



Timber Utilisation and Marketing Act 1987

Reprinted as in force on 8 November 2001

Reprint No. 1A*

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Information about this reprint

This Act is reprinted as at 8 November 2001. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

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

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have been made to use aspects of format and printing style consistent with current drafting practice (s 35).

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

Also see endnotes for information about—

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

Dates shown on reprints

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

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

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Queensland

Timber Utilisation and Marketing Act 1987

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Timber Utilisation and Marketing Act 1987

[as amended by all amendments that commenced on or before 8 November 2001]

An Act to control the sale and use of certain timbers, and for other purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Timber Utilisation and Marketing Act 1987*.

6 Definitions

In this Act—

approved form see section 52.¹

approved preservative treatment, in relation to timber, means a preservative treatment in respect of which an approval by the chief executive² is in force.

article means a manufactured article the whole or any part of which is comprised of timber and includes furniture, fittings and fixtures and a vehicle or vessel.

building includes any structure or part of a structure and any—

- (a) fence; or
- (b) gate; or

1 Section 52 (Approval of forms)

2 The chief executive is the chief executive of the department in which this Act is administered (see *Acts Interpretation Act 1954*, section 36, definition *chief executive* and section 33).

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- (c) retaining wall; or
- (d) playground equipment;

consisting of any timber components but does not include any building intended to have a life of less than 2 years.

building operation includes altering, adding to, erecting, constructing, reconstructing, building, rebuilding, renovating or repairing, any building.

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

framing timber means timber that has been sawn, hewn or otherwise processed and which is commonly used to—

- (a) form the basic structure of a building; or
- (b) support flooring, or ceiling or roofing materials, or wall cladding;

but does not include timber of a prescribed class or description.

H level means a H level listed in the regulations pursuant to section 53(3).

lyctid means any egg, larva, pupa or adult of the family lyctidae.

lyctid-susceptible timber means all timber, other than timber of a prescribed species of timber, which—

- (a) contains starch and has not been treated against lyctids with an approved preservative treatment; or
- (b) is being attacked by lyctids.

milled timber means timber that has been machined on more than 2 surfaces or to a required shape or finish.

moisture content, in relation to timber, means the amount of water in the timber expressed as a percentage of the oven-dry weight of the timber.

place includes any structure, building, vehicle, vessel or land (whether built upon or not) and any part of such structure, building, vehicle, vessel or land.

preservative treatment means treatment by a chemical substance with the object of protecting timber from attack by wood-destroying animals, bacteria or fungi or of increasing its resistance to fire, moisture change, decomposition or degradation or of increasing its dimensional stability.

preservative treatment plant means a plant for the preservative treatment of timber and includes the land used in connection therewith.

recognised brand means a brand recognised by the chief executive pursuant to section 27.

remill means to dress, plane, mould or resaw timber.

resawmill means any place at which timber is remilled for sale or reward.

sell includes barter.

timber means the wood of any tree, shrub, palm, grass or vine and includes hardboard, chipboard, particle board, fibre board, insulation board and similar materials and plywood.

trade name, in relation to a species of timber, means the trade name assigned by regulation.

7 **Statements or representations about timber**

For this Act a person shall be deemed to have held out timber as being—

- (a) free from lyctid-susceptible timber; or
- (b) preservative treated; or
- (c) kiln dried, air dried, dried or seasoned;

where the person makes any verbal or written statement or representation implying or that may be construed to imply that such timber is free from lyctid-susceptible timber or has been preservative treated or, as the case may be, is kiln dried, air dried, dried or seasoned.

8 **References to persons in relation to authorisations or brands**

A reference in this Act to a person—

- (a) to whom an authorisation is granted under section 22(1)(a); or
- (b) in respect of whom a brand is registered under section 22(1)(b) or (c);

shall be construed as a reference to—

- (c) in a case to which paragraph (a) applies—the person to whom that authorisation is transferred pursuant to section 26(1); and
- (d) in a case to which paragraph (b) applies—the person to whom the registration is transferred pursuant to section 26(2).

Part 2 Lyctid-susceptible timber

9 Sale of lyctid-susceptible timber prohibited

A person shall not sell or agree to sell lyctid-susceptible timber to another person unless the person has received a written request for the supply by the person of lyctid-susceptible timber from that other person.

10 Sale of timber described as being free from lyctid-susceptible timber

A person shall not have in possession for sale any timber or article described or held out by the person or the person's employees or agents as being free from lyctid-susceptible timber unless the timber or, as the case may be, article is free from lyctid-susceptible timber.

11 Restriction on use of lyctid-susceptible timber

- (1) A person shall not, in carrying out any building operation, use or permit or allow to be used any lyctid-susceptible timber unless—

- (a) attack by lyctids will not be detrimental to the use or service reasonably expected of the building; or
 - (b) the use of the timber was agreed to in writing by the person for whom the building was or was being erected; or
 - (c) the building is for the person's occupation or use.
- (2) A person shall not use or permit or allow to be used in the manufacture of an article any lyctid-susceptible timber unless—
- (a) attack by lyctids will not be detrimental to the use or service reasonably expected of the article; or
 - (b) the article is for the person's own use.
- (3) Subsection (2) does not apply in respect of a prescribed article or in respect of an article of a prescribed class or description.

12 Sale of buildings

A person shall not sell a building any part of which is comprised of lyctid-susceptible timber unless—

- (a) attack by lyctids will not be detrimental to the use or service reasonably expected of the building; or
- (b) a period of 2 years has elapsed since the carrying out in respect of the building of any building operation in which lyctid-susceptible timber has been used; or
- (c) before entering into the contract for the sale of the building the person gives to the purchaser personally or by registered post a notice in writing in accordance with section 14(1).

13 Sale of articles

- (1) A person shall not sell an article any part of which is comprised of lyctid-susceptible timber unless—
- (a) attack by lyctids will not be detrimental to the use or service reasonably expected of the article; or
 - (b) a period of 2 years has elapsed since the manufacture of the article; or

- (c) before entering into the contract for the sale of the article the person gives to the purchaser personally or by registered post a notice in writing in accordance with section 14(1).
- (2) For the purposes of this section, where the date of manufacture of an article is not known such date shall be the date on which that article came into the possession of the first known person having, or having had, the custody of the article.
- (3) Subsection (1) does not apply in respect of a prescribed article or in respect of an article of a prescribed class or description.

14 Requirements of notice

- (1) A notice referred to in sections 12 and 13 shall—
 - (a) state clearly the fact that lyctid-susceptible timber has been used in the building or, as the case may be, in the article; and
 - (b) state clearly that the lyctid-susceptible timber has been attacked by lyctids or, where such timber has not been so attacked, is liable to attack by lyctids; and
 - (c) clearly identify the building or article to which the notice relates; and
 - (d) show the names of the parties to the sale nominally or by description or reference sufficient to clearly identify them; and
 - (e) state the date on which the notice is given; and
 - (f) be signed by the person giving the notice;and shall not contain any other written matter whatsoever.
- (2) A document which fails to fully comply with the requirements of subsection (1) is not a notice under and within the meaning of that subsection.

