

1 Queensland



BRISBANE FOREST PARK ACT 1977

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Information about this reprint

This Act is reprinted as at 4 July 2000. 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.

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

Also see endnotes for information about—

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

Queensland



BRISBANE FOREST PARK ACT 1977

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BRISBANE FOREST PARK ACT 1977

[as amended by all amendments that commenced on or before 4 July 2000]

An Act to establish the Brisbane Forest Park and to provide for the administration, management and control of the park and for related purposes

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Brisbane Forest Park Act 1977*.

Interpretation

4. In this Act—

“**administration authority**” means the corporation sole constituted by this Act by the name the Brisbane Forest Park Administration Authority.

“**board**” means the Brisbane Forest Park Advisory Planning Board as duly constituted under this Act at the material time.

“**proprietor**” means—

- (a) in relation to Crown land—the Minister for Land Management;
- (b) in relation to land that pursuant to an Act is under the control of any person for a public purpose or of a department of government of the State—that person or, as the case may be, the Minister of the Crown who administers that department;
- (c) in relation to land reserved and set apart for a public purpose under the *Land Act 1962*—
 - (i) where the land is placed under the control of trustee—those

trustees;

- (ii) in any other case—the Minister for Land Management;
- (d) in relation to land granted by the Crown in trust to a local government or alienated by the Crown in fee simple and held by a local government— that local government.

“recreational use” includes any sporting, educational or tourism use.

“the park” means the Brisbane Forest Park declared by this Act as it is constituted at the material time.

PART 2—BRISBANE FOREST PARK

Brisbane Forest Park

5.(1) Brisbane Forest Park comprises the lands prescribed by regulation to be the park.

(2) Subject to section 7 (Manner of altering area of park), the Governor in Council may, by regulation, include land in, or exclude land from, the park.

(3) A map showing the area of the park may be inspected, and purchased, at the Brisbane office of the department.

What land may form park

6. The following descriptions of land, and no other, may be included in and form part of the park—

- (a) Crown land;
- (b) land that pursuant to an Act is under the control of any person for a public purpose or of a department of government of the State;
- (c) land reserved and set apart for a public purpose under the *Land Act 1962*;
- (d) land granted by the Crown in trust to a local government;

- (e) land alienated by the Crown in fee simple and held by a local government.

Manner of altering area of park

7.(1) Land may be included in or excluded from the park upon the recommendation of the administration authority made to the Governor in Council.

(1A) In the case of a proposal to include any land in the park or to exclude from the park land that is alienated by the Crown in fee simple such a recommendation shall not be made save with the consent of the proprietor of the land first had and obtained.

(2) If the Governor in Council approves of the proposal in question to include land in or exclude land from the park, the Minister shall cause to be laid before the Legislative Assembly notice of the proposal.

(2A) Such notice—

- (a) shall particularise as well as may be the land, the subject of the proposal; and
- (b) shall indicate as well as may be the location of such land in relation to the nearest boundary of the park; and
- (c) in the case of a proposal to exclude land from the park—shall specify the reason or reasons for the exclusion.

(3) If the Legislative Assembly approves of the proposal by resolution on a motion of which at least 14 days notice has been given, the Governor in Council may, by regulation, give effect to the proposal by including in the park, or excluding from the park, the land the subject of the proposal.

(4) Except in the cases provided for in section 8, any instrument or procedure that purports to include land in or exclude land from the park or that would, but for this subsection, have such effect and that is not made or carried out in accordance with this section shall have no force or effect.

Exclusion of public roads and inclusion of closed roads

8.(1) No road dedicated to public use, whether it is comprised of land which prior to the dedication formed part of the park or is comprised of land

excised from land which after the dedication becomes part of the park, shall be taken to form part of the park.

(2) Where a road dedicated to public use and located within the external boundaries of the park is permanently closed the Governor in Council may, by regulation, include in the park the land that comprised the road.

(3) Where land is excluded from the park by reason of the dedication of a road to public use or is included in the park consequent upon the closure of a road referred to in subsection (2)—

- (a) the exclusion shall be deemed not to be an exclusion of land from the park to which section 7 would apply; and
- (b) the inclusion shall be deemed not to be an inclusion of land in the park to which section 7 would apply.

Park deemed reserve for mining purposes

9. Land forming part of the park, which is not for any other reason a reserve within the meaning of the *Mineral Resources Act 1989*, shall be deemed to be a reserve for the purposes of the application of that Act.

Endorsement of instruments of title

10.(1) Where the estate or interest in land forming part of the park is recorded in the registers kept by the registrar of titles or in any other register or any other record is kept concerning such land the registrar or other person charged with keeping such register or record is hereby authorised, subject to subsection (2), to cause all necessary entries to be made in the appropriate registers or record to record the fact that such land forms part of the park and if such land or part thereof is excluded from the park is hereby authorised, subject as aforesaid, to cause all necessary entries to be made in the appropriate registers or record to record the fact that such land or part has been excluded from the park.

