

Forestry and Another Act Amendment Bill 2014

Explanatory Notes

Short title

The Short title of the Bill is the Forestry and Another Act Amendment Bill 2014.

Policy objectives and the reasons for them

The main objectives of the Bill are to:

1. update the *Forestry Act 1959* (the Forestry Act) to apply current legislative standards and ensure consistency with contemporary legislation;
2. simplify commercial activity permit requirements to reduce red tape;
3. clarify and improve the operation of the Forestry Act; and
4. make amendments required to allow the remake of the Forestry Regulation 1998.

Under automatic expiry provisions in the *Statutory Instruments Act 1992*, the Forestry Regulation 1998 (the Regulation) must be remade. The Regulation was scheduled to expire in 2009 but its expiry was extended on the basis that provisions of the Forestry Act were under review. The Regulation is now scheduled to expire on 31 August 2014 and needs to be remade before this date.

The relevant provisions of the Forestry Act have been reviewed, and this Bill will make amendments that need to proceed before the Regulation is remade.

The majority of these amendments involve transferring specific provisions from the Regulation into the Forestry Act, in order to comply with modern drafting practice and to meet the fundamental legislative principles set out in the *Legislative Standards Act 1992*.

Offences and the penalties associated with committing a number of offences under the Forestry Act will also be standardised with more contemporary legislation to bring the forestry legislation up to date.

This consistency will benefit the Department of National Parks, Recreation, Sport and Racing (NPRSR) and the Department of Agriculture, Fisheries and Forestry (DAFF), as both departments have responsibilities for lands managed under the Forestry Act including State forests, timber reserves and forest entitlement areas (areas of commercial timber and the lands on which they stand that are reserved to the State when land is being freeholded). The removal of unnecessary inconsistencies in laws in relation to the same activity across different lands, such as national parks and State forests will also be of significant benefit to the general community.

Miscellaneous amendments will also be made to assist with clarifying the interpretation and operation of the Forestry Act and to improve the administration of commercial activity permits under both the Forestry Act and the *Recreation Areas Management Act 2006* (RAM Act).

Achievement of policy objectives

To achieve its objectives, the Bill will make amendments to the Forestry Act and the RAM Act in five key areas:

1. transferring officer powers from the Regulation into the Act;
2. inserting officer powers for the management of camping and animals;
3. updating maximum penalties for offences;
4. simplifying commercial activity permit requirements; and
5. provisions to clarify and improve the operation of the Act.

Transferring officer powers from the Regulation into the Forestry Act

The Forestry Act provides for the appointment of forest officers and plantation officers. Forest officers are generally public service employees such as Queensland Parks and Wildlife Service (QPWS) and DAFF rangers, with responsibility for the management of State forest lands. Plantation officers are employees of HQPlantations Pty Ltd, the company licenced to manage specific State plantation forests. Forest officers and plantation officers can exercise powers specified in the forestry legislation.

The majority of powers granted to forest officers and plantation officers are specified in the Forestry Act. However, at present the Forestry Regulation also contains some provisions specifying officer powers. These provisions will be moved from the Regulation into the Forestry Act, so that all officer powers will be consolidated into the Act.

This is intended to ensure compliance with the fundamental legislative principle that legislation should have sufficient regard to the rights and liberties of individuals and the institution of Parliament. In this regard, the Queensland Legislation handbook states: ‘The greater the level of potential interference with individuals' rights and liberties, or the institution of Parliament, the greater will be the likelihood that the power should be prescribed in an Act of Parliament and not delegated below Parliament’.

The required transfer of the officer powers will be given effect by a two stage process – the Bill will amend the Forestry Act to insert the relevant powers and then the Regulation (when it is remade) will omit those powers. The relevant amendments in the Bill will be commenced on a date to be proclaimed so that they can commence at the same time as the remade Regulation.

The powers of officers in the Regulation are usually accompanied by associated offence provisions (e.g. the power to give a direction has the associated offence of failing to comply with the direction given). The transfer of the officer powers to the Forestry Act will also involve the transfer of the associated offence provisions.

In redrafting the officer powers for inclusion in the Bill, unintended inconsistencies that have crept in over time in relation to different forest areas have been addressed. For example, at present, for safety reasons, a forest officer can direct a person to leave a part of a State forest that is a designated forest recreation area, but cannot direct a person to leave another part of the same State forest. Forest recreation areas are only small parts of the State forest estate. To be effective, the power to direct someone to leave if there is a safety issue (such as a wildfire) must extend to the whole of a State forest or a timber reserve.

Contemporary standards have been applied to existing powers. For example, currently the Forestry Act provides that an officer can direct a person to leave a State forest if the person is found committing an offence, without any additional specifications regarding the exercise of that power. The amendments in the Bill ensure that a person found committing an offence cannot be directed to leave unless the officer reasonably believes that this is necessary in order to prevent continuation of the offence, secure evidence of the offence, or prevent commission of another offence.

The amendments in the Bill include practical compliance measures, consistent with existing provisions for protected areas and recreation areas in other legislation, allowing an officer's existing powers to be more adequately applied. For example, a forest officer will be able to require a person found committing an offence to stop and not move on until the officer has exercised the officer's relevant powers, such as establishing the person's name and address and questioning the person about the offence.

In the case of an offence or an emergency situation, and where necessary, a forest officer may take reasonable steps to secure compliance with a direction to leave the area, including using reasonable force. This power would not be exercised except as a last resort, for example, in an emergency situation where a person's refusal to leave would put other people (such as other forest users or emergency services personnel) at risk, and it is not possible to obtain police support at the time.

The power to secure compliance with such a direction has been available to QPWS officers for protected areas and recreation areas since 2006. There are no reported cases where it has been necessary for an officer to physically remove anyone from an area, but in several instances, it is believed that warning a person about this option has been sufficient to secure voluntary compliance with the direction to leave.

Officer powers for the management of camping

Amendments in the Bill will provide forest officers with the power to give a person a direction to leave a camping site, and remove all their camping equipment. An officer will be able to give the direction in two sets of circumstances:

1. if the natural environment of the site has been degraded by camping at the site (e.g. to allow the site to regenerate or be restored), or the site needs to be vacated for health and safety reasons, including in emergency situations; or
2. if the person has been camping at the same site, or has camping equipment at the same site, for 30 days or more and it is considered necessary or desirable to allow other people access to the particular site.