Part 3 **Approved preservative treatment**

15 Approval of chief executive

- (1) The chief executive may from time to time, of the chief executive's own volition or consequent upon an application under section 16, approve preservative treatments for the purposes of this Act.
- (2) Upon approving a preservative treatment pursuant to subsection (1) the chief executive—
 - (a) shall assign to timber treated by means of that approved preservative treatment a H level; and
 - (b) shall cause to be published in the gazette a notification containing details of the approved preservative treatment and the H level assigned to timber treated by means of that approved preservative treatment.

16 Application for approval of chief executive

- (1) A person may make application to the chief executive for approval of a preservative treatment.
- (2) An application referred to in subsection (1) shall—
 - (a) be in the approved form;
 - (b) be accompanied by the prescribed fee;
 - (c) specify—
 - (i) the object of the treatment; and
 - (ii) the substances comprising the preservative; and
 - (iii) the desirable retention and penetration pattern having regard to the use for which timber undergoing the treatment is intended; and
 - (iv) the method of treatment; and
 - (v) evidence of the effectiveness of the treatment.
- (3) In addition to the information mentioned in subsection (2)(c) an applicant shall provide the chief executive with such other

information in relation to the preservative treatment as the chief executive may require.

- (4) The chief executive shall consider each application, cause notice in writing of the decision with respect to the application to be given to the applicant and, where chief executive has refused the application, specify in the notice the reasons for so refusing.

17 Cancellation of approval

- (1) The chief executive may by notification published in the gazette cancel the approval of a preservative treatment.
- (2) Where the chief executive cancels the approval of a preservative treatment the chief executive shall cause to be published in the gazette a notification containing details of each remaining approved preservative treatment and the H level assigned to timber treated by means of that approved preservative treatment.

18 Notice of cancellation to be given

Where the chief executive cancels the approval of a preservative treatment the chief executive shall cause written notice thereof containing the reasons for cancelling the approval to be given—

- (a) where the preservative treatment was approved consequent upon an application under section 16—to the applicant; and
- (b) to each person authorised under section 22(1)(a) to use that preservative treatment; and
- (c) to each person in respect of whom a brand that relates to that preservative treatment is registered under section 22(1)(b) or (c); and
- (d) to each person in respect of whom a brand that relates to that preservative treatment is recognised under section 27.

Part 4 Preservative treatment of timber

19 Authorisation to use preservative treatment and registration of brand

- (1) A person may apply to the chief executive—
 - (a) for authorisation to use an approved preservative treatment; and
 - (b) for the registration of a brand to be used by the person to brand timber treated pursuant to that authorisation.
- (2) An application under this section shall—
 - (a) be in the approved form; and
 - (b) be accompanied by the prescribed fee; and
 - (c) specify the approved preservative treatment to be used; and
 - (d) in respect of that approved preservative treatment—
 - (i) specify the object of the treatment; and
 - (ii) specify the method of treatment; and
 - (iii) specify the nature of the timber to be treated; and
 - (iv) contain details sufficient to identify the preservative treatment plant which it is intended to use.
- (3) In addition to the information referred to in subsection (2), an applicant shall provide the chief executive with such other information and such material as the chief executive may require, including certificates of analysis and samples of timber treated by means of the approved preservative treatment to which the application relates using the preservative treatment plant identified in the application.

20 Application for registration of brand to be used to brand imported timber

- (1) A person may apply to the chief executive for the registration of a brand with which to brand timber imported by the person

into the State where that timber has, prior to being so imported, been treated by means of an approved preservative treatment.

- (2) An application under this section shall—
 - (a) be in the approved form; and
 - (b) be accompanied by the prescribed fee; and
 - (c) specify the approved preservative treatment in respect of which it is intended to use the brand; and
 - (d) in respect of that approved preservative treatment—
 - (i) specify the object of the treatment; and
 - (ii) specify the method of treatment; and
 - (iii) specify the nature of the timber treated or to be treated; and
 - (iv) contain details sufficient to identify the preservative treatment plant used or which it is intended to use.
- (3) In addition to the information referred to in subsection (2), an applicant shall provide the chief executive with such other information and such material as the chief executive may require, including certificates of analysis and samples of timber treated by means of the approved preservative treatment to which the application relates using the preservative treatment plant identified in the application.

21 Application for registration of brand to be used to brand remilled timber

- (1) A person may apply to the chief executive for the registration of a brand with which to brand timber that has been remilled and that prior to being remilled has been treated by means of an approved preservative treatment.
- (2) An application under this section shall—
 - (a) be in the approved form; and
 - (b) be accompanied by the prescribed fee; and
 - (c) specify the approved preservative treatment in respect of which it is intended to use the brand.

- (3) In addition to the information referred to in subsection (2), an applicant shall provide the chief executive with such other information and such material as the chief executive may require, including certificates of analysis and samples of timber treated by means of the approved preservative treatment to which the application relates.

22 Determination of application

- (1) After consideration of an application made—
 - (a) under section 19, the chief executive may—
 - (i) authorise the use of the approved preservative treatment unconditionally or subject to such conditions as to the chief executive seem proper or refuse to authorise the use of the approved preservative treatment; and
 - (ii) register a brand unconditionally or subject to such conditions as to the chief executive seem proper or refuse to register the brand;
 - (b) under section 20, the chief executive may register a brand unconditionally or subject to such conditions as to the chief executive seem proper or refuse to register the brand;
 - (c) under section 21, the chief executive may register a brand unconditionally or subject to such conditions as to the chief executive seem proper or refuse to register the brand.
- (2) Where, in respect of an application made under section 19, the chief executive refuses to authorise the use of an approved preservative treatment, the chief executive shall not register the brand referred to in that application.
- (3) The form and design of a brand registered under subsection (1) shall be such as is determined by the chief executive.
- (4) The chief executive shall cause notice in writing of the decision with respect to an application referred to in subsection (1) to be given to the applicant and, where the chief executive has refused the application, shall specify therein the reasons for so refusing.

23 Duration of authorisation etc.

Unless sooner cancelled under section 24—

- (a) an authorisation and a registration under section 22(1)(a); or
- (b) a registration under section 22(1)(b) or (c);
granted or effected—
- (c) prior to 1 August 1990—shall remain in force until midnight on 31 July 1990;
- (d) subsequent to 31 July 1990 and prior to 1 August 1993—shall remain in force until midnight on 31 July 1993;
- (e) subsequent to 31 July 1993 and prior to 1 August 1996—shall remain in force until midnight on 31 July 1996;

and so on from one triennial period to another and in the case of an authorisation and registration or, as the case may be, a registration which has been renewed, until midnight on 31 July thirdly occurring next after 31 July to which they or it remained in force.