(2) A registrar or other person shall exercise an authority conferred on him or her by subsection (1)—

- (a) upon the request of the administration authority; and
- (b) upon being satisfied by the production of evidence satisfactory to the registrar or other person that the land in question forms part of

the park or, as the case may be, has been duly excluded from the park; and

(c) without payment of any fee.

(3) Stamp duty shall not be payable on any instrument or other writing made only for the purpose of an exercise of an authority conferred by subsection (1).

Effect on proprietors' rights etc. of land's inclusion in park

11. The rights and obligations had by the proprietor of land forming part of the park are not affected save to the extent and in the manner expressly prescribed in this Act.

PART 3—ADVISORY PLANNING BOARD

Constitution of board

12. There shall be constituted from time to time as prescribed a board under the name and style Brisbane Forest Park Advisory Planning Board.

Members of board

13.(1) The board shall consist of the following members—

- (a) 1 person, nominated by the Minister, who shall be chairperson;
- (b) 2 officers of the department dealing with matters relating to State forests who are nominated by the chief executive of that department;
- (ba) 1 officer of the department dealing with matters relating to the registration of interests in freehold and leasehold land who is nominated by the chief executive of that department;
- (bb) 1 officer of the department dealing with matters relating to the environment who is nominated by the chief executive of that department;

- (bc) 1 officer of each of 3 departments prescribed by regulation for the purposes of this paragraph who are nominated by the chief executives of their respective departments;
- (c) 2 officers of Brisbane City Council, nominated by that council;
- (d) 1 officer of the local government of each of the following areas, nominated in each case by the local government whose officer the person is—
 - (i) City of Ipswich;
 - (ii) Shire of Moreton;
 - (iii) Shire of Esk;
 - (iv) Shire of Pine Rivers;
- (e) 1 person, nominated by the Minister, who is normally resident in an area referred to in paragraph (d) or in the area of the City of Brisbane.

(2) The person nominated to be a member of the board pursuant to subsection (1)(a) or (e) shall not be an officer of any department of government or local government referred to in subsection (1).

(2A) The officer mentioned in subsection (1)(bb) must be a conservation officer under the *Nature Conservation Act 1992*.

Panels of nominees

14.(1) At least 2 months before the members of the board first constituted are to be appointed and thereafter at least 2 months before the expiration of the third year of the term of appointment of members for the time being of the board the Minister shall, in writing, request Brisbane City Council to furnish to the Minister a panel of names of 4 of its officers and each of the other local governments referred to in section 13(1) to furnish to the Minister a panel of names of 2 of its officers within the time limited in the request.

(2) If at any time the Minister fails to comply with subsection (1) within the time limited therein the Minister may at any later time issue the Minister's request in writing therein prescribed and such issue and all action taken thereon as prescribed shall be deemed to be sufficient compliance with

this Act.

(3) If at any time default is made in furnishing as requested by the Minister a panel of names or the panel or panels of names furnished is or are, in the Minister's opinion, inadequate as to the number, description or fitness of persons named therein and if such default or inadequacy continues for 14 days after notice is given by the Minister to the body requested to furnish the panel of names the Minister may at the Minister's discretion nominate a person or persons sufficient as to number, description or fitness to comprise the panel in respect of which default is made or, as the case may be, to make adequate the panel or panels furnished.

Selection of nominees by Minister

15. The Minister shall select 2 persons from the panel furnished to the Minister by Brisbane City Council and 1 person from each panel furnished to him or her by the other local governments referred to in section 13(1) who the Minister considers to be fit to be recommended by him or her for appointment as members of the board.

Appointment of board members

16. The members of the board shall be appointed by the Governor in Council on the recommendation of the Minister, by notification published in the gazette.

Term of appointment

17. Every member of the board shall be appointed for a term of 3 years and, if the member is duly nominated for a second or subsequent appointment, shall be eligible for further appointment to membership of the board but in every case, unless the member's office is sooner vacated as prescribed, the member's appointment shall be deemed to continue until the member's successor, duly appointed as prescribed, assumes office as a member.

How member's office is vacated

18.(1) The chairperson of the board may, by writing addressed to the Minister, resign office at any time.

(1A) The chairperson's resignation shall be effective upon its receipt by the Minister.

(2) A member of the board may be removed from office by the Governor in Council if in the opinion of the Governor in Council the member is incompetent or unfit to hold office.

(2A) A member's removal shall be effective upon the issue by the Minister of notice of the member's removal.

(3) A member of the board shall be taken to have vacated office if—

- (a) the member dies; or
- (b) without the board's leave first obtained, the member is absent from 3 consecutive meetings of the board of which notice has been duly given to the member; or
- (c) being a person nominated for office pursuant to section 13(b), (c) or (d) the member ceases to be qualified as prescribed by that section to be such a member.

