div 2)
- express gender specific provisions in a way consistent with current legislative drafting practice (s 24)
- correct spelling and use different spelling consistent with current legislative drafting practice (s 26(2))
- use standard punctuation consistent with current legislative drafting practice (s 27)
- use expressions consistent with current legislative drafting practice (s 29)
- use aspects of format and printing style consistent with current legislative drafting practice (s 35)
- omit provisions that are no longer required (s 39)
- omit the enacting words (s 42A)
- number and renumber certain provisions and references (s 43).

Also see Endnotes for information about—

- **when provisions commenced**
- **editorial changes made in the reprint, including—**
 - **Table of changed names and titles**
 - **Table of obsolete and redundant provisions**
 - **Table of renumbered provisions.**

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DISEASES IN TIMBER ACT 1975

[as amended by all amendments that commenced on or before 19 September 1994²]

An Act to provide for the taking of measures for the extermination or the prevention or control of the dissemination of any disease in timber and for related purposes

Short title

1. This Act may be cited as the *Diseases in Timber Act 1975*³⁻⁷.

Commencement

2. This Act shall commence on a date appointed by proclamation.

Interpretation

3. In this Act—

“article” means anything manufactured from timber of any species or of which timber of any species forms part.

“disease” means a disease that affects timber, caused by or consisting of the presence of an insect, fungus or other organism declared by regulation to be a disease for the purposes of this Act.

“forest officer” means a forest officer within the meaning of the *Forestry Act 1959*.

“infected area” means an area declared by regulation to be an infected area for the purposes of this Act.

“occupier” means the person in occupation of any place.

“owner” means the person other than the Crown or a person representing the Crown who for the time being is entitled to the rents and profits of

any land: in the case of land held from the Crown for an estate less than freehold the term means the person who holds directly from the Crown.

“**place**” means a place within the meaning of the *Forestry Act 1959*.

“**timber**” includes the trunk or a branch, stump or root of a tree and all wood whether or not cut up, sawn, hewn, split or otherwise fashioned.

Powers of Governor in Council

4.(1) The Governor in Council by regulation—

- (a) may declare any disease affecting timber to be a disease within the meaning of this Act;
- (b) may, where the Governor in Council is satisfied that there is present in any area an infestation of timber by a disease, declare that area or any part thereof to be an infected area with respect to that disease;
- (c) may declare any disease specified therein to be a disease in respect of which notification is to be given pursuant to this Act.

(2) The Governor in Council, by regulation—

- (a) may prohibit the removal from an infected area of any timber or article specified therein save upon such terms, conditions or restrictions as are prescribed or so far as not prescribed as the Governor in Council determines;
- (b) may authorise the taking, in an infected area, of measures for the extermination or the prevention or control of the dissemination of the disease in respect of which the infected area is declared.

Powers of chief executive

5.(1) Where a regulation made pursuant to section 4 authorises the taking of measures referred to in section 4(2)(b), the chief executive shall cause to be taken, in the infected area and in the manner prescribed, such measures as the chief executive considers necessary to exterminate or to prevent or control the dissemination of the disease in respect of which the infected area is declared.

Powers of forest officer

6.(1) A forest officer at any time for the purposes of this Act—

- (a) may enter any place;
- (b) may make with respect to any place an investigation or enquiry;
- (c) may inspect, examine and test any article or timber found by the forest officer in any place;
- (d) may inspect, examine and test any article or timber being conveyed, or at any place in the course of or for the purpose of being conveyed, from one place to another;
- (e) may select and remove for inspection or testing any article (or part thereof) or timber (or sample thereof) found by the forest officer in any place that the forest officer suspects on reasonable grounds may be infested with a disease;
- (f) may seize and detain any article or timber that the forest officer suspects on reasonable grounds may be infested with a disease;
- (g) may remove any article or timber seized by the forest officer from the place where it was seized to such place as the forest officer determines or may allow it to remain at the place of seizure and, in the latter case, may make such arrangements as the forest officer considers necessary to protect it;
- (h) may call to his or her aid any police officer to assist the forest officer in the exercise of his or her powers or the discharge of his or her functions and duties under this Act, whereupon it shall be the duty of any police officer so called to assist the forest officer as required and in accordance with this Act and a police officer so assisting shall have the same powers as are conferred upon a forest officer by or under this Act;
- (i) may exercise such other powers and discharge such other functions and duties as are prescribed.