24 Cancellation of authorisation and cancellation or suspension of registration

- (1) The chief executive may by notice in writing—
 - (a) given to a person to whom an authorisation is granted under section 22(1)(a), cancel that authorisation and the registration of the brand registered in respect of that authorisation or suspend the registration of that brand;
 - (b) given to a person in respect of whom a brand is registered under section 22(1)(b) or (c), cancel or suspend the registration of the brand;

where the chief executive is satisfied that the person has committed a breach of this Act or where the chief executive cancels the approval of the preservative treatment to which the authorisation or, as the case may be, the brand relates.

- (2) During any period for which the registration of a brand is suspended under subsection (1) that brand shall be taken not to be registered under this Act.
- (3) The chief executive may lift, extend or further extend a period of suspension imposed under subsection (1).

25 Renewal of authorisation and registration

- (1) A person to whom an authorisation is granted under section 22(1)(a) may, within 60 days prior to the date of expiration of that authorisation, apply to the chief executive for the renewal of that authorisation and of the registration of the brand registered in respect of that authorisation.
- (2) A person in respect of whom a brand is registered under section 22(1)(b) or (c) may, within 60 days prior to the date of expiration of that registration, apply to the chief executive for the renewal of the registration of the brand.
- (3) An application under subsection (1) or (2) shall be in the approved form and be accompanied by the prescribed fee.
- (4) The chief executive may renew or refuse to renew the authorisation and registration of the brand or, as the case may be, the registration of the brand.
- (5) The chief executive shall cause notice in writing of the decision with respect to the application to be given to the applicant and, where the chief executive has refused the application, shall specify therein the reasons for so refusing.

26 Transfer of authorisation etc.

- (1) Upon the receipt of an application in the approved form accompanied by the prescribed fee made by the person to whom an authorisation is granted under section 22(1)(a) the chief executive may transfer that authorisation and the registration of the brand registered in respect of that authorisation to another person identified in the application or refuse the application.
- (2) Upon the receipt of an application in the approved form accompanied by the prescribed fee made by the person in respect of whom a brand is registered under section 22(1)(b)

or (c) the chief executive may transfer the registration of that brand to another person identified in the application or refuse the application.

- (3) Before exercising the power under subsection (1) or (2), the chief executive may require an applicant to return any notice issued in relation to the authorisation and registration, or registration, to which the application relates or give satisfactory evidence of its loss or destruction.
- (4) The chief executive shall cause notice in writing of the decision with respect to the application to be given to the applicant and, where the chief executive has refused the application, shall specify therein the reasons for so refusing.

27 Recognised brands

- (1) Where, at a place outside the State, timber—
 - (a) is treated by means of an approved preservative treatment; and
 - (b) is branded with a brand that, pursuant to the law of that place—
 - (i) is registered by a person or authority having powers and duties relating to the preservation of timber; and
 - (ii) is authorised to be placed on timber that is treated as referred to in paragraph (a);

a person may apply to the chief executive to have the brand recognised by the chief executive.

- (2) An application under this section shall—
 - (a) be in the approved form; and
 - (b) be accompanied by the prescribed fee; and
 - (c) specify the approved preservative treatment in respect of which the brand is used; and
 - (d) specify the form and design of the brand; and
 - (e) identify the person or other authority by whom the brand is presently registered; and

- (f) specify the object of the treatment; and
 - (g) specify the nature of the timber treated or to be treated; and
 - (h) contain details sufficient to identify the preservative treatment plant used.
- (3) In addition to the information referred to in subsection (2), an applicant shall provide the chief executive with such other information and such material as the chief executive may require, including certificates of analysis and samples of timber treated by means of the approved preservative treatment specified in the application using the preservative treatment plant identified therein.
- (4) After consideration of an application under this section the chief executive may agree to recognise the brand unconditionally or subject to such conditions as to the chief executive seem proper or refuse to recognise the brand.
- (5) The chief executive shall cause notice in writing of the decision with respect to the application to be given to the applicant and, where the chief executive has refused the application, shall specify therein the reasons for so refusing.
- (6) Where the chief executive recognises a brand pursuant to this section such recognition shall remain in force until it is cancelled.
- (7) The chief executive may by notice in writing given to the applicant cancel the recognition of a brand.
- (8) A notice given pursuant to subsection (7) shall specify the reasons for the cancellation.

28 Use of registered brands

A person shall not use a brand—

- (a) registered under section 22(1)(a) to brand timber unless the timber is treated pursuant to an authorisation in respect of which that brand is registered; or
- (b) registered under section 22(1)(b) to brand timber unless the timber has been imported into the State and, prior to being so imported, been treated by means of the

- approved preservative treatment in respect of which that brand is registered; or
- (c) registered under section 22(1)(c) to brand timber unless the timber has been remilled and, prior to being remilled, been treated by means of the approved preservative treatment in respect of which that brand is registered; or
 - (d) registered under section 22(1)(a), (b) or (c) to brand timber during any period for which the registration of that brand is suspended pursuant to this part.

29 Sale of preservative-treated timber

- (1) A person shall not—
- (a) sell any timber or article containing timber; or
 - (b) offer or expose for sale any article containing timber; or
 - (c) offer or expose for sale any timber other than timber to which subsection (2) applies;

which timber is described or held out by the person or the person's employees or agents as being preservative treated unless—

- (d) the timber is treated by means of an approved preservative treatment by a person authorised to use that approved preservative treatment under section 22(1)(a) and is branded with the brand that, at the time at which it was applied, was registered in respect of that authorisation; or
- (e) in the case of timber that has been remilled—the timber is treated by means of an approved preservative treatment and is branded with a brand that, at the time at which it was applied, was registered under section 22(1)(c) in respect of that approved preservative treatment; or
- (f) in the case of timber imported into the State—the timber is treated by means of an approved preservative treatment and is branded with a brand that, at the time at which it was applied, was registered under section

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22(1)(b), or was a recognised brand, in respect of that approved preservative treatment;

and is branded with a brand showing the H level assigned by the chief executive under this Act to timber that has been treated by means of that approved preservative treatment.

- (2) In the case of a sale of—
- (a) pieces of veneer of any width; or
 - (b) pieces of timber each of a width of not more than 50mm; or
 - (c) pieces of timber each of a thickness of not more than 16mm, other than hardboard, chipboard, particle board, fibre board, insulation board and similar materials and plywood;

described or held out as being preservative treated, a person shall be taken to have complied with the provisions of subsection (1) that relate to the branding of the timber if the brands that, but for the provisions of this subsection, would be required to be branded on the timber, are clearly shown—

- (d) on an invoice or docket of sale and such invoice or docket is delivered by the seller to the purchaser at or before the delivery on sale of the timber; or
 - (e) on a label attached to each piece of the timber; or
 - (f) in a case where the timber is bound in a bundle—
 - (i) in at least 2 places on the outer wrapping of the bundle; or
 - (ii) on a label attached to the bundle.
- (3) In the case of a sale or the offering or exposing for sale of an article containing timber which timber is described or held out as being preservative treated, a person shall be taken to have complied with the provisions of subsection (1) that relate to the branding of the timber if the brands that, but for the provisions of this subsection, would be required to be branded on the timber, are clearly shown on a label attached to the article.