(4) For the purposes of subsection (3)(b)—

- (a) the nonattendance of a member at the time and place appointed for an ordinary meeting shall not constitute absence from such meeting unless a meeting of the board at which a quorum is present is actually held on that day;
- (b) the attendance of a member at the time and place appointed for an ordinary meeting shall be deemed to constitute presence at an ordinary meeting notwithstanding that by reason of the lack of a quorum a meeting is not actually held on that day;
- (c) the names of the members who attend at the time and place appointed for an ordinary meeting shall be entered in the minute book which shall be provided for the purpose.

Casual vacancy in member's office

19.(1) A casual vacancy arises in the office of a member of the board if the member resigns, is removed or vacates office in any manner prescribed by section 18.

(2) If a casual vacancy occurs in the office of a member of the board during the currency of the member's term of appointment another person shall be appointed as a member in accordance with section 16 to fill that vacancy.

(2A) The appointment of a person appointed to fill a casual vacancy shall continue and be deemed to continue for as long as the appointment of the person's predecessor had the casual vacancy not occurred.

(3) For the purpose of such appointment the Minister shall select a person who, in the Minister's opinion, is a fit person qualified as prescribed (if the case requires it) to be recommended by the Minister for appointment as a member.

(4) A person appointed to a casual vacancy in the office of chairperson of the board shall, by such appointment, be chairperson of the board.

Meetings of the board

20. The board shall hold its first meeting after its first constitution at a time and place appointed by the chairperson of the board and thereafter shall hold its meetings at such times and places as the board by its resolution appoints and at such other times and places as the administration authority directs.

Presiding at meetings

21.(1) The chairperson of the board shall preside at every meeting of the board at which the chairperson is present and in his or her absence, another member of the board chosen by the members present at the meeting shall preside.

(2) The member of the board who presides at a meeting of the board in the absence of the chairperson shall, while the member is so acting, have all the powers and authorities of the chairperson.

Quorum and voting

22.(1) The quorum of the board shall consist of 9 members of the board.

(1A) No business shall be transacted at a meeting of the board unless a quorum is present.

(2) Save as is otherwise prescribed by this Act, every decision of the board and of its members shall be taken by majority vote of the members present at a meeting of the board at which a quorum is present.

(3) The chairperson of the board shall have a deliberative vote and in the event of an equality of votes shall have a second or casting vote.

(4) A member of the board who, being present at a meeting of the board, abstains from voting shall be taken to have voted in the negative.

Restrictive employment provisions inapplicable to membership of board

23. A provision of an Act that requires an employee to devote the whole of the employee's time to his or her employment or that prohibits the employee from engaging in other employment shall not apply so as to prejudice the employee holding office as a member of the board.

Validity of board's proceedings

24. A decision of the board shall not be avoided or prejudiced by reason of the fact that at the time such decision was taken—

- (a) there were vacancies in the membership of the board not exceeding 5;
- (b) there is a defect in the appointment or qualification of any member of the board.

PART 4—ADMINISTRATION AUTHORITY

Minister to be corporation sole

25. For the purposes of this Act, the Minister and the Minister's successors in office shall be a corporation sole by the name the Brisbane Forest Park Administration Authority and by that name shall have perpetual succession and an official seal and shall be capable in law of suing and being sued and shall have power to acquire, hold, sell, exchange, hire, lease and let property other than land and, subject hereto, of doing and suffering all such acts, matters and things as bodies corporate may in law do and suffer.

Judicial notice of identity etc. of corporation sole

26. All courts, tribunals and persons acting judicially shall take judicial notice of the Minister for the time being and of the appointment as Minister and of the Minister's signature and shall take judicial notice of the official seal of the administration authority affixed to any document or writing and, until the contrary is proved, shall presume that such signature or seal was duly affixed to such document or writing.

PART 5—ADMINISTRATION OF THE PARK

Division 1—Function and powers of the board

Functions of the board

27. The functions of the board are—

- (a) to prepare within the period of 1 year next following its first constitution a comprehensive statement of specific objectives for the planning, development and management of the park for the purpose of recreational use thereof by the public;
- (b) to make from time to time such amendments to the statement of

objectives prepared pursuant to paragraph (a) as appear to the board to be desirable;

- (c) to furnish to the administration authority the statement of objectives prepared pursuant to paragraph (a) and a statement of such amendments as are made by the board to that statement pursuant to paragraph (b);
- (d) to keep under continuous review the planning, development and management of the park and, with respect thereto, to make to the administration authority such recommendations as the board thinks fit;
- (e) to perform such other activities of an investigative or advisory nature as are committed to it by the administration authority.

Regulation of board's activities

28.(1) The discharge by the board of its functions shall be subject to and in accordance with this section.