In circumstance (1) above, the direction to vacate the camping site may be given orally or in writing. Where practicable, the direction will be given in writing, and will state the reason why it has been given and warn that it is an offence to fail to comply. However, oral directions may be appropriate and necessary particularly where large numbers of campers are involved in emergency situations, such as an approaching cyclone or wildfire.

In circumstance (2) above, a direction to vacate the camp site must be in writing, state the reason why the direction has been given and warn that it is an offence to fail to comply. Also, the direction can only be given if there is another part of the area available for the person to camp. This will allow officers to require someone to move to another site if, for example, the same site has been occupied on an ongoing basis by a group of persons obtaining sequential camping permits.

In both of these circumstances, a direction to leave a camping site must include a stated period in which the person cannot return to the site. This is necessary to prevent the person moving out of the site and then moving back in immediately or at the first other opportunity.

QPWS officers have had the ability to give directions to leave camping sites in protected areas and recreation areas since 2006. The amendments in the Bill will provide officers with consistent powers in this regard over State forests, protected areas and recreation areas.

Officer powers for the management of animals

Amendments in the Bill will provide forest officers, and plantation officers in regard to plantation licence areas, with the power to direct a person in charge of an animal (other than stock) in a State forest or timber reserve to remove the animal from the area. The direction can be given if the officer reasonably believes that the animal is unlawfully in the area, or has been causing a disturbance, or is a danger to persons or wildlife. This recognises the right of other individuals and of wildlife in the area to be reasonably protected from nuisance and danger (such as an aggressive dog in a day use area). The person would not be allowed to return the animal to the area for 24 hours. This is intended to ensure that the animal is not briefly removed and then brought back.

QPWS officers have had the ability to give such a direction in relation to animals in protected areas and recreation areas since 2006. The amendment in the Bill will provide officers with consistent powers in this regard over State forests, protected areas and recreation areas.

Updating maximum penalties for offences

Current maximum penalties for a range of offences on State forests relating to inappropriate conduct and damage to State assets and property are significantly lower than penalties in more contemporary legislation such as the *Recreation Areas Management Act 2006* and the *Nature Conservation Act 1992*.

Such offences include things such as unlawful lighting of a fire, polluting watercourses, littering, burying waste, dumping noxious materials, unlawful use of vehicles and vessels, conducting commercial or group activities without a permit, unlawfully possessing traps, firearms or explosive devices, unauthorised introduction of plants, and failing to comply with a direction to leave a State forest for public safety purposes.

Most of these offences are currently located in the Forestry Regulation, with a maximum penalty able to be imposed by a court of 10 penalty units – the equivalent of \$1100. This maximum penalty is considered an inadequate disincentive to someone committing potentially serious offences.

Significantly higher court imposed penalties are needed in cases where, for example, a person causes a fire in a State forest that destroys native forest or commercial timber, damages public infrastructure and private property, or a person pollutes a State forest watercourse, potentially contaminating water used for drinking and/or for watering stock.

The Act does not allow penalties of more than 20 penalty units for offences in regulations under the Act. Therefore, in order to provide higher penalties for serious offences, a number of relevant offence provisions need to be moved from the Regulation to the Act. Locating these provisions in the Act will comply with the (former) Scrutiny of Legislation Committee's preference for all offences with penalties above 20 penalty units to be in primary legislation, as indicated in section 6.9 of the Queensland Legislation Handbook.

A two stage process, as previously outlined, will be applied to move the relevant provisions from the Regulation to the Act. This Bill will amend the Act to insert the relevant offences, which will subsequently be omitted from the Regulation (when it is remade). The penalties to be applied will be consistent with those for equivalent offences in protected areas and recreation areas. This means that the maximum penalties able to be imposed by a court will significantly increase in some cases, for example, from 10 penalty units to 165 penalty units for lighting a fire where fires are prohibited, and from 10 penalty units to 50 penalty units for polluting water.

In a few instances, current penalties in the forestry legislation are higher than those for equivalent offences in the other legislation. In these cases, the Bill will reduce the maximum penalty in the forestry legislation to achieve consistency, for example, the maximum penalty able to be imposed by a court for camping without a permit will be reduced from 100 penalty units to 20 penalty units, and similarly, the maximum penalty for failing to display a camping tag will fall from 10 penalty units to 2 penalty units.

Following passage of the Bill, amendments to the State Penalties Enforcement Regulation 2000 (SPER Regulation) will be required to provide for infringement notices for the amended offences in the Act, and for offences in the Regulation when it is remade.

Simplifying commercial activity permit requirements

The Nature Conservation (Administration) Regulation 2006, Forestry Regulation and *Recreation Areas Management Act 2006* require commercial activities in protected areas, State forests and recreation areas respectively, to be authorised by commercial activity permits or agreements. This enables regulation of these activities and generates a return to the State in return for the commercial use of these lands.

At present, commercial filming and photography is exempt from this permit requirement if there are 2 or less people involved and no structures are used.

A review of commercial activity permits granted for filming and photography found that the large majority of these permits were for small scale activities involving 10 people or less. The Bill will therefore amend the definition of 'commercial activity' in the Forestry Act and the RAM Act to extend the current permit exemption from '2 or less people' to '10 or less people' (where no structures are involved) to reflect the low level of risk associated with this small scale of activity. Larger scale filming and photography activities, and those involving structures, will continue to be regulated.

Additional amendments in the Bill are included to improve the administration of commercial activity permits. Currently commercial activity permits cannot be renewed if the holder of an expiring permit wants to continue undertaking the same commercial activity in the same location(s). A new application must be made for a new permit, which is subject to the same assessment process as the original permit, even if the permit activities and conditions do not need to change and the original permit assessment remains valid. Amendments to the Forestry Act and the RAM Act are included in this Bill to allow for commercial activity permit renewals.

Miscellaneous provisions to clarify the operation of the Act

The Bill includes a number of miscellaneous amendments to assist with, and improve the operation and interpretation of the forestry legislation, for example:

- clarifying administrative matters relating to the appointment of forest officers;
- providing for the issue and display of officers' identity cards;
- clarifying permitting arrangements for native timber and quarry materials including permits to allow for searching for quarry material to support infrastructure projects;
- allowing a warrant issued to a forest officer to be executed if necessary by another forest officer;
- clarifying that sales permits for forest products and quarry materials may be granted by auction, tender or directly in response to an application;
- removing a redundant reference regarding sawlog allocation;
- amending the definition of 'recreational purposes' to include recreational services provided to forest users by a business;
- applying provisions consistently across State forests and timber reserves, for example expanding the ability to use regulatory notices on timber reserves as well as State forests;
- including provisions relating to booking a campsite over the phone or internet; and
- increasing the term of a stock grazing permit from 7 to 10 years.