(2) A forest officer shall not enter any place for the purposes of this Act unless the forest officer has upon his or her person the certificate of authority issued to the forest officer.

(2A) Upon demand made by the occupier of any place about to be so entered, the forest officer shall show to the occupier that certificate.

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(3) Before a forest officer enters any part of a place which part is being used exclusively as a dwelling house the forest officer shall, save where the forest officer has the permission of the occupier of that part to the forest officer's entry, obtain from a justice a warrant to enter.

(3A) A justice who is satisfied upon the complaint of a forest officer that there is reasonable cause to suspect that there is in any place within an infected area timber that is infested by the disease in respect of which the infected area has been declared may issue the justice's warrant directed to the forest officer to enter the place specified in the warrant for the purpose of exercising therein the powers conferred on a forest officer under this Act.

(3B) A warrant shall be, for the period of 1 month from the date of its issue, sufficient authority for the forest officer and all persons acting in aid of the forest officer—

- (a) to enter the place specified in the warrant; and
- (b) to exercise therein the powers conferred on a forest officer by this Act.

(3C) In subsections (3) to (3B) part of a place that is used as a dwelling house does not include the curtilage of that part.

(4) For the purposes of gaining entry to any place a forest officer may call to his or her aid such persons as the forest officer thinks necessary and those persons, while acting in aid of a forest officer in the lawful exercise by the forest officer of his or her power of entry, shall have a like power of entry.

Offences

7. A person—

- (a) shall not assault, obstruct, threaten, abuse, insult or intimidate a forest officer or other person in the exercise of his or her powers or the discharge of his or her functions and duties under this Act, or attempt so to do;
- (b) shall not fail to answer any question put to the person for the purposes of this Act by a forest officer or give a false or misleading answer to any question put;
- (c) shall not fail to comply with a lawful requisition or order of a

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forest officer;

- (d) shall not refuse to allow to be seized, removed or detained in accordance with this Act any timber or article;
- (e) shall not take or retake possession of, remove or otherwise deal with, any timber or article seized, removed or detained under this Act;
- (f) shall not remove from an infected area any timber or article infested with a disease in respect of which the infected area has been declared.

Notice to occupiers or owners

8.(1) Where an infected area has been declared pursuant to section 4(1)(b), the chief executive shall, prior to taking measures for the extermination or the prevention or control of the dissemination of the disease in respect of which the infected area has been declared, give to the occupier of every place within that area where those measures are to be taken, in writing, 14 days notice of the chief executive's intention to take those measures and, where the chief executive requires a place to be vacated, of that requirement.

(2) Where there is no occupier of any place or the occupier cannot be found that notice shall be given to the owner thereof.

Provision of alternative accommodation

9.(1) Where measures taken pursuant to this Act necessitate the vacation of a dwelling house for any period of time by the occupier thereof, the chief executive—

- (a) shall arrange suitable alternative living accommodation during that period for that occupier and the members of the occupier's household;
- (b) shall arrange for the removal from that dwelling house and the storage of any furniture and effects of that occupier or the members of the occupier's household, required to be removed from that dwelling house.

(2) Expenses incurred following action taken pursuant to

subparagraphs (1)(a) and (b) shall be paid by the chief executive out of moneys appropriated by Parliament for the administration of this Act.

Notice of notifiable disease

10.(1) A person who discovers in timber or any article in any place evidence of the presence of a disease declared by regulation to be a notifiable disease shall, within 24 hours of that discovery, notify the forest officer nearest to that place thereof.

(2) Upon receipt of a notification pursuant to subsection (1), the forest officer shall undertake forthwith investigations and enquiries pertaining to the matter and report thereon to the chief executive.

Compensation

11.(1) A person who suffers loss or damage by reason of any measure taken for the purposes of this Act shall be entitled to claim in the manner prescribed compensation for such loss or damage.

(2) A claim for compensation shall be made to the Minister whose decision thereon shall be final and conclusive.

Offences generally and penalty

12.(1) A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act.

(2) A person who—

- (a) fails to do that which the person is directed or required to do;
- (b) does that which the person is forbidden to do;

by a person acting under the authority of this Act commits an offence against this Act.

(3) Where no penalty is expressly provided, a person who commits an offence against this Act is liable to a penalty of \$500.