(2) Every statement of objectives or amendments and recommendation or report of the board shall be of an advisory nature for the information and advice of the administration authority and shall not bind that authority in any way.

(3) No statement of objectives or amendments or recommendation shall be furnished by the board to the administration authority unless the same has first been submitted to each proprietor of land, which would be affected by implementation of such statement or recommendation, and that proprietor has approved thereof.

(3A) Where a proprietor has approved of a statement or recommendation so far as it concerns his or her land the proprietor's approval shall be endorsed on or attached to the statement or recommendation when the same is furnished to the administration authority.

(4) A resolution of the board adopting a statement of objectives or amendments or a recommendation or report to be furnished to the administration authority, if it is to be effectual, shall be supported by the affirmative vote of a majority of the members of the board who are present at the board's meeting at which the resolution is taken and such majority shall include all the members who represent proprietors of land comprised

in the park.

(5) Where a statement, recommendation or report is furnished by the board to the administration authority it shall be presumed, until the contrary is shown, that this subsection has been complied with in respect of that statement, recommendation or report.

Division 2—Functions and powers of the administration authority

Functions of administration authority

29. The function of the administration authority is to plan, develop and manage the lands forming the park with a view to the recreational use of parts thereof and of the improvements on such parts by the public in a manner and to an extent consistent with the preservation of the lands forming the park and such improvements for their permanent appropriation to such use and for the use by the proprietors of lands forming the park for the purposes for which they hold the same.

Allocation of land for public use

30.(1) With the concurrence of the proprietor of the land in question first had and obtained the administration authority may allocate for use by the public land forming part of the park.

(1A) Land may be allocated under this section—

- (a) for general recreational use by the public; or
- (b) for a specific recreational use by the public; or
- (c) for general recreational use or a specific recreational use in which the public may be permitted to join as participants or as spectators upon payment of a charge or otherwise.

(2) An allocation of land under this section shall be evidenced by a notice in writing given by the administration authority to the proprietor of the land.

(2A) Such notice shall—

- (a) identify as well as may be the land allocated;
- (b) specify the use to which the land is allocated.

(3) The administration authority may at any time terminate an allocation of land under this section by notice in writing, given to the proprietor of the land, revoking the notice whereby the allocation was evidenced.

Consequences of allocation of land

31.(1) Upon the allocation of land to public use and while the land continues to be so allocated—

- (a) members of the public shall be entitled to enter upon and use the land for the recreational use for which it is allocated, and to make use of improvements that are on the land for use in association with that recreational use, subject always to and in accordance with the by-laws of the administration authority; and
- (b) the administration authority shall cause to be erected and maintained in legible condition sufficient signs to inform the public that the land is so allocated and of the use for which it is allocated; and
- (c) subject to paragraph (e), the administration authority shall, to the exclusion of the proprietor, be deemed to be the occupier of the land and of improvements that are on the land for use in association with recreational use of the land for the purpose of any claim for damages arising from injury suffered by any person on that land while using the land or such improvements for the use for which the land is allocated; and
- (d) the administration authority may, on such terms and conditions and for such period as it thinks fit, place the land or any part or parts of it under the control of such person or persons or association of persons as it thinks fit, having regard to the use for which the land is allocated and may withdraw such land or any part from such control at any time; and
- (e) if land allocated to public use is placed under the control of any person or persons or association of persons—such person or persons or, as the case may be, the appropriate officers of such association shall, to the exclusion of the proprietor, be deemed to be the occupier or occupiers of the land and of improvements that are on the land for use in association with recreational use of the land for the purpose of any claim for damages arising from injury

suffered by any person on that land while using the land or such improvements for the use for which the land is allocated.

(2) For as long as there remains erected a sign erected pursuant to subsection (1) that indicates that land is allocated to public use it shall be deemed that the land to which the sign relates is allocated to the use indicated by the sign notwithstanding that the allocation has been duly terminated under this Act.

Effect of establishment of park and allocation on proprietor etc.

32.(1) Neither the proprietor of land forming part of the park nor anyone claiming under the proprietor nor a mortgagee or other person purporting to exercise any right in or over the land shall—

- (a) while the land continues to form part of the park, sell or dispose of the land; or
- (b) while the land continues to be allocated to public use—
 - (i) obstruct or hinder entry upon the land by any member of the public for the purpose of using the land and improvements thereon for the use for which the land is so allocated subject to and in accordance with the by-laws of the administration authority;
 - (ii) use or permit the use of the land in any way inconsistent with the right of the public to enter upon and use the land and improvements thereon for the use for which the land is so allocated.

(2) Any sale or disposition of land in contravention of subsection (1) and any instrument made to give effect thereto shall be void and of no effect.