Most of these miscellaneous amendments serve to clarify existing provisions and achieve consistency with other legislation. At present, the Forestry Act does not require the issue of identity cards to appointed officers, and an officer exercising powers under the Act is required to produce their 'certificate of appointment'. It is not practical for officers who work in field situations to carry a paper certificate at all times. The Bill includes amendments to implement contemporary practices relating to the issue of identity cards and their display when required.

At present, the Forestry Act allows for a warrant to be issued to a forest officer for 'the forest officer' to exercise specified powers for a period of up to one month. Another forest officer is not able to exercise the powers under the warrant, for example if the original forest officer is sick or on leave. The Bill therefore amends this provision to allow a warrant to be issued for exercise by the officer to whom it is issued or by another forest officer, to ensure that warrants can be executed in a timely manner in the event of the forest officer who sought the warrant being unable to perform that function. This is consistent with contemporary practice and with related legislation, e.g. legislation for the management of protected areas and recreation areas.

Sections 33 and 34 of the Act allow the chief executive to consider the possibility of applying a State forest area to 'recreational purposes', which is defined in schedule 3 of the Act as 'any purpose other than a purpose of business'. However, allowing a business to provide a particular recreational service on a part of a State forest may be the most effective means of providing that service. The Bill therefore amends the definition of 'recreational purpose' to allow it to cover a recreational service provided by a business. This is consistent with Queensland Government policy to improve access to recreational opportunities on public lands. The purpose of this amendment is to allow for recreational opportunities within State forests where the activity is enhanced by commercial provision. The amendment will provide a broader scope than the current provision for business activities on State forests that provide recreational services to the community. Any new recreational activity provided by a business will require specific authorisation and will be subject to appropriate conditions to ensure the activity is properly managed.

Expanding the use of regulatory notices to include their use on timber reserves will enable consistent management. Regulatory notices are used to regulate the management and use of State forests, most commonly in relation to vehicles and the control of and use of animals. Currently timber reserves and forest entitlement areas are not included in the provisions relating to the use of regulatory notices, and there is no compelling reason for this omission. Consequently the Bill will remedy this situation to enable regulatory notices to be used in the management of these areas in the same way as they are currently used in State forests.

The Bill will also update the Forestry Act to include provisions clarifying how camping permits booked over the phone or internet are granted and the procedures applying to such bookings. These provisions reflect existing legislation in the *Nature Conservation Act 1992* and will ensure consistency for the community and forest area managers in relation to camping bookings made for State forest camp grounds.

The Bill will also seek consistency with contemporary legislation with regard to the term for stock grazing permits. Under the Forestry Act, stock grazing permits can currently be granted for 7 years over a State forest, while similar permits for conservation parks and resources reserves under the *Nature Conservation Act 1992* are able to be granted for up to 10 years*. To improve consistency across the two pieces of legislation, the Bill includes an amendment to increase the maximum term for a stock grazing permit under the Forestry Act from 7 to 10 years.

*Under amendments to the *Nature Conservation Act 1992* that are yet to commence, conservation parks and resources reserves will become regional parks.

Alternative ways of achieving policy objectives

The policy objectives of the Bill involve the specific restructuring, clarification and streamlining of the existing legislative framework, therefore an amendment Bill is the appropriate approach and alternative approaches were not considered. The Office of Best Practice Regulation have assessed the proposed amendments and determined that they do not impose a legislative or financial burden on the community, business or government. Updating the Forestry Act and the RAM Act to achieve consistency with other contemporary legislation will reduce confusion in the community and benefit administering government departments.

Estimated cost for government implementation

The amendment of provisions relating to commercial filming and photography will result in a slight loss of revenue resulting from the reduction of this permit requirement and the associated loss of fees received by the State for this level of commercial activity. The revenue reduction would be partially offset by savings associated with the removal of administration and assessment costs associated with these permits, and can be further justified on the basis that it is removing red tape for businesses undertaking these activities. Remaining amendments contained within the Bill are not considered to have any implementation costs for Government.

Consistency with fundamental legislative principles

The Bill has been examined for compliance with the fundamental legislative principles outlined in section 4 of the *Legislative Standards Act 1992* and is considered to have sufficient regard to the rights and liberties of individuals and the institution of Parliament. Several potential issues were identified during drafting of the Bill and are addressed below.

Legislation has sufficient regard to the rights and liberties of individuals

Infringing on the rights and liberties of individuals may occur in a number of circumstances, for example, by introducing penalties that are disproportional to the offence committed or creating individual liabilities that are unfair in the circumstances in which the liability is imposed or in relation to a lack of exemptions and defences.

Clause 4 of the Bill relates to provisions regarding the appointment of forest or plantation officers, including the issue of identity cards to these officers, and a requirement that once a person's appointment as a forest or plantation officer ends, the person must, unless they have a reasonable excuse, return their identity card within 21 days. It is necessary that a forest or plantation officer return their identity card once their appointment ceases to ensure that only authorised officers possess such identification. Failure to comply without reasonable excuse would result in an offence under the Act.

However, if circumstances result in a former officer being unable to return their card within the 21 day period, the circumstances can be taken into account, thereby affording the individual natural justice – i.e. the clause provides for recognising mitigating circumstances and offers the person the defence of a reasonable excuse.

Clause 9 of the Bill will allow regulatory notices (signs that regulate access and activities) to be used for timber reserves and forest entitlement areas, in addition to their current use on State forests. This clause of the Bill potentially breaches the principle that legislation has sufficient regard for the rights and liberties of individuals, specifically relating to appropriate delegation of administrative power.

This clause will extend the delegated administrative power to use these regulatory signs over the nine timber reserves and a number of forest entitlement areas in Queensland. This is a considered a reasonable measure to allow a consistent management approach over forestry lands and the delegation for the use of regulatory notices will be applied at the same level of officer as existing powers regarding the use of regulatory notices on State forests.

Powers of officers and penalties for offences

Clauses 25, 31, 36 and 37 insert provisions relating to the powers of forest and plantation officers to give directions regarding the management of fire, campsites and animals, and contain associated penalties for not complying with such a direction. These powers are necessary for the safe and orderly management of forest areas. The provisions allow for fair treatment of individuals by recognising that a person may have a reasonable excuse not to comply with the officer's direction.

