

# FORESTRY AMENDMENT BILL 1999

## EXPLANATORY NOTES

### GENERAL OUTLINE

#### Short Title

The Act will be known as the *Forestry Amendment Bill 1999*.

#### Objectives of the Legislation

The principal objective of the Bill is to amend the *Forestry Act 1959* in order to give effect to part of the Queensland Government plan for the South-East Queensland Regional Forest Agreement.

#### Reasons for the Bill

On 16 September 1999, the Queensland Government announced the Queensland Government Plan for the South-East Queensland Regional Forest Agreement.

The Queensland Government Plan was underpinned by an Agreement between the Australian Rainforest Conservation Society, Queensland Conservation Council, Wilderness Society, Queensland Timber Board and the Queensland Government (“the Agreement”).

The Agreement provides, inter alia, for the grant of a twenty-five year wood supply agreement in the form of sales permits (ending 2024), with respect to Crown native forest hardwood sawlogs, for most current allocation sawlog holders in south east Queensland.

Further, the Agreement provides that the twenty-five year agreements will make provision for compensation in certain circumstances (to be set out in the sales permits) and to also be tradeable instruments. Where a mill seeks to sell their wood supply agreement or their business, the Queensland Government will have the first right of refusal over purchasing the agreement and business at a fair and reasonable market price.

This Bill is designed to implement part of the South-East Queensland Forest Agreement. In particular, the Bill is designed to provide for critical long term industry security and certainty.

### **The way in which the policy objectives will be achieved by the Bill**

The policy objectives will be achieved by the Bill as follows:

- confirmation of the power to grant twenty-five year wood supply sales permits, in south east Queensland, with respect to Crown native forest hardwood;
- provision that the sales permit may provide for compensation to the permit holder in particular circumstances;
- a requirement that the sales permit holder give the State the first right of refusal to an assignment or transfer of the sales permit;
- authorisation under Competition legislation of the payment of compensation to the permittee and the State's first right of refusal to an assignment or transfer of the sales permit;
- provision for the extension for ten years of the legislated exemption from the provisions of the *Trade Practices Act 1974* (TPA) for aspects of the native saw log allocation system.

### **Estimated administrative costs to government for implementation of the Bill**

It is not anticipated that there will be any administrative cost to government for implementation of the Bill.

### **Consistency with fundamental legislative principles**

The Bill is consistent with fundamental legislative principles.

### **Consultation**

#### *Government*

Consultation on the content of this Submission has occurred with the Department of the Premier and Cabinet, Department of State Development and Queensland Treasury.

The Office of Parliamentary Counsel has prepared the Bill.

*Industry*

Extensive consultation with the community was undertaken throughout the Regional Forest Agreement process and during the Review of the Forestry Act . The Queensland Timber Board has been consulted on the specific amendments in this Bill. The Australian Rainforest Conservation Society, the Queensland Conservation Council and the Wilderness Society have been consulted in the preparation of this Bill.

**Results of consultation***Government*

Government was a signatory to the Agreement and supports its implementation. Native Title Services in the Department of Premier and Cabinet have been consulted regarding the proposed amendments and have no concerns with the amendments.

*Industry*

The Queensland Government plan for the South-East Queensland Forest Agreement was underpinned by an Agreement between the Australian Rainforest Conservation Society, Queensland Conservation Council, Wilderness Society, Queensland Timber Board and the Queensland Government.

There is also significant industry and community support for the retention of some non-competitive allocation of crown native sawlogs as provided for by the TPA exemption.

**NOTES ON PROVISIONS****PART 1—PRELIMINARY***Division 1—Introduction***Short Title**

*Clause 1* provides that the short title of the Act will be the *Forestry Amendment Act 1999*.

**Act amended**

*Clause 2* provides that this Bill amends the *Forestry Act 1959* (the principal Act).

**Amendment of s 5 (Definitions)**

*Clause 3* amends section 5 of the principal Act by inserting definitions of “native forest hardwood sawlogs”, “native forest sawlog allocation system” and “sales permit”.

**Amendment of s 46 (Corporation may sell forest products or quarry material the property of the Crown)**

*Clause 4* makes a minor amendment to subsection 46(2) of the principal Act to modernise its wording. The clause also inserts a new subsection 46(3) into the principal Act. The new subclause confirms the power of the Primary Industries Corporation to grant sales permits for getting native forest hardwood sawlogs under the native forest sawlog system for south-east Queensland:

- for a period of 25 years;
- provide for compensation to the permit holder in stated circumstances; and
- require the permittee to give the State the first right of refusal to an assignment or transfer of the permit. In the case of any such transfer, the State would be subject to section 59 of the Act. Section 59 requires the consent of the Primary Industries Corporation to any assignment or transfer of a permit.

**Amendment of s 58 (Power to cancel, suspend, permit, licence etc.)**

*Clause 5* inserts a new subsection (8) into section 58 of the principal Act. Section 58 deals with the power of the Primary Industries Corporation to cancel or suspend permits, licences etc. Subsection (7) of section 58 provides that no compensation is payable on forfeiture where a permit is cancelled. The new subsection (8) will provide that subsection (7) does not prevent the payment of compensation for suspension or cancellation of a sales permit in particular circumstances if the permit provides for compensation to be paid in the circumstance.

**Amendment of s 69C (Specific authorisation for grant of permit to get native forest sawlogs)**

*Clause 6* amends the definition of “permit condition” in section 69C of the principal Act. Under section 69C, a “permit condition” for the grant of a permit to get native forest sawlogs is authorised under Competition legislation. The definition of “permit condition” is extended to include:

- the payment of compensation to the permittee in stated circumstances; and
- the State’s first right of refusal to an assignment or transfer of the permit.

**Amendment of s 69D (Expiry of pt 7A)**

*Clause 7* extends, for ten years, the legislated exemption from the provisions of the *Trade Practices Act 1974* (TPA). This exemption protects industry and Government from any possible prosecution under the TPA for behaviour that may be deemed to contravene the restrictive trade provisions of the TPA (Part IV). The exemption is currently valid until 27 November 1999. The extension follows the results of a public benefit test on the native forest sawlog allocation scheme that demonstrated the scheme is in the public benefit. The extension is for ten years because, under National Competition Policy, Acts are to be reviewed every ten years.