(3) If the proprietor of land allocated to public use desires to use the land in a way referred to in subsection (1)(b)(ii) the proprietor may apply to the administration authority either to terminate the allocation of the land or, by by-law of the authority, to prohibit the public from entering upon the land for such period as is necessary to carry out the purpose of the proprietor and upon such an application the administration authority shall take all steps necessary to enable the proprietor to effectually use his or her land accordingly.

Improvement of land

33.(1) Pursuant to arrangement between the administration authority and the proprietor of land allocated to public use the authority or proprietor may cause to be erected or made on such land such improvements as are agreed upon by them.

(2) Such improvements shall be erected or made at the expense and shall be and remain the property of the authority or the proprietor, as the case may be, that causes the work to be done.

Erection of improvements generally

33A.(1) Subject to subsection (2), the administration authority may cause to be erected or made on any land forming part of the park which has not been allocated to public use such improvements as are necessary or incidental for the administrative purposes of the administration authority.

(1A) Such improvements shall be erected or made at the expense and shall be and remain the property of the administration authority.

(2) The administration authority shall before causing to be erected or made on land referred to in subsection (1) any improvements, obtain the consent of the proprietor of the land to the erection or making of the proposed improvements thereon.

Restrictions on administration authority

34.(1) The administration authority shall not cause or permit to be removed from land forming part of the park any soil, growing or fallen timber, material or thing or any substance affixed to the soil or being part of the terrain, other than excess vegetation, except with the approval of the proprietor of the land first had and obtained.

(2) The administration authority shall not cause or permit the removal from or destruction on land forming part of the park any fauna of a species native to the park unless such removal or destruction is—

- (a) necessary to cull an excess population of such species; and
- (b) carried out by or under the supervision of officers of the National Parks and Wildlife Service or other body concerned with the protection of wildlife.

By-laws of administration authority

35.(1) The administration authority may from time to time make by-laws not inconsistent with this Act in relation to all or any of the following purposes—

- (a) providing for all matters pertaining to the planning, development and management of the park;
- (b) providing for the management and control of land and property occupied or in the control of the authority;
- (c) protecting land occupied by the authority or allocated to public use and property owned or in the control of the authority from trespass, damage or misuse;
- (d) regulating entry upon, camping, parking or residing in land allocated to public use and providing for ejection therefrom of trespassers and of other persons thereon in circumstances other than in compliance with the by-laws of the authority;
- (da) regulating the activities including fishing, swimming, diving and boating which may be carried out on or in any lake, reservoir, dam or other body of water whether occurring naturally or artificially constructed on any lands forming the park;
- (e) providing for standards of behaviour to be met by persons on lands forming the park and the ejection or punishment of persons who do not meet those standards;
- (f) regulating the introduction into the park of drugs, intoxicants, inflammable substances or deleterious substances or dogs, cats or other animals;
- (g) regulating the consumption of food or drink in the park;
- (h) regulating the introduction into or the growing or carrying on land allocated to public use of vegetable matter and providing for the protection and preservation of vegetation growing on such land;
- (i) prohibiting the introduction into, the carrying or using on land forming part of the park any gun, bow, catapult, sling, trap, snare or explosive;
- (j) regulating the dumping or disposal of refuse or litter or abandoned property on lands forming the park;

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- (k) providing for protection of fauna within the park whether native or lawfully introduced into the park;
- (l) regulating the entry of members of the public on land forming part of the park and not allocated to public use;
- (m) regulating the carrying on of trading and other activities on lands forming the park;
- (n) providing for the engagement and suspension or dismissal of employees of the authority and the powers, authorities and duties of such employees;
- (na) providing for the authorisation of persons, other than employees of the authority to enforce by-laws of the authority and the powers, authorities and duties of such authorised persons;
- (o) providing for the business practices and accounting procedures to be followed in the conduct of the authority's affairs;
- (p) providing for the payment by members of the public of charges for entry into or being upon any part of the park;
- (q) providing for penalties not exceeding \$1 000 for breaches of the by-laws and providing increased penalties (including daily penalties) for successive breaches of the by-laws;
- (r) providing for all matters for which it is necessary or desirable to provide to achieve the objects and purposes of the declaration of the park.

(1A) For the purposes of this Act the power to regulate by way of by-law includes the power to prohibit.

(2) A by-law shall not have any force or effect unless it is—

- (a) sealed with the seal of the administration authority; and
- (b) approved by the Governor in Council; and
- (c) published in the gazette.

(2A) A copy of the gazette containing notification of the approval of a by-law by the Governor in Council shall, upon its production in any proceeding, be sufficient evidence until the contrary is shown that such by-law was duly made, sealed and approved as is provided in subsection (2) and that such by-law is at the date of such production still in force.

(3) Where a by-law of the administration authority provides for payment of a charge to be paid by members of the public for entry into any part of the park the amount of such charge shall be fixed from time to time by the authority and approved by the Governor in Council.