The officer may generally give the direction either orally or in writing. Where practicable, the direction will be given in writing, and will state the reason why it has been given and warn that it is an offence to fail to comply. However, oral directions may be appropriate and necessary in emergency situations, such as an approaching cyclone or wildfire, particularly where large numbers of campers are involved.

In the case of a direction to move camp under section 69Q, the direction must be in writing, state the reason why it has been given and warn that it is an offence to fail to comply. A direction under this section can only be given if there is another part of the area for a person to camp.

The penalties for offences under many provisions in the Bill have been increased to align with penalties for similar offences in more contemporary legislation, such as the *Nature Conservation Act 1992* and *Recreation Areas Management Act 2006*. Consideration was given to the rights and liberties of individuals when determining these penalty amounts and the increases are proportional to the nature of the offences.

For example, clause 25 inserts section 61TW which increases the penalty from 10 to 165 penalty units for failing to comply with a direction from a forest or plantation officer to put out or reduce the intensity of a fire. The previous maximum penalty of 10 penalty units was out of date and no longer considered proportional to the offence, particularly where the consequences of failing to comply with such a direction could result in a wildfire with capacity to cause environmental damage, destroy commercial timber or other property and endanger lives. In such circumstances it is considered reasonable and proportional to provide a court with the ability to impose a penalty of up to 165 penalty units.

Further detail in regard to these matters is given below in the *Notes on Provisions* section.

Consultation

HQPlantations Pty Ltd who hold a 99-year plantation licence providing exclusive rights to manage plantation timber within specific State plantation forests has been consulted through the Plantation Oversight Group within the Department of Agriculture Fisheries and Forestry.

HQPlantations were generally happy with the proposed amendments, and following discussions to clarify the extent of a forest officers compliance powers, representatives of the company raised no further issues of significance.

No further consultation with the community was undertaken as the proposed amendments predominantly relate to the remaking of the Forestry Regulation and providing for consistency with other contemporary legislation for the management and recreational use of State forests.

The Office of Best Practice Regulation (OBPR) was consulted regarding the necessity to prepare and release a Regulatory Impact Statement for the Bill and advice from OBPR confirmed no such requirement, as the Bill was not considered to place any additional regulatory burden on government, business or the community.

Consistency with legislation of other jurisdictions

The Bill is specific to the State of Queensland, and is not uniform with or complementary to legislation of the Commonwealth or another state.

Notes on provisions

Part 1 Preliminary

Clause 1 states that, when enacted, the Bill will be cited as the *Forestry and Another Act Amendment Act 2014*.

Clause 2 states that the Act, other than sections 14(4) and 41(3) will commence on a day fixed by proclamation. Sections 14(4) and 41(3) will commence on assent.

Part 2 Amendment of Forestry Act 1959

Clause 3 states that Part 2 amends the *Forestry Act 1959*, and notes that there are additional amendments in schedule 1.

Clause 4 replaces the existing section 17 (Appointment of officers) with new sections 17 to 17E.

The new sections 17 to 17B update the provisions for appointment of forest officers and plantation officers in the existing section 17, and add the following provisions:

- an officer holds office subject to any conditions stated in the officer's instrument of appointment, a notice to the officer from the chief executive, or a regulation; and
- an officer's appointment ends in accordance with the term of office stated in a condition of office, or another condition of office or upon resignation.

The new sections 17C to 17E introduce new identity card requirements for forest officers and plantation officers. These identity cards will replace certificates of appointment under the existing sections 84(3) to 84(5). An identity card is far more practical for an officer to carry and use than a paper certificate.

Section 17C introduces a requirement for a forest officer or plantation officer to be issued with an identity card. The card must meet requirements specified in section 17C(2), such as carry the officer's photograph and signature. Section 17C(3) allows a single identity card to be used for the Forestry Act and other purposes. For example, a ranger may have a single identity card stating that the ranger is a forest officer under the Forestry Act, a conservation officer under the Nature Conservation Act and an inspector under the Marine Parks Act.

Section 17D requires an officer to produce or display the officer's identity card when exercising a power in relation to a person in the person's presence, or if this is not practicable at the time, the officer must produce the card at the first reasonable opportunity.

Section 17E requires a person who ceases to be a forest officer or plantation officer to return the card within 21 days, unless the person has a reasonable excuse. This ensures that identity cards are withdrawn when a person ceases to hold office, but allows for circumstances where a person is unable to return the card, for example if the person's wallet containing the card had been stolen.

Clause 5 amends section 18 which relates to the general powers of forest officers. Clause 5(1) clarifies that an officer's powers may be limited through an instrument of appointment, a notice given to the officer or a regulation. Clause 5(2) will allow a warrant to be issued for exercise by the officer to whom it is issued or by another qualified forest officer, to ensure that warrants can be executed in a timely manner in the event of the forest officer who sought the warrant being unable to perform that function. Under section 18 as it presently stands, another forest officer is unable to exercise the powers under the warrant, for example if the forest officer who obtained the warrant is sick or on leave.

Clause 5(3) specifies the matters that must be stated in a warrant issued to a forest officer. This will provide additional clarity about the purpose of the warrant and how it may be exercised, consistent with contemporary practice and with related legislation.

Clause 6 amends section 18A relating to general powers of plantation officers. Subsections 18A(2)(d) to (f) are being omitted because they are being replaced by the new sections 84B, 84C and 84D inserted by clause 37. The reference in section 18A(3) to 'a direction' becomes redundant as a result of this change, and consequently is being omitted. Clause 6 also clarifies that an officer's powers may be limited through an instrument of appointment, a notice given to the officer or a regulation.

Clause 7 omits section 18B which specifies the powers of plantation officers in relation to fire. This section is being replaced by sections 61TW inserted by clause 25.

Clause 8 amends section 18C to insert an additional provision to which a reference to a forest officer or plantation officer performing their duties under the Act applies. The clause also renumbers the section to account for the insertion of the additional provision.

Clause 9 amends sections 34AA so that regulatory notices can be used for timber reserves and forest entitlement areas, in addition to their present use in State forests. Regulatory notices are signs regulating access to and use of the area, and there is no particular reason why they should be restricted to State forests. The amendment will allow for consistent use of notices across all forestry areas.