30 Certain timber not to be removed from preservative treatment plant

Subject to section 32, a person who owns or controls a preservative treatment plant shall not allow any timber described or held out as being preservative treated to be removed from that preservative treatment plant unless the timber—

- (a) has been treated by means of an approved preservative treatment by a person authorised to use that approved preservative treatment under section 22(1)(a); and
- (b) is branded with the brand that, at the time at which it was applied, was registered in respect of that authorisation; and
- (c) is branded with a brand showing the H level assigned by the chief executive under this Act to timber that has been treated by means of that approved preservative treatment.

31 Certain remilled timber not to be removed from resawmill

Subject to section 32, a person who owns or controls a resawmill shall not allow any timber that has been remilled at that resawmill and that is described or held out as being preservative treated to be removed from that resawmill unless the timber—

- (a) has been treated by means of an approved preservative treatment; and
- (b) is branded with a brand that, at the time at which it was applied, was registered under section 22(1)(c) in respect of that approved preservative treatment; and
- (c) is branded with a brand showing the H level assigned by the chief executive under this Act to timber that has been treated by means of that approved preservative treatment.

32 Exceptions to the provisions of ss 30 and 31

In the case of a removal of—

- (a) pieces of veneer of any width; or
- (b) pieces of timber each of a width of not more than 50mm; or
- (c) pieces of timber each of a thickness of not more than 16mm, other than hardboard, chipboard, particle board, fibre board, insulation board and similar materials and plywood;

a person who owns or controls a preservative treatment plant or, as the case may be, a resawmill shall be taken to have complied with the provisions of section 30 or, as the case may be, section 31 that relate to the branding of the timber if the brands that, but for the provisions of this section, would be required to be branded on the timber, are clearly shown—

- (d) in the case of timber that is being removed on sale—on an invoice or docket of sale that is delivered by the person who owns or controls the preservative treatment plant or, as the case may be, the resawmill to the purchaser at or before the delivery on sale of the timber; or
- (e) on a label attached to each piece of the timber; or
- (f) in a case where the timber is bound in a bundle—
 - (i) in at least 2 places on the outer wrapping of the bundle; or
 - (ii) on a label attached to the bundle.

Part 5 Moisture content of timber

33 Sale of dried or seasoned timber

- (1) A person shall not sell any timber or article if the timber or, as the case may be, the timber contained in the article is described or held out by the person or the person's employees or agents as being kiln dried, air dried, dried or seasoned unless—

- (a) where a standard has been prescribed that specifies the moisture content for the timber or for a class or description of timber to which class or description the timber belongs—the moisture content of the timber when determined in the prescribed manner complies, as at the time at which the property therein passes under the sale, with that standard; or
 - (b) where no such standard has been prescribed—the moisture content of the timber when determined in the prescribed manner is not, as at the time at which the property therein passes under the sale, more than 15% or less than 10%.
- (2) It is a defence to a prosecution brought in respect of an offence under subsection (1) if the defendant proves that before entering into the contract for the sale of the timber or article or at the time of entering into that contract the purchaser agreed in writing to accept timber or, as the case may be, timber contained in an article, having a specified moisture content and that the moisture content of the timber, when determined in the prescribed manner, complied, as at the time at which the property therein passed under the sale, with the moisture content so specified.

34 Sale of milled timber

- (1) A person shall not sell milled timber that—
- (a) where a standard has been prescribed that specifies the moisture content for the milled timber or for a class or description of milled timber to which class or description the milled timber belongs—has a moisture content, when determined in the prescribed manner, that does not comply with that standard as at the time at which the property therein passes under the sale; or
 - (b) where no such standard has been prescribed—has a moisture content, when determined in the prescribed manner, that is more than 15% or less than 10% as at the time at which the property therein passes under the sale.
- (2) It is a defence to a prosecution brought in respect of an offence under subsection (1) if the defendant proves—

- (a) that before entering into the contract for the sale of the milled timber or at the time of entering into that contract the purchaser agreed in writing to accept milled timber having a specified moisture content and that the moisture content of the milled timber, when determined in the prescribed manner, complied, as at the time at which the property therein passed under the sale, with the moisture content so specified; or
 - (b) where the milled timber is unseasoned—that before entering into the contract for the sale of the milled timber or at the time of entering into that contract the purchaser agreed in writing to accept milled timber that is unseasoned.
- (3) Subsection (1) does not apply to milled timber of a prescribed class or description.

35 Use of timber in building operation and in manufacture of articles

- (1) A person shall not use in a building operation any milled timber (other than framing timber) that—
- (a) where a standard has been prescribed that specifies the moisture content for the milled timber or for a class or description of milled timber to which class or description the milled timber belongs—has a moisture content, when determined in the prescribed manner, that does not comply with that standard; or
 - (b) where no such standard has been prescribed—has a moisture content, when determined in the prescribed manner, that is more than 15% or less than 10%.
- (2) It is a defence to a prosecution brought in respect of an offence under subsection (1) if the defendant proves that—
- (a) the use of the timber will not be detrimental to the use or service reasonably expected of the building in respect of which the building operation was or was being carried out; or
 - (b) the building in respect of which the building operation was or was being carried out is for the defendant's occupation or use; or

- (c) prior to the use of the milled timber in the building operation, its use at a specified moisture content was requested in writing by the person for whom the building operation was or was being carried out and that the milled timber had that moisture content, when determined in the prescribed manner, at the time at which it was so used.
- (3) A person shall not use or permit or allow to be used in the manufacture of an article any timber that—
- (a) where a standard has been prescribed that specifies the moisture content for the timber or for a class or description of timber to which class or description the timber belongs—has a moisture content, when determined in the prescribed manner, that does not comply with that standard; or
 - (b) where no such standard has been prescribed—has a moisture content, when determined in the prescribed manner, that is more than 15% or less than 10%.
- (4) It is a defence to a prosecution brought in respect of an offence under subsection (3) if the defendant proves that—
- (a) the use of the timber will not be detrimental to the use or service reasonably expected of the article; or
 - (b) the article is for the defendant's use; or
 - (c) prior to the use of the timber in the manufacture of the article, its use at a specified moisture content was requested in writing by the person for whom the article was or was being manufactured and that the timber had that moisture content, when determined in the prescribed manner, at the time at which it was so used.