Publication of by-laws in park

36. The administration authority shall cause notices containing such portions of its by-laws as are relevant to the purpose of the notice to be displayed in such locations in the park as in the authority's opinion will bring those portions of the by-laws to the knowledge of members of the public who use land allocated to public use.

Division 3—Affairs of administration authority

Secretary of administration authority

37.(1) There shall be a secretary of the administration authority.

(1A) A person may hold the office of secretary in conjunction with any other office the person holds within the public service.

(2) All writs, processes and documents to be served on the administration authority shall be so served by leaving the same or a copy thereof with the secretary.

(3) Any document or writing to be made or given by the administration authority shall be sufficiently made or given if it is under the hand of the secretary.

Authorisation of post

38. All documents and writings to be given to the administration authority may be given by post addressed to the secretary at the department through which the Minister administers this Act.

Engagement of employees

39.(1) The administration authority may engage such officers, rangers

and other employees as in its opinion are required for the proper planning, development and management of the park.

(2) Subject to all applicable industrial awards and agreements the engagement of employees by the authority shall be on such terms and conditions as the Governor in Council approves.

Funds of administration authority

40.(1) The Brisbane Forest Park Fund is continued in existence subject to the *Financial Administration and Audit Act 1977*, part 8, division 2.²

(1A) Accounts for the fund must be kept as part of the departmental accounts of the department.

(1B) Amounts received for the fund must be deposited in a departmental financial-institution account of the department but may be deposited in an account used for depositing other amounts of the department.

(2) Amounts received for the fund include the following—

- (a) amounts paid to the department as part of the department's departmental vote under the *Financial Administration and Audit Act 1977* and made available by the department for the fund;
- (b) all moneys received by the administration authority by way of recoupment, contribution or donation for the purposes of the planning, development or management of the park;
- (c) all moneys received by the administration authority by way of rentals, charges or penalties in connection with its management of the park or the enforcement of this Act or the by-laws of the authority;
- (d) all other moneys received by the administration authority in connection with its management of the park and its property.

(3) An amount is payable from the fund only for a liability properly incurred by the administration authority for the purposes of or in connection with the planning, development or management of the park, or the

² *Financial Administration and Audit Act 1977*, part 8 (Transitional provisions), division 2 (Transitional provisions for *Financial Administration Legislation Amendment Act 1999*)

enforcement of this Act or the by-laws of the authority.

(4) In this section—

“**departmental accounts**”, of a department, means the accounts of the department under the *Financial Administration and Audit Act 1977*, section 12.

“**departmental financial-institution account**”, of a department, means an account of the department kept under the *Financial Administration and Audit Act 1977*, section 18.

“**other amounts**”, of a department, means amounts received by the department other than amounts received for the fund.

Application of Financial Administration and Audit Act 1977

41. On and from the commencement of the *Financial Administration and Audit Act 1977*—

- (a) that Act shall apply to and in respect of the administration authority, its employees and accounts; and
- (b) the appropriate provisions of that Act shall apply in respect of money and property vested in the administration authority, having regard to the nature and description of such money and property,

as if the authority were a statutory corporation representing the Crown.

PART 6—GENERAL PROVISIONS

Effect on town planning powers

42.(1) The *Local Government (Planning and Environment) Act 1990* shall be read subject to this section.

(2) If a planning scheme, when approved by the Governor in Council, would include land that forms part of the park then before the Governor in Council approves of such scheme there shall be produced to the Governor in Council evidence that the administration authority approves of the zoning of such land under the scheme.

(3) If an amendment of a planning scheme, when approved by the Governor in Council, would affect land that forms part of the park by—

- (a) changing the zoning of such land under the plan or scheme; or
- (b) excluding such land from one zone and including it in another zone under the plan or scheme; or
- (c) changing the conditions governing use of such land in the zone in which it is included under the plan or scheme;

then before the Governor in Council approves of such amendment there shall be produced to the Governor in Council evidence that the administration authority approves of the amendment.

Liability for rates etc. excluded

43. Rates, taxes and other like charges shall not be made, levied or assessed in respect of land that forms part of the park unless the land is at the material time leased or let to or is otherwise in the occupation of a person other than the administration authority or a proprietor for any purpose or, in the case of land allocated to public use, for any purpose other than a recreational use for which the land is so allocated.

Administration authority to be informed of leases etc.

44. Where a proprietor of land that forms part of the park or any person claiming under the proprietor leases or lets the same or any part thereof, creates an encumbrance over the same or any part thereof or grants any right in or over the same or any part thereof the proprietor or other person shall forthwith inform the administration authority in writing of the fact.