Clause 9 also specifies particular activities the chief executive may prohibit or regulate by regulatory notice on State forests, timber reserves and forest entitlement areas. This clarifies that these notices may include provisions relating to fire, stoves and other appliances and entry into or going onto the beds or banks of dams, lakes, watercourses. The clause also inserts updated references to reflect renumbering in the section and makes amendments to simplify the language in the Act. For example, clause 9(4) & (6) removes the words 'erected or' because these words are unnecessary. Clause 9(2), (4) and (5) simplifies the reference to a 'State forest or that part of a State forest' by use of the term 'relevant area'.

Clause 10 amends section 34AB so that information notices can be used in conjunction with regulatory notices on timber reserves and forest entitlement areas, in addition to their present use in State forests. An information notice must be erected stating that contravention of a regulatory notice is an offence where a regulatory notice does not include such a statement.

For example a number of camp sites in a campground may be closed for rehabilitation by way of a small regulatory notice at each closed site. An information notice displayed at the

entrance to the campground must be erected informing visitors that individual camp sites may be closed by regulatory notices and it is an offence to not comply with the regulatory notice.

Clause 11 amends section 34G which relates to signs used to regulate vehicle use in particular areas. For clarity, the clause inserts a note after section 34G(1) to ‘also see section 34AA’, given that section 34AA also allows for signs that may regulate vehicle use.

Clause 12 replaces section 34H to allow a camping notice to specify a State forest or an area of a State forest as an e-permit or self-registration camping area. An e-permit camping area is an area for which a camping permit can be obtained by phone or internet. A self-registration camping area allows a person to register and pay on site and be taken to be granted a camping permit.

The camping notice must state the procedures to be followed by a person wishing to camp in the area, conditions applying, the penalty for camping without a permit and the location of any permit distribution points. For a self-registration area, the notice must also state the camping fee payable. The provision achieves consistency with equivalent camping areas in protected areas such as national parks. .

Clause 13 inserts new sections 34I and 34J.

Section 34I contains provisions presently included in the Act under section 34H relating to the provision of camping forms and sealed secure containers into which to deposit forms and fees. This amendment includes the use of simpler, clearer terminology – for example, the term ‘camping tag’ replaces the current reference to ‘the part [of the form] required to be dealt with in the manner referred to in section 73A’.

Section 34J specifies requirements for providing camping tags for use at e-permit camping areas and for notifying campers of where to obtain a camping tag, i.e. the ‘permit distribution points’ for the area.

Clause 14 amends section 35 to allow for occupation permits, camping permits, stock grazing permits and apiary permits to be granted for timber reserves as well as State forests. There is no particular reason why these permits should only be available for grant over State forests.

Clause 14 also changes the term ‘permits to camp’ in section 35(1)(b) to ‘camping permits’ for consistency with terminology in use for other areas including national parks under the Nature Conservation Act. The clause also extends the maximum period for which a stock grazing permit can generally be granted, from seven years to ten years, to achieve consistency with stock grazing permits granted for conservation parks and resources reserves under the Nature Conservation Act*. This improved consistency will benefit people who hold permits for different areas, such as a grazier with separate stock grazing permits for a State forest and a resources reserve. It will also assist departmental staff who issue and administer the permits.

*Under amendments to the *Nature Conservation Act 1992* that are yet to commence, conservation parks and resources reserves will become regional parks.

Clause 15 replaces section 35A (which provides for self-registration camping) with new sections 35A, 35B and 35C. These new sections provide for camping permits to be granted by phone or internet, or by self-registration. These processes are consistent with established processes for protected areas, such as national parks, under the Nature Conservation Act.

Section 35A establishes when a camping permit applied for by phone, internet, or self-registration is taken to have been granted. When applied for by internet, the camping permit is taken to be granted when the person receives a number identifying the permit on the website. Under the internet process, the number will be allocated once all of the required steps, including payment, have been successfully completed. When applied for by phone, a camping permit is taken to be granted when the person is advised of a number identifying the permit over the phone, and when applied for by a process of self-registration, the camping permit is taken to have been granted when the person completes the steps specified in section 35A(4). However, under section 35A(5), a permit for a self-registration area is taken not to have been granted if the payment fails because the person's cheque is dishonoured or a credit card payment is not authorised.

Section 35B clarifies that in circumstances when someone applies directly to a QPWS office or other location where camping permits are available and is granted a permit, the person must also be issued with a camping tag. Section 69O inserted by clause 31 requires the camping tag to be displayed at the person's camping site to indicate the person holds a camping permit.

Section 35C establishes that a permit is taken to have been granted for an e-permit camping area for the number of people and number of days stated when applying, for the period when the area is an e-permit or self-registration camping area and for no longer than 30 days or a shorter period stated on the camping notice. It also provides that conditions stated in that notice and any additional conditions notice are taken to be conditions of each camping permit for the area. A person not complying with these specifications or conditions will commit an offence under relevant provisions in Part 7B (as inserted by clause 31).

Section 35C(1)(b) refers to the period when the area is an e-permit camping area or self-registration camping area, for example the part of the year when the area is open to camping. Under section 35C(2) the duration of the permit and the number of people camping under the permit cannot exceed limits that may be stipulated on a camping notice.

Clause 16 amends section 37 which relates to restrictions or conditions that may apply to authorities under specific Acts for mining, petroleum, geothermal or greenhouse gas storage activities. The references in section 37 to State forest are amended to include timber reserves and forest entitlement areas. There is no particular reason why section 37 should not apply to all of these areas. This will also achieve consistency with the existing heading of section 37 – 'Particular authorities over State forest, timber reserve or forest entitlement area'. Section 37(3) is also amended to clarify that payment under that subsection for timber cut, interfered with or used, is not limited to stumpage charges, and the required payment can be in the form of a royalty, stumpage or other fees or charges.

Clause 17 inserts a new Subdivision 2 in Division 2 of Part 4, comprising new sections 40A to 40D. These sections allow for a simplified process to apply to renewal of an existing commercial activity permit if the commercial activities to be carried out under the renewed permit will remain substantially unchanged.

A renewal under these circumstances will require simpler assessment than a permit with changed requirements, and so the scheduled fee for a renewal application will be less than the fee for a new permit application.

Section 40A provides that the holder of an existing commercial activity permit can make an application to renew the existing permit before the existing permit expires. The application to renew must be made in the approved form, include any information prescribed by regulation and be accompanied by the required fees. The provision provides for a permit the subject of an appropriately made renewal application to stay in force for a period of up to three months until a decision of the application is made or the application is sooner withdrawn. However, the existing permit may still be suspended or cancelled during that time.