Part 6 **Miscellaneous**

36 **Implied conditions**

- (1) If any timber, article or building is supplied, manufactured, constructed or erected under a contract or sold or agreed to be

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sold, or if any building operation is carried out under a contract, there is (unless the contract expressly states in writing that lyctid-susceptible timber is contained or has been used therein or unless, in the case of any such sale to which section 12 or 13 applies, notice has been given as required by section 12 or 13, as the case may be,) an implied condition that such timber is free from lyctid-susceptible timber or, in the case of such article or building, that the timber contained therein or, in the case of the building operation, that the timber used therein is free from lyctid-susceptible timber.

- (2) Where upon a sale timber, or timber contained in an article, the subject of such sale is described or held out as being preservative treated, there is an implied condition that such timber has been treated by means of an approved preservative treatment.
- (3) Where upon a sale timber, or timber contained in an article, the subject of such sale is described or held out as being kiln dried, air dried, dried or seasoned, there is an implied condition that, at the time the property passes under the sale—
 - (a) where a standard has been prescribed that specifies the moisture content for the timber or for a class or description of timber to which class or description the timber belongs—the moisture content of the timber when determined in the prescribed manner complies with that standard; or
 - (b) where no such standard has been prescribed—the moisture content of the timber when determined in the prescribed manner is not more than 15% or less than 10%.
- (3A) However, nothing mentioned in subsection (3) shall apply to the sale of any timber or article where, before entering into the contract for the sale of the timber or article or at the time of entering into that contract, the purchaser agreed in writing to accept timber or, as the case may be, timber contained in an article, having a specified moisture content and the moisture content of the timber, when determined in the prescribed manner, complies, as at the time at which the property passes under the sale, with the moisture content so specified.

- (4) Upon a sale of milled timber (other than milled timber to which section 34(1) does not apply) there is an implied condition that, at the time the property passes under the sale—
- (a) where a standard has been prescribed that specifies the moisture content for the milled timber or for a class or description of milled timber to which class or description the milled timber belongs—the moisture content of the milled timber when determined in the prescribed manner complies with that standard; or
 - (b) where no such standard has been prescribed—the moisture content of the milled timber when determined in the prescribed manner is not more than 15% or less than 10%.
- (4A) However, nothing mentioned in subsection (4) shall apply to the sale of any milled timber—
- (a) where, before entering into the contract for the sale of the milled timber or at the time of entering into that contract, the purchaser agreed in writing to accept milled timber having a specified moisture content and the moisture content of the milled timber, when determined in the prescribed manner, complies, as at the time at which the property passes under the sale, with the moisture content so specified; or
 - (b) where the milled timber is unseasoned and before entering into the contract for the sale of the milled timber or at the time of entering into that contract the purchaser agreed in writing to accept milled timber that is unseasoned.
- (5) Subject to subsection (6), any covenant, agreement or condition expressed or implied in a contract or in a separate document whereby it is agreed between the parties to that contract that a condition implied by this section shall not be legally binding as against the seller or contractor shall be void.
- (6) A condition by this section implied in any sale or contract may be waived by a party (other than the seller or contractor) to such sale or contract, or such party may elect to treat the breach of such condition as a breach of warranty and not as a ground for treating the sale or contract as repudiated.

- (6A) In subsections (5) and (6)—
- contractor**, in relation to a contract, means a person who, under the contract, supplies any goods or performs any service.
- (7) A party shall not be bound by waiver or election under subsection (6) unless made by the party after the date upon which the party first has knowledge that such condition has in fact been breached by the party bound thereby.
- (8) A party to a sale or contract who has breached any condition implied by virtue of this section shall, if thereunto required by another party to that sale or contract who is entitled to the benefit of that condition, remove from any place owned or occupied by that other party, without cost to that other party, all or any timber or articles the subject of that sale or contract.
- (9) The provisions of this section shall be read and construed so as not to limit or affect any other provision of this Act constituting any act or omission an offence or the liability to punishment under this Act of any person committing that offence.
- (10) The provisions of this section with regard to lyctid-susceptible timber shall have no application to any sale or contract made or entered into after a period of 2 years from when the timber was sawn, or the article was manufactured or the building or the building operation was completed, as the case may be.
- (11) For the purposes of subsection (10), where the date of manufacture of any article is not known such date shall be the date on which the article came into the possession of the first known person having, or having had, the custody of such article.
- (12) Any condition implied by virtue of this section shall be in addition to any condition or warranty otherwise expressed or implied by law.

37 Appeal

- (1) A person aggrieved by—
- (a) the refusal by the chief executive of an application; or

- (b) the cancellation or suspension by the chief executive of any approval, authorisation, registration or recognition under this Act; or
- (c) the imposition by the chief executive of any conditions in respect of any authorisation, registration or recognition granted or effected under this Act;

may, in the time and manner prescribed, appeal to the Minister.

- (2) The Minister may—
 - (a) dismiss the appeal; or
 - (b) allow the appeal wholly or in part and give such directions in the matter as to the Minister seem proper.
- (3) The decision of the Minister on the appeal is final and is binding on the chief executive and the appellant and shall be carried into effect accordingly.
- (4) Where the chief executive fails to grant an application the application shall, for the purposes of this section, be deemed to be refused by the chief executive upon the expiration of 2 months after the application was received by the chief executive.

38 Powers of forest officers

- (1) A forest officer may make such investigations and inquiries as are necessary to ascertain whether the provisions of this Act are being complied with and may, at any reasonable time—
 - (a) enter any place where, in the officer's opinion formed on reasonable grounds—
 - (i) timber is sawn, hewn, remilled or otherwise processed; or
 - (ii) timber is or articles are sold, offered or exposed for sale, or stored; or
 - (iii) a preservative treatment is used; or
 - (iv) timber is seasoned; or
 - (v) timber is branded; or

- (vi) articles are manufactured;
and inspect and test any timber, preservative or article
and inspect any brand; and
 - (b) enter and inspect any preservative treatment plant; and
 - (c) enter any building site and inspect and test any timber or
article on that building site; and
 - (d) subject to section 39, enter any building in the erection
of which timber is being or has been used and inspect
and test any timber so used; and
 - (e) require any person to produce any accounts, records,
books or other documents which relate to, or which in
the opinion of the forest officer formed on reasonable
grounds relate to, the use or sale of timber, the
manufacture or sale of articles or the use or supply of
preservative; and
 - (f) take copies of, or extracts or notes from, any accounts,
records, books or other documents referred to in
paragraph (e).
- (2) In exercising a power or performing a function under
subsection (1), a forest officer may remove, or cause to be
removed, any of the following at the place for analysis or
testing—
- (a) timber, including, for example, timber that is part of
something else;
 - (b) a preservative.
- (3) A forest officer may seize any timber or article in respect of
which the officer suspects on reasonable grounds that an
offence has been committed against this Act.
- (4) A forest officer may remove any timber or article seized by
the officer under subsection (3) from the place of seizure or
allow such timber or article to remain at the place of seizure
and, in the latter case, fasten, secure or seal the same or any
door or aperture affording access to the same.
- (5) The marking with a broad arrow by a forest officer of any
timber or article seized shall be sufficient notification to all
persons of such seizure.