Nature of occupier's duty to visitors on park

45.(1) The duty owed by the administration authority as occupier pursuant to this Act of land that forms part of the park and that is allocated to public use to a person who is on such land as a member of the public shall be determined in accordance with the following provisions—

- (a) if such person is on land which or the use of which is not the subject of by-laws of the authority—the person shall be taken to

be on that land as a licensee;

- (b) if such person is on land which or the use of which is the subject of by-laws of the authority—
 - (i) if the person is on that land and is using the same in accordance with the by-laws—the person shall be taken to be on that land as a licensee;
 - (ii) if the person is on that land or is using the same otherwise than in accordance with the by-laws—the person shall be taken to be on that land as a trespasser.

(2) A person who is on land that forms part of the park but that is not allocated to public use shall be taken to be on that land as a trespasser unless the person shows that he or she is there on the invitation or licence of the proprietor, the administration authority or lawful occupier of that land.

Seizure of property

46.(1) A person authorised in writing by the secretary of the administration authority, either generally or in a particular case, may seize, remove and detain or cause to be removed and detained any property, which is found in the park and which—

- (a) is at a place therein in contravention of the by-laws of the authority; or
- (b) is being used or is suspected by such person of having been used in contravention of the by-laws of the authority; or
- (c) is or is suspected or believed by such person to be abandoned property.

(2) When property seized pursuant to subsection (1) is, at the time of seizure, in the physical possession or control of any person the person making the seizure shall give to the person in such possession or control a notice in writing of the seizure, which shall sufficiently describe the property seized as to allow of its identification.

(2A) When property seized pursuant to subsection (1) is not, at the time of seizure, in the physical possession or control of any person the person making the seizure, except where the person suspects or believes the property to be abandoned property, shall cause reasonable inquiry to be

made to ascertain the owner of or other person having an interest in the property and shall give to such owner or other person notice in writing of the seizure, which shall sufficiently describe the property seized as to allow of its identification but if after reasonable inquiry an owner or such other person is not ascertained the person making the seizure shall cause such notice in writing to be displayed in a public and conspicuous place at the office of the clerk of the Magistrates Court in the district in which the property was seized and a copy of such notice to be displayed at the office of the secretary of the administration authority.

(3) Property, other than property suspected or believed to be abandoned property, seized pursuant to subsection (1) may be detained for a period of 3 months or until the final determination (including the determination of any appeal therein (if any)) of proceedings taken within that period in relation to the property, whichever period is the greater.

(3A) Property seized pursuant to subsection (1) that is suspected or believed by the person making the seizure to be abandoned property may be disposed of at any time in such manner as the secretary of the administration authority directs and, if sold, the proceeds shall be disbursed as provided for in subsection (6).

(4) At any time when property seized pursuant to subsection (1) is being detained under the authority of this section the owner or other person claiming a proprietary interest therein may apply to a Magistrates Court constituted under the *Justices Act 1886* having jurisdiction at the place where the property is detained for an order that the property be returned to the owner or other person claiming a proprietary interest.

(4A) Notice of such application shall be given to the administration authority.

(5) If the court that hears an application under subsection (4) is satisfied that—

- (a) the applicant has an interest in the property detained that should be protected; and
- (b) the property is not required to be further detained for the purpose of legal proceedings or other lawful purpose;

it may make such order as to the court seems just, but if it is not so satisfied it shall strike out the application and make such order as to costs as it thinks

fit.

(6) If an order is made under subsection (5) all persons concerned shall take all steps necessary to give effect to it but if no such order is duly made and the time for which property seized pursuant to subsection (1) may be detained has expired the property detained may be sold or otherwise disposed of as the secretary of the administration authority directs and, if sold, the proceeds shall be paid into the Brisbane Forest Park Fund after the expenses of the sale (if any) have been paid therefrom.

Forfeiture by court

47.(1) When a person is convicted of an offence against the by-laws of the administration authority the court that convicts the person may, if it thinks fit, order that property by reason of which the offence was committed and that has been seized pursuant to section 46(1) be thereby forfeited to the administration authority.

(2) Property forfeited may be disposed of in such manner as the secretary of the administration authority directs and, if sold, the proceeds shall be disbursed as provided for in section 46(6).

Certain land in park to be public place

48. Land that forms part of the park and that is allocated to public use shall, while it continues to be so allocated, be taken to be a public place for the purpose of the operation therein of any law that applies in relation to a public place or anything in a public place or to the doing of any act in a public place.

Protection of administration authority etc.

49. Save in any case where and to the extent that an occupier of land that forms part of the park is liable to compensate a person injured while on the land, no liability shall be incurred by the administration authority, its secretary, a proprietor of land that forms part of the park or any person acting under the authority of any of them on account of anything done or omitted for the purposes of this Act or of the development and management the park or done in good faith and purporting to be for the purposes this Act or of the development and management of the park.