Section 40B specifies that the chief executive may amend or omit conditions of a commercial activity permit when it is renewed. The conditions can be different only if a condition of the existing permit is omitted, or the chief executive considers a change of conditions is necessary:

- to provide for the safety of persons or property;
- to provide for proper management of the area;
- because the permit holder breached a condition of the existing permit; or
- to protect forest products or other cultural and natural resources of the area.

Section 40C(1) and (2) provide that a commercial activity permit can be renewed if the chief executive is not aware of any information that prevents the applicant being given a new permit and the chief executive is satisfied the permit holder has complied with requirements to provide relevant information and fees under the existing permit, unless the permit is for filming or photography (in which case separate arrangements will apply under the permit).

Section 40C(3) specifies that if the renewal application is granted, the renewed permit cannot include any new activities or new locations and the scale of the activities under the permit can be no greater, in terms of the number of people, vehicles, structures or animals involved. This reflects the intention that the simple renewal process will apply only to permits that will remain substantially unchanged. The renewed permit will also commence immediately after the existing permit would otherwise have expired.

Section 40C(4) requires that, if the renewal application is refused, the applicant must be given a notice stating the reasons for refusal and that the refusal does not prevent the applicant from applying for a new commercial activity permit.

Section 40D provides that a new or renewed commercial activity permit can be combined in one document with a commercial activity permit under the Nature Conservation Act or Recreation Areas Management Act. This could occur, for example, if the commercial activity extends over an area managed under these Acts, for example, a guided tour over a State forest and national park, or over a State forest and recreation area.

Clause 18 amends the Part 6 heading to clarify that the Part includes provisions regarding permits and licences granted more generally under the Act (not just relating to the control and disposal of forest products).

Clause 19 amends section 45 to refer to ‘quarry materials’ after the term ‘forest products’ in its first and second occurrence in the section. It is necessary to make this change to remove any potential confusion over the extent of the term ‘forest products’. The term ‘forest products’, as defined in schedule 3 of the Act, includes quarry material in relation to State forests, timber reserves and forest entitlement areas but not in relation to other areas. The first and second occurrences of ‘forest products’ in section 37 relate to local government roads. Therefore, the amendment will confirm that this part of section 45 applies to ‘forest products and quarry material’.

Clause 20 amends section 46(1A) to replace the words ‘or otherwise’ with ‘or other method of sale’ to clarify that that the methods of sale for forest products are not limited to auction, tender or similar competitive processes.

Clause 20 also amends section 46 to update the section by omitting a redundant reference to the native forest sawlog allocation system for south-east Queensland, inserting a reference to native forest cypress sawlogs, and defining ‘native forest hardwood sawlogs’ and ‘native forest cypress sawlogs’.

Clause 21 amends section 56 to clarify that permits may include permits to search for quarry material. The increased demand for quarry material to support mining, coal seam gas and large scale infrastructure projects has resulted in the need to issue permits to search for quarry material, including by drilling bore holes and removing samples. (Section 45 of the Forestry Act specifies the lands on which quarry material is the property of the Crown).

Clause 21 also amends section 56 to remove the sub-heading ‘public competition’ and in section 56(3) to replace the words ‘or otherwise’ with ‘or other method of sale’ to clarify that that the methods of sale for forest products are not limited to auction, tender or similar competitive processes.

Clause 22 amends section 60(3) to add reference to a camping permit, so as to provide that section 60 does not apply to camping permits. Therefore a person will not commit an offence against this section (with a maximum penalty of 100 penalty units) for failing to comply with a condition of a camping permit. Instead, failure to comply with a condition of a camping permit will be an offence under section 69K (as inserted by clause 31), with a maximum penalty of 20 penalty units.

Clause 23 relocates section 61 and renumbers it as section 54B to locate it with other sections relating to forest products.

Clause 24 amends the Part 7 heading to add ‘licence areas’, to reflect that particular provisions in this part relate to plantation licence areas.

Clause 25 inserts new Division 1 and 2 headings in Part 7, and inserts a new section 61TW.

Section 61TW allows a forest officer in relation to a State forest, timber reserve or forest entitlement area, or a plantation officer in relation to a plantation licence area, to put out a person’s fire or give the person a direction to put out the person’s fire or reduce its intensity, if the officer reasonably believes the fire is not authorised, or is, or may become, a hazard to the area, a person or property. The officer may also direct that a replacement fire not be lit.

Section 84F requires that when giving a direction under this section, the officer must warn the person that it is an offence not to comply with the direction. However the officer does not need to give the warning if, in the circumstances, it is not possible to do so without endangering the safety of a person or property, or the officer or the State's property. For example, if a weather change increases a fire hazard, an officer may need to visit several locations and give directions to large numbers of campers to put out their fires. In these circumstances, the officer may need to move quickly, and if people query the warning, or become argumentative in response to the warning, the officer could be delayed, which could put people or property at risk.

Section 61TW also provides that a person given a direction under the section must comply with the direction, unless the person has a reasonable excuse. A reasonable excuse in this context would depend on the circumstances, which may include the person having made all reasonable attempts to comply. For example, a person directed to immediately put out a fire may be able to reduce its intensity with water on hand, but may need to fetch additional water in order to completely extinguish it.

Clause 26 inserts a new section 61U to specify that prohibitions relating to lighting fire under specific sections in the Act do not apply to a person who is authorised to light a fire under Part 7 of the *Fire and Rescue Service Act 1990* or when performing a duty under the Forestry Act. The note in this section indicates that a plantation operator or plantation officer is not taken to be a person performing duties under the Forestry Act for this section, and would need to obtain an authority under the Fire and Rescue Service Act to light fires on a licence area. In this respect, the plantation operator or officer is treated similarly to other occupiers of the land.

Clause 27 amends the heading of section 62 to indicate that this section is related to fires for burning off or clearing vegetation, and replaces the existing section 62(1) with a new section 62(1) and 62(1A) to more clearly express its intent. Section 62(1) and 62(1A) are subject to Section 61U.

Clause 28 inserts new sections 62A to 62C in relation to control of fires.

Section 62A provides that a person must not light a fire in a forest recreation area (a feature protection area, forest drive or State forest park) except in a barbeque or fireplace provided in the area for that purpose. The section also provides that the restriction under subsection (2) does not apply to a person using an approved appliance (defined in Schedule 3), such as a fuel stove, or a person who is smoking, provided that the person takes reasonable steps to prevent any resulting damage to the forest products or waters of the area or adjacent areas, or the property of others. The prohibition in section 62 A(2) is subject to Section 61U.