Proceedings for offences

13. A prosecution for an offence against this Act—

- (a) shall be taken by way of summary proceedings under the *Justices Act 1886*;
- (b) may be instituted on complaint by a forest officer or any person authorised in writing in that behalf generally or in a particular case by the chief executive.

Evidentiary provisions

16. In a proceeding for the purposes of this Act it shall not be necessary to prove—

- (a) the appointment of a forest officer or other authorised officer;
- (b) the authority of a forest officer or other authorised officer to do an act or give a direction or issue or serve a notice or take a proceeding.

Regulation making power

17.(1) The Governor in Council may make regulations under this Act.

(2) A regulation may create offences and prescribe penalties of not more than 2 penalty units for the offences.

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 19 September 1994. Future amendments of the Diseases in Timber Act 1975 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 List of legislation**Diseases in Timber Act 1975 No. 49**

date of assent 9 October 1975

commenced 11 June 1977 (proc pubd Gaz 11 June 1977 p 967)

as amended by—

Primary Industries Corporation Act 1992 No. 15 Pts 1, 3 s 13 Sch

date of assent 13 May 1992

commenced 30 September 1992 (1992 SL No. 271)

Statute Law (Miscellaneous Provisions) Act 1994 No. 15 s 3 Sch 1

date of assent 10 May 1994

commenced on date of assent

4 List of annotations

Key to abbreviations in list of annotations

amd	=	amended
Ch	=	Chapter
cl	=	clause
def	=	definition
Div	=	Division
hdg	=	heading
ins	=	inserted
om	=	omitted
prec	=	preceding
pres	=	present
prev	=	previous
(prev)	=	previously
prov	=	provision
Pt	=	Part
RA	=	Reprints Act 1992
renum	=	renumbered
Sdiv	=	Subdivision
sub	=	substituted

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

Interpretation

s 3 def “**chief executive**” ins 1992 No. 15 s 13 Sch
om 1994 No. 15 s 3 Sch 1
def “**Conservator**” om 1992 No. 15 s 13 Sch 1
def “**disease**” amd 1994 No. 15 s 3 Sch 1
def “**infected area**” amd 1994 No. 15 s 3 Sch 1

Powers of Governor in Council

s 4 amd 1994 No. 15 s 3 Sch 1

Powers of chief executive

prov hdg amd 1992 No. 15 s 13 Sch
s 5 amd 1992 No. 15 s 13 Sch; 1994 No. 15 s 3 Sch 1

Notice to occupiers or owners

s 8 amd 1992 No. 15 s 13 Sch

Provision of alternative accommodation

s 9 amd 1992 No. 15 s 13 Sch

Notice of notifiable disease

s 10 amd 1992 No. 15 s 13 Sch; 1994 No. 15 s 3 Sch 1

Proceedings for offences

s 13 amd 1992 No. 15 s 13 Sch

Mode of service of documents

s 14 om 1992 No. 15 s 13 Sch

Exemption from liability

s 15 om 1992 No. 15 s 13 Sch

Regulation making power

s 17 sub 1994 No. 15 s 3 Sch 1

Orders in Council

s 18 om 1994 No. 15 s 3 Sch 1

5 Table of changed names and titlesTABLE OF CHANGED NAMES AND TITLES
under the Reprints Act 1992 ss 23 and 23A

Old	New	Reference provision
member (of the police force)	police officer	Police Service Administration Act 1990 s 11.1(1)(c) (see also s 1.4)

6 Table of obsolete and redundant provisionsTABLE OF OBSOLETE AND REDUNDANT PROVISIONS
under the Reprints Act 1992 s 39

Omitted provision	Provision making omitted provision obsolete/redundant
definitions to be read in context	Acts Interpretation Act 1954 s 32A
references to Queensland implied	Acts Interpretation Act 1954 s 35

7 Table of renumbered provisionsTABLE OF RENUMBERED PROVISIONS
under section 43 of the Reprints Act 1992

Previous	Renumbered as
6(2), 2nd sentence	6(2A)
6(3)(a)	6(3)
6(3)(b)	6(3A)
6(3)(c)	6(3B)
6(3)(c)(i)	6(3B)(a)
6(3)(c)(ii)	6(3B)(b)
6(3)(d)	6(3C)

8, 1st sentence	8(1)
8, 2nd sentence	8(2)
9, 1st sentence	9(1)
9, 2nd sentence	9(2)
11, 1st sentence	11(1)
11, 2nd sentence	11(2)