ENDNOTES**1 Index to endnotes**

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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 4 July 2000. Future amendments of the Brisbane Forest Park Act 1977 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

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	s	=	section
notfd	=	notified	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
om	=	omitted	SIA	=	Statutory Instruments Act 1992
orig	=	original	SIR	=	Statutory Instruments Regulation 1992
p	=	page	SL	=	subordinate legislation
para	=	paragraph	sub	=	substituted
prec	=	preceding	unnum	=	unnumbered
pres	=	present			
prev	=	previous			

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 50 of 1995	14 February 1996
1A	to Act No. 50 of 1995	29 January 1999
1B	to Act No. 29 of 1999	2 July 1999

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	1
Changed names and titles	1
Obsolete and redundant provisions	1
Renumbered provisions	1

6 List of legislation

Brisbane Forest Park Act 1977 No. 56

date of assent 7 October 1977

pt 1 and s 5 of pt 2 commenced on date of assent

ss 6–11 of pt 2, pt 3, pt 4, div 1 of pt 5, ss 29, 34–36 of div 2 of pt 5, div 3 of pt 5 and pt 6 commenced 10 November 1977

ss 30–33 of div 2 of pt 5 commenced 16 June 1979

Note—This Act was to have been repealed by the Recreation Areas Management Act 1988 No. 110 s 70 sch 2, but the repealing provision was never proclaimed into force and was repealed by 1995 No. 57 s 4 sch 3 pt 1

as amended by—

Brisbane Forest Park Act Amendment Act 1981 No. 31

date of assent 20 May 1981

commenced on date of assent

Brisbane Forest Park Act Amendment Act 1988 No. 61

date of assent 6 October 1988

commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1994 No. 15 ss 1–3 sch 1 (as amended 1998 No. 48 s 17 sch as from 18 December 1998 (1998 SL No. 364))

date of assent 10 May 1994

ss 1–2 commenced on date of assent

s 3 sch 1 amdts 5–8 commenced 15 December 1995 (1995 SL No. 322)

remaining provisions (s 3 sch 1 amdts 1–4, 9) commenced 21 December 1998 (1998 SL No. 366)

Statute Law (Minor Amendments) Act 1995 No. 50 ss 1, 3 sch

date of assent 22 November 1995

commenced on date of assent

Financial Administration Legislation Amendment Act 1999 No. 29 ss 1–2, 50 sch

date of assent 16 June 1999

ss 1–2, 50 commenced on date of assent

remaining provisions commenced 1 July 1999 (1999 SL No. 122 and see 1999 SL No. 119, 1999 SL No. 70 s 2(3))

Police Powers and Responsibilities Act 2000 No. 5 ss 1–2, 373 sch 3

date of assent 23 March 2000

ss 1–2, 373 commenced on date of assent (see s 2(2))

remaining provisions commenced 1 July 2000 (see s 2(1), (3) and 2000 SL No. 174)

7 List of annotations

Commencement of Act

s 2 om R1 (see RA s 39)

Arrangement of Act

s 3 om R1 (see RA s 36)

Interpretation

s 4 def “**Minister**” sub 1988 No. 61 s 3
def “**proprietor**” amd 1988 No. 61 s 3
def “**recreational use**” amd 1988 No. 61 s 3

Brisbane Forest Park

s 5 sub 1994 No 15 s 3 sch 1

Manner of altering area of park

s 7 amd 1994 No. 15 s 3 sch 1 (as amd 1998 No. 48 s 17 sch)

Exclusion of public roads and inclusion of closed roads

s 8 amd 1994 No. 15 s 3 sch 1 (as amd 1998 No. 48 s 17 sch)

Members of board

s 13 amd 1981 No. 31 s 2; 1988 No. 61 s 4; 1994 No. 15 s 3 sch 1

Appointment of board members

s 16 amd R1 (see s 38)

Regulation of board’s activities

s 28 amd 1988 No. 61 s 5

Erection of improvements generally

s 33A ins 1988 No. 61 s 6

By-laws of administration authority

s 35 amd 1988 No. 61 s 7

Secretary of administration authority

s 37 amd 1988 No. 61 s 8

Authorisation of post

s 38 amd 1988 No. 61 s 9

Funds of administration authority

s 40 amd 1999 No. 29 s 50 sch

Application of Financial Administration and Audit Act 1977

prov hdg sub 1999 No. 29 s 50 sch

s 41 amd 1988 No. 61 s 10; 1994 No. 15 s 3 sch 1; R1 (see s 38); 1999 No. 29 s 50 sch

Nature of occupier’s duty to visitors on park

s 45 amd 1988 No. 61 s 11

Seizure of property

s 46 amd 2000 No. 5 s 373 sch 3

Validation of exclusion of certain land from park

s 50 ins 1995 No. 50 s 3 sch
exp 22 November 1995 (see s 50(5))
AIA s 20A applies (see s 50(4))

SCHEDULE 1

om 1994 No. 15 s 3 sch 1

SCHEDULE 2

om 1994 No. 15 s 3 sch 1