Section 62B provides that a person who lights or has control of a fire in a State forest, timber reserve or forest entitlement area, including a fire in a fireplace or an appliance such as a fuel stove, must not leave the fire without first putting it out, unless the person has a reasonable excuse, or unless someone else assumes control of the fire. A reasonable excuse in this context would depend on the action being reasonable in the circumstances, for example, a camper might leave a fire unattended for a short period in order to give immediate first aid to a neighbouring camper who has suffered a serious injury. Section 62 B(2) is subject to Section 61U.

Section 62C provides that a person must not deposit specified things (e.g. a lit match, cigarette or burning substance) in a State forest, timber reserve or forest entitlement area. The intention of the provision is to prevent careless or deliberate actions that may give rise to a fire in the area.

Section 62C(2) provides that the restriction under section 62C(1) does not apply if the action occurs for lighting a an appliance such as a fuel stove, lighting a fire in a barbecue or fireplace provided in the area, or, lighting a fire in a place more than two metres from flammable material.

Section 62C(3) provides that a person must not deposit material in a fire in a State forest, timber reserve or forest entitlement area if the material will not burn. The intention of this provision is to prevent non-combustible materials, including those which may fragment in a fire, from becoming a safety hazard or being left behind as litter.

Clause 29 removes sections 66 and 67 which become redundant following the insertion of sections 62A to 62C.

Clause 30 renumbers section 69E as section 69T in order to locate it after sections 69A to 69S inserted by clause 31.

Clause 31 inserts a new Part 7A relating to pollution and waste in State forests and timber reserves and a new Part 7B relating to requirements about camping. These parts include new sections 69A to 69S. Sections 69A to 69J allow for improved management of pollution and waste issues, and sections 69K to 69S deal with camping activities. These provisions are consistent with equivalent provisions for the management of protected areas under the Nature Conservation Act.

Section 69A inserts a new section to specify that prohibitions relating to pollution and waste under sections 69C, 69D(3), 69E, 69F(b) and 69H(1) do not apply to a person whose actions:

- are allowed under an authority granted under the Forestry Act; or
- are allowed under an agreement entered into with a plantation operator for a licence area provided the action is consistent with the licence agreement; or
- are undertaken performing duties under the Forestry Act.

Further clarity is provided in relation to other parties under section 69A(2) which specifies that sections 69C and 69D(3) do not apply to the extent that a person is performing duties under another Act and finally 69A(3), sections 69C, 69E and 69F(b) do not apply to a person to the extent that their actions are allowed under the conditions of a lease under the *Land Act 1994*.

Section 69B provides that a person must not pollute a dam, lake or watercourse in a State forest or timber reserve. Instances and examples of polluting activities are given in subsection (2).

Section 69C provides that, in a State forest or timber reserve, a person must not take water except for personal use within the area or to water an animal brought into the area. A person must also not dam, or divert a watercourse, damage a water supply or water storage facility or allow water from such a supply or facility to run to waste. This section is subject to exceptions provided in 69A.

Section 69D allows the use of a regulatory notice to prohibit people entering a dam, lake or watercourse, or going onto its bed or bank, in a State forest or timber reserve if necessary to protect the health and safety of persons, water quality or plants and animals. For example, a notice may prohibit swimming in a dam in the event of a blue-green algal outbreak. This section is subject to the exceptions provided in section 69A.

Section 69E prohibits the use of a herbicide, pesticide, or another harmful, offensive or noxious substance in a State forest or timber reserve. This section is subject to exceptions provided in section 69A, for example, a person with a Land Act grazing lease over the State forest may apply herbicide on the State forest for weed control provided it is consistent with the conditions of their lease.

Section 69F prohibits the burial or other disposal of a harmful, offensive or noxious substance, or an animal carcass, offal or skeleton, in a State forest or timber reserve. Section 69F(b) is subject to the exceptions provided in section 69A, for example a person with a Land Act grazing lease over the State forest may need to dispose of an animal carcass.

Section 69G prohibits a person from abandoning a vehicle, vessel, recreational craft or aircraft in a State forest or timber reserve.

Section 69H(1) prohibits a person from abandoning waste materials in a State forest or timber reserve. Sections 69H(2) and (3) prohibit a person from:

- defecating within 10m (or a greater distance stated on a regulatory notice) of a dam, lake, watercourse or walking track other than in a toilet facility provided;
- burying human waste within 10m (or a greater distance stated on a regulatory notice) of a dam, lake, watercourse, occupied or established campsite, or a site designated by a regulatory notice as a campsite, or a walking track or other public facility, except in a facility provided for the purpose;
- leaving human waste unburied.

Section 69H(1) is subject to the exceptions provided in section 69A, for example a plantation operator may leave vegetation in the area after a timber harvesting operation.

Section 69I prohibits a person breaking glass or allowing another person to break glass in State forest or timber reserve without a reasonable excuse. This provision is intended to prevent actions such as the deliberate smashing of bottles. Genuine accidental breakage could be considered a reasonable excuse.

Section 69J relates to the disposal of litter in a State forest or timber reserve. Sections 69J(1) and (2) prohibit, without a reasonable excuse, litter from outside a State forest or timber reserve being disposed of within the State forest or timber reserve, litter being disposed of other than in a litter bin provided, or litter being disposed of contrary to a regulatory notice.

Section 69J(3) allows a forest officer or plantation officer who believes it is reasonably necessary to give a person a direction to remove the person's litter from a State forest or timber reserve. The direction can be given even if there are bins provided, for example, if the bins are full. The direction can require the litter to be removed immediately or within a stated time, and the person given the direction must comply unless the person has a reasonable excuse. A reasonable excuse will depend on the individual circumstances. For example, it

may be a reasonable excuse that the person's vehicle transporting the litter broke down before the vehicle was able to leave the forest.

Section 69K(1) provides that a person must not camp in a State forest or timber reserve unless the person is camping under a camping permit, a written approval or other form of authority under the Forestry Act including a contract or agreement. The section also allows a person to camp under a lease under the Land Act or an appropriate agreement with a plantation operator for a licence area, or to perform duties under the Forestry Act.

Section 69K(2) provides that a person other than the holder of a camping permit or written approval is taken to be camping under the holder's permit or approval only if the total number of persons camping with the holder does not exceed the number authorised to camp under the permit or approval. Therefore, if the permitted number is exceeded, everyone apart from the holder is taken to be camping without a permit or approval. The holder of the permit or approval would also have committed an offence under section 69N.