- (6) Where in the opinion of a forest officer who has seized any timber or article it is impractical to mark that timber or article in the manner mentioned in subsection (5), the forest officer may place in a conspicuous position upon any such timber or article a notice in the approved form signed by the officer and specifying the timber or article and the placing of that notice in that manner shall be sufficient notification to all persons of such seizure.
- (7) For the purpose of removing any timber or article pursuant to subsection (4) a forest officer may be accompanied by such persons and take into the place where the timber or article is situated such vehicles and equipment as the officer thinks fit.

39 Entry into dwelling house

- (1) Before, pursuant to section 38(1)(d), a forest officer enters a part of any building which part is used exclusively as a dwelling house the officer shall, save where the officer has the permission of the occupier of the part to the officer's entry, obtain from a justice a warrant to enter.
- (2) A justice who is satisfied upon the complaint of a forest officer that there is reasonable cause to suspect that there is in any building any timber or article in respect of which an offence against this Act has been committed may issue a warrant directed to the officer to enter the building during such hours of the day or night as the warrant specifies or, if the warrant so specifies, at any time.
- (3) A warrant shall, for the period of 1 month from the date of its issue, be sufficient authority for the forest officer to enter the building specified in the warrant and to exercise therein the officer's powers under this Act.
- (4) Subsection (1) does not apply in respect of the curtilage of any building.

40 Forest officer may require name and address

Any forest officer who—

- (a) finds any person committing or who reasonably suspects any person of having committed an offence against this Act; or
- (b) is making inquiries or investigations with a view to establishing whether or not an offence against this Act has been committed by any person; or
- (c) is of the opinion, formed on reasonable grounds, that the name and address of any person is required for the purpose of giving effect to any provision of this Act, or for the purpose of enabling the officer to exercise the officer's powers or perform the officer's functions;

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

41 Obstruction of forest officer etc.

- (1) A person must not—
 - (a) obstruct a forest officer in the exercise of the officer's powers or performance of the officer's functions, unless the person has a reasonable excuse; or
 - (b) give, agree to give, or offer to, any forest officer any gift or consideration as an inducement or reward for any act done or to be done, or any forbearance observed or to be observed, or any favour shown or to be shown, by such forest officer in or in respect of the exercise of the officer's powers or the performance of the officer's functions; or
 - (c) furnish information to a forest officer, being information, whether in documentary or any other form, that is in respect of a matter dealt with by this Act and that to the person's knowledge is false or misleading in a material particular.
- (2) For the purpose of subsection (1)(b), a gift or consideration shall be deemed to be given as an inducement or reward if the receipt or any expectation thereof would be in any way likely to influence the forest officer in the exercise of the officer's powers or the performance of the officer's functions.

- (3) A person shall not move or otherwise deal with any timber, article or other thing seized, removed or detained under this Act unless the person is a forest officer or a person authorised in that behalf by a forest officer.
- (4) In this section—
obstruct includes assault, hinder, insult, threaten and attempt to obstruct.

42 Timber or article may be detained

- (1) Any timber or article seized may, unless it is sooner established to the satisfaction of the chief executive that at the time of such seizure no offence in relation thereto had been committed against this Act, be detained for a period of 12 months, or, if within that period proceedings for an offence against this Act in relation thereto or proceedings for any offence in which such timber or article is or can properly be adduced in evidence have been instituted, until the final determination of those proceedings, including any appeal in the matter of those proceedings.
- (2) Upon any conviction for an offence against this Act in respect of any timber or article seized and detained under this Act or if (in any case where proceedings for an offence against this Act in respect of any such timber or article are not instituted) the owner thereof cannot be ascertained, an application may be made to a Magistrates Court exercising jurisdiction in the Magistrates Court District in which the timber or article is situated for its order that such timber or article be forfeited to Her Majesty and the court may make such an order.
- (3) Any person convicted of an offence against this Act in respect of any timber or article which has been removed under this Act shall be liable for all costs, charges and expenses incurred in handling, storing or otherwise dealing with that timber or article consequent upon the removal, and any sum for which any person is liable under this subsection is recoverable by the chief executive from the person by action as for a debt in any court of competent jurisdiction.
- (4) The production of a certificate purporting to be signed by a forest officer that any such costs, charges or expenses of an amount stated have been incurred by such forest officer shall

be prima facie evidence that the costs, charges and expenses were duly incurred and that the amount thereof so stated is the correct amount.

- (5) Any timber or article forfeited under this Act may be dealt with as the chief executive directs.

43 Damage upon seizure or removal

- (1) Subject to subsection (2), the chief executive or any forest officer shall not be responsible for any loss or damage caused by—
- (a) the removal of any portion or sample of timber under section 38(2); or
 - (b) the seizure of any timber or article under section 38(3) or its detention under section 42; or
 - (c) the removal of any timber or article under section 38(4).
- (2) If upon tests or further investigations made in respect of—
- (a) any timber removed from a building or article under section 38(2), the chief executive is satisfied that an offence against this Act with respect thereto has not been committed, or if any proceedings for an alleged offence against this Act in respect thereof are finally dismissed, the chief executive shall—
 - (i) restore as nearly as may be any building or article from which the timber was removed to the state in which that building or article existed immediately before the removal of that timber; or
 - (ii) compensate the owner of the building or article for any loss or damage caused by the removal of that timber; or
 - (b) any timber or article seized under section 38(3) or detained under section 42, the chief executive is satisfied that an offence against this Act with respect thereto has not been committed the chief executive shall return the timber or article to the person from whom it was seized, and in that event or if any proceedings for an alleged offence against this Act in respect thereof are finally dismissed, shall compensate the owner of the timber or

article for any loss or damage caused by the seizure or seizure and detention of that timber or article.

- (3) Notwithstanding the provisions of subsection (2), if any timber is removed from a building or article under section 38(2) or any timber or article is seized under section 38(3) or detained under section 42 consequent upon the complaint of a person that an offence against this Act has been committed in respect of the timber or article, that person, and not the chief executive, shall be liable—
 - (a) in a case to which subsection (2)(a) applies—to effect the restoration or pay the compensation; and
 - (b) in a case to which subsection (2)(b) applies—to pay the compensation.

44 Offences

- (1) A person who contravenes or fails to comply with any provision of this Act or any condition of an authorisation, registration or recognition under this Act or fails to comply with the lawful requirement of a forest officer made under this Act is guilty of an offence against this Act.
- (2) An offence against this Act may be prosecuted in a summary way under the *Justices Act 1886* on the complaint of—
 - (a) the chief executive or any forest officer; or
 - (b) a person authorised in writing by the chief executive; or
 - (c) a person aggrieved by the commission of the offence.
- (3) The authority of a person to make a complaint referred to in subsection (2) shall be presumed until the contrary is proved.
- (4) A person guilty of an offence against this Act is liable, if no other penalty is expressly provided in respect of the offence, to a penalty of—
 - (a) where the person is a natural person—20 penalty units; or
 - (b) where the person is a body corporate—100 penalty units.

44A Proceedings for offences

A proceeding for an offence against this Act must start—

- (a) within 1 year after the offence is committed; or
- (b) within 1 year after the commission of the offence comes to the complainant's knowledge, but within 7 years after the commission of the offence.

45 Appropriation of penalties

All penalties recovered in relation to proceedings under this Act shall be paid to the consolidated fund.

46 Limitations with respect to certain proceedings

- (1) A proceeding may only be instituted for an offence against section 33 or 34 if the purchaser has lodged a complaint with the vendor within 14 days after the date of delivery of the timber or article to the purchaser.
- (2) In any action, suit, or proceeding under this Act, with respect to the sale of timber held out as being kiln dried, air dried, dried or seasoned, where it is open and relevant to show that the timber was adequately protected against moisture reabsorption at all material times after property in the timber passed under the sale, the onus of proof of that matter shall be on the plaintiff or complainant.

48 Judicial notice

Upon its publication in the gazette, judicial notice shall be taken of a notification under part 3.

49 Sale of untreated timber branded with H level

- (1) A person shall not sell or offer or expose for sale timber branded with a brand showing a H level where the timber has not been treated by means of an approved preservative treatment.
- (2) It is a defence to a prosecution brought in respect of an offence under subsection (1) if the defendant proves that—

- (a) the timber was not described or held out by the defendant or the defendant's employees or agents as being preservative treated; and
- (b) the timber is suitable for use in the conditions specified in the regulations in respect of the H level with which it is branded.

50 Evidentiary provisions

In any proceedings for an offence against this Act—

- (a) a certificate purporting to be under the hand of the chief executive stating that—
 - (i) on a specified date or during a specified period a preservative treatment was or was not an approved preservative treatment; or
 - (ii) on a specified date or during a specified period a brand was or was not registered under a specified provision of this Act or was or was not a recognised brand; or
 - (iii) on a specified date or during a specified period a brand was or was not a brand registered under this Act in respect of an authorisation of the chief executive granted under section 22(1)(a) or a specified approved preservative treatment or was or was not a recognised brand in respect of a specified approved preservative treatment; or
 - (iv) that any authorisation, registration or recognition under this Act was unconditional or subject to the conditions specified therein;

shall, upon its production in the proceedings, be prima facie evidence of those matters and, in the absence of evidence to the contrary, conclusive evidence of those matters;

- (b) a certificate purporting to be under the hand of a person authorised by the chief executive to issue the same stating that any timber, or timber contained in an article, specified in the certificate—
 - (i) has lyctid-susceptible timber; or

- (ii) has not been treated by means of an approved preservative treatment; or
- (iii) shows lyctid-susceptible timber on more than one-quarter of its perimeter; or
- (iv) has the moisture content specified in that certificate;

shall, upon its production in the proceedings, be prima facie evidence of those matters and, in the absence of evidence to the contrary, conclusive evidence of those matters;

- (c) it shall not be necessary to prove the appointment of the chief executive or any forest officer.

51 Proof

- (1) Where in any proceedings under this Act an offence is proved in regard to any portion or sample of timber such offence shall prima facie be deemed to have been proved with regard to the whole lot of timber from which that portion or sample was taken.
- (2) In any action, suit, or proceeding under this Act, proof of the use, in any building intended or used for residential, educational, religious, community or business purposes, of any piece of timber which shows lyctid-susceptible timber on more than one-quarter of its perimeter shall be conclusive evidence that an attack by lyctids will detrimentally affect the use or service for which the building is intended.

52 Approval of forms

The chief executive may approve forms for use under this Act.

53 Regulation making power

- (1) The Governor in Council may make regulations under this Act.
- (1A) A regulation may be made for or about—
 - (a) the fees to be charged and the matters in relation to which such fees shall be charged;

- (b) providing for the approval of the chief executive to be the applicable standard for a matter;
 - (c) registers to be kept for the purposes of this Act;
 - (e) the proof of any standard prescribed under this Act and proving as to whether or not on a particular date or during a particular period there was or was not a standard in force;
 - (f) the renewal of authorisations and registrations under this Act;
 - (g) penalties not exceeding 20 penalty units for any breach of the regulations.
- (3) The regulations shall—
- (a) list the H levels that may be assigned by the chief executive under this Act to timber treated by means of an approved preservative treatment; and
 - (b) in respect of each H level, specify the conditions in which it is appropriate to use timber to which that H level has been assigned.

Part 7 **Transitional provision**

54 **Timber Utilization and Marketing Act 1987 references**

In an Act or document, a reference to the *Timber Utilization and Marketing Act 1987* is a reference to this Act.

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 8 November 2001. Future amendments of the Timber Utilisation and Marketing Act 1987 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	1995 Act No. 58	28 November 1995	11 December 1995
1A	2001 Act No. 63	25 October 2001	8 November 2001

5 Tables in earlier reprints

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

6 List of legislation

Timber Utilisation and Marketing Act 1987 No. 30 (prev Timber Utilization and Marketing Act 1987)

date of assent 23 April 1987

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1987 (proc pubd gaz 20 June 1987 p 1763)

amending legislation—

Public Service (Administrative Arrangements) Act (No. 2) 1990 No. 80 s 3 sch 7

date of assent 14 November 1990

commenced on date of assent

Primary Industries Corporation Act 1992 No. 15 ss 1–2, 13 sch

date of assent 13 May 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 30 September 1992 (1992 SL No. 271)

Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1 (as amd by 1995 No. 58 s 4 sch 1)

date of assent 28 November 1995

commenced on date of assent

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1

date of assent 28 November 1995

commenced on date of assent

Primary Industries Legislation Amendment Act 2001 No. 63 s 1, pt 8, s 58 sch

date of assent 25 October 2001

commenced on date of assent

7 List of annotations

Title

amd R1 (see RA s 40)

Short title

s 1 amd 1992 No. 15 s 13 sch

Commencement

s 2 om R1 (see RA s 37)

Arrangement

s 3 om 1992 No. 15 s 13 sch

Repeal

s 4 om 1992 No. 15 s 13 sch

Transitional provisions

s 5 om 1992 No. 15 s 13 sch

Definitions

prov hdg sub 2001 No. 63 s 58 sch

s 6 def “**approved form**” ins 1995 No. 57 s 4 sch 1
 def “**approved preservative treatment**” amd 1992 No. 15 s 13 sch
 def “**chief executive**” ins 1992 No. 15 s 13 sch
 om 1995 No. 58 s 4 sch 1
 def “**Conservator of Forests**” om 1992 No. 15 s 13 sch
 def “**Director-General**” ins 1990 No. 80 s 3 sch 7
 om 1992 No. 15 s 13 sch
 def “**duty**” om 2001 No. 63 s 28
 def “**lyctid-susceptible timber**” amd 1992 No. 15 s 13 sch
 def “**Minister**” om 1992 No. 15 s 13 sch
 def “**power**” om 1992 No. 15 s 13 sch
 def “**recognised brand**” amd 1992 No. 15 s 13 sch
 def “**the repealed Acts**” om 1992 No. 15 s 13 sch
 def “**trade name**” sub 1992 No. 15 s 13 sch

Statements or representations about timber

prov hdg ins 2001 No. 63 s 58 sch

s 7 prev s 7 sub 1990 No. 80 s 3 sch 7
 om 1992 No. 15 s 13 sch
 pres s 7 (prev s 6(2)) amd 2001 No. 63 s 58 sch
 renum 2001 No. 63 s 58 sch

References to persons in relation to authorisations or brands

prov hdg ins 2001 No. 63 s 58 sch

s 8 prev s 8 om 1992 No. 15 s 13 sch
 pres s 8 (prev s 6(3)) renum 2001 No. 63 s 58 sch

Sale of timber described as being free from lyctid-susceptible timber

s 10 amd 1995 No. 57 s 4 sch 1

Approval of chief executive

prov hdg amd 1992 No. 15 s 13 sch

s 15 amd 1992 No. 15 s 13 sch

Application for approval of chief executive

prov hdg amd 1992 No. 15 s 13 sch

s 16 amd 1992 No. 15 s 13 sch; 1995 No. 57 s 4 sch 1

Cancellation of approval

s 17 amd 1992 No. 15 s 13 sch

Notice of cancellation to be given

s 18 amd 1992 No. 15 s 13 sch

Authorisation to use preservative treatment and registration of brand

s 19 amd 1992 No. 15 s 13 sch; 1995 No. 57 s 4 sch 1

Application for registration of brand to be used to brand imported timber

s 20 amd 1992 No. 15 s 13 sch; 1995 No. 57 s 4 sch 1

Application for registration of brand to be used to brand remilled timber

s 21 amd 1992 No. 15 s 13 sch; 1995 No. 57 s 4 sch 1

Determination of application

s 22 amd 1992 No. 15 s 13 sch

Cancellation of authorisation and cancellation or suspension of registration

s 24 amd 1992 No. 15 s 13 sch

Renewal of authorisation and registration

s 25 amd 1992 No. 15 s 13 sch; 1995 No. 57 s 4 sch 1

Transfer of authorisation etc.

s 26 amd 1992 No. 15 s 13 sch; 1995 No. 57 s 4 sch 1

Recognised brands

s 27 amd 1992 No. 15 s 13 sch; 1995 No. 57 s 4 sch 1

Sale of preservative-treated timber

s 29 amd 1992 No. 15 s 13 sch; 1995 No. 57 s 4 sch 1

Certain timber not to be removed from preservative treatment plant

s 30 amd 1992 No. 15 s 13 sch

Certain remilled timber not to be removed from resawmill

s 31 amd 1992 No. 15 s 13 sch

Sale of dried or seasoned timber

s 33 amd 1995 No. 57 s 4 sch 1

Appeal

s 37 amd 1992 No. 15 s 13 sch

Powers of forest officers

s 38 amd 1995 No. 57 s 4 sch 1; 2001 No. 63 s 29

Forest officer may require name and address

s 40 amd 2001 No. 63 s 30

Obstruction of forest officer etc.

s 41 amd 2001 No. 63 s 31

Timber or article may be detained

s 42 amd 1992 No. 15 s 13 sch

Damage upon seizure or removal

s 43 amd 1992 No. 15 s 13 sch

Offences

s 44 amd 1992 No. 15 s 13 sch; 2001 No. 63 s 32

Proceedings for offences

s 44A ins 2001 No. 63 s 33

Service of notices etc.

s 47 om 1995 No. 57 s 4 sch 1

Sale of untreated timber branded with H level

s 49 amd 1995 No. 57 s 4 sch 1

Evidentiary provisions

s 50 amd 1990 No. 80 s 3 sch 7; 1992 No. 15 s 13 sch

Approval of formss 52 prev s 52 om 1992 No. 15 s 13 sch
ins 1995 No. 57 s 4 sch 1**Regulation making power**

prov hdg sub 1995 No. 57 s 4 sch 1

s 53 amd 1992 No. 15 s 13 sch; 1995 No. 58 s 4 sch 1

PART 7—TRANSITIONAL PROVISIONS

pt hdg ins 1995 No. 57 s 4 sch 1

Timber Utilization and Marketing Act 1987 references

s 54 ins 1995 No. 57 s 4 sch 1

Approved formss 55 ins 1995 No. 57 s 4 sch 1 (amd 1995 No. 58 s 4 sch 1)
exp 28 February 1996 (see s 55(3))**SCHEDULE 1**

om 1992 No. 15 s 13 sch

SCHEDULE 2

om 1992 No. 15 s 13 sch

8 List of forms notified or published in the gazette

(The following information about forms is taken from the gazette. Because failure to notify or publish a form in the gazette does not invalidate the form, it may be necessary to check with the relevant government department for the latest information about forms (see SIA s 58(8)).)

Form FDU 190 Version 1 November 1994—Application for Approval of Preservative Treatment(s)

pubd gaz 16 December 1994 p 1785

Form FDU 191 Version 1 November 1994—Application for Registration of Brand (Imported Timber)

pubd gaz 16 December 1994 p 1785

Form FDU 192 Version 1 November 1994—Application for Authorisation to Use Approved Preservative Treatment(s) and Registration of Brand
pubd gaz 16 December 1994 p 1785

Form FDU 193 Version 1 November 1994—Application for Transfer of Authorisation(s) and Registration of Brand(s)
pubd gaz 16 December 1994 p 1785

Form FDU 194 Version 1 November 1994—Application for Renewal of Authorisation(s) and Registration of Brand(s)
pubd gaz 16 December 1994 p 1785

Form FDU 195 Version 1 November 1994—Application for Registration of Brand (Remilled Timber)
pubd gaz 16 December 1994 p 1785

Form FDU 196 Version 1 November 1994—Application for Recognition of Brand(s)
pubd gaz 16 December 1994 p 1785

Form FDU 197 Version 1 November 1994—Notice of Seizure of Timber or Article
pubd gaz 16 December 1994 p 1785