Section 69K(3) provides that it is an offence to camp in a State forest or timber reserve in contravention of a regulatory notice.

Section 69L prohibits a person from camping in a forest entitlement area without written approval. Exceptions apply to a person performing duties under the Forestry Act, and the lessee or owner or someone camping with the lessee or owner.

Section 69M requires a person camping under a camping permit in a State forest or timber reserve to abide by the conditions of the permit.

Section 69N provides that the holder of a camping permit or written approval to camp in a State forest or timber reserve commits an offence if the holder allows more people to camp than stated on the permit or approval. For a camping permit obtained by self-registration, the number stated on the permit is taken to be the lesser of:

- the number stated on the camping form filled out by the person; and
- the maximum number of people for a permit stated on the self-registration camping notice for the area.

Section 69O requires a person camping under a camping permit to immediately after making camp, attach the camping tag for the permit to the person's tent, caravan or other camping structure, or if no such structure is being used, to attach it to the vehicle or equipment being used for camping. The person must take reasonable steps to ensure the tag remains attached, so that, for example, it is not dislodged by strong winds or rain.

Section 69P provides a forest officer with the power to give a person a direction to leave a camping site with all of their camping equipment, and not return to the site for a stated period. The direction may only be given if the officer reasonably believes that it is necessary to protect the area's forest products and waters (e.g. to allow an area to be rested or restored), or the site needs to be vacated for health and safety reasons (including in emergency situations), or to minimise disturbance to other persons.

A person given a direction under this section is required to comply unless the person has a reasonable excuse, which would depend on the circumstances.

The stated period in which the person cannot return to the site (which cannot be more than six days) is necessary to prevent the person moving out of the site and then moving back in immediately or at the first other opportunity. A regulatory notice, as indicated in section 69K(3), can also be used to close the site to camping, for example, in order to rest the site for a longer period if necessary.

A direction under section 69P may be given orally or in writing. Oral directions rather than written directions may be appropriate and necessary in emergency situations, such as an approaching cyclone or a bushfire, particularly where large numbers of campers are involved.

The provision is covered by section 84F which states that the officer is required to explain why the direction has been given and warn that it is an offence to fail to comply. However, section 84F(3) provides that the officer does not need to give the explanation and warning if, in the circumstances, it is not possible to do so without endangering the safety of a person or property, or the officer or the State's property. For example, in an emergency such as an approaching cyclone, an officer may need to visit several locations and give directions to large numbers of campers to leave.

In these circumstances, the officer may need to move quickly, and if people query the warning, or become argumentative in response to the warning, the officer could be delayed, which could put people or property at risk.

Section 69Q is similar to section 69P in that it also provides a forest officer with the power to give a person a direction to leave a camping site with all of their camping equipment, and not return to the site for a stated period (which in this instance can be more than six days). The stated period in which the person cannot return to the site is necessary to prevent the person moving out of the site and then moving back in to re-occupy the site within that period. A regulatory notice, as indicated in section 69K(3), can also be used to close the site to camping, for example, in order to rest the site for a longer period if necessary.

The direction can be given if the officer reasonably believes that a person has had predominantly the same camping equipment at the same site for 30 days or more and any of the following apply – it is considered necessary or desirable to allow other people access to the particular site, or the natural condition of the site has been or is being degraded, or it is considered necessary for the protection of health and safety. Notably, the direction under this section must be in writing and can only be given if there is another part of the area available for the person to camp. The provision is covered by section 84F which requires an officer to explain why the direction has been given and warn that it is an offence to fail to comply.

The powers granted under this section will allow officers to require someone to move to another site if, for example, the same site has been occupied on an ongoing basis by a group of persons obtaining sequential camping permits and the site needs to be rested or made available to other campers.

A person given a direction under this section is required to comply unless the person has a reasonable excuse, which would depend on the circumstances.

Section 69R provides that it is an offence to display a camping tag in a State forest or timber reserve if a person does not hold a camping permit for the area. A camping tag is linked to a camping permit and is intended to assist an officer to verify that the person has a current permit. It is therefore necessary to prohibit the display of invalid tags.

Section 69S states that a person must not, without reasonable excuse, tamper with a camping tag on a tent or other camping equipment being used for camping.

Clause 32 amends section 73(1)(b) to remove ‘camps upon’ from the list of activities in State forests, timber reserves and forest entitlement areas for which, under this section, an authority is required. Camping in these areas is now addressed under 69K in the new Part 7B.

Clause 33 omits section 73A which is redundant as a consequence of new sections 69O and 69S inserted in the new Part 7B.

Clause 34 omits section 73B because the offence to display a ‘camping form’ without holding a camping permit is now covered by section 69R.

Clause 35 inserts new sections 73A to 73F that relate to particular activities in State forests and timber reserves. Sections 73B to 73E will replace provisions currently in the *Forestry Regulation 1998*. In order to coordinate this process, the relevant provisions will be omitted from the Forestry Regulation at the same time as the replacement provisions in the Forestry Act take effect – both steps will occur by proclamation on the same day.

Section 73A provides that sections 73B to 73F do not apply to a person acting in accordance with an appropriate agreement entered into with a plantation operator for a licence area. This is intended to ensure that necessary plantation activities can occur without the requirement for individual separate authorisations under these sections.

Section 73B(1) states that a person must not conduct a commercial activity in a State forest or timber reserve and provides some examples of commercial activities. Sections 73B(2) to 73B(4) provide that this restriction does not apply to a person who has a permit or other authority under the Forestry Act which may include an agreement or contract. It also specifies particular activities that are exempt from the requirement to obtain an authority for the commercial activity. These exemptions include:

- filming or photography that involves 10 or fewer people and does not involve the use of specified structures, or equipment, including a vehicle used other than for transport or camping. The exemption for up to 10 people is an increase to the existing exemption for up to two people (currently in the Forestry Regulation).
- use of the State forest or timber reserve that is incidental to the State forest or timber reserve, including the examples given in the section.
- filming or photography of an event when or soon after it happens in order to inform the public. This allows for commercial news reporting of unexpected events, for example, a fire or accident. The types of media activities subject to this exemption must be published on the department’s website.

Section 73B is subject to section 73A.

Section 73C(1) states that a person must not conduct an activity in a State forest or timber reserve that involves a group of people if the activity may restrict access to or the enjoyment of the area by the general public (taking account of the time and location of the activity), and provides some examples of group activities that may affect public use. Section 73C(2) provides that this restriction does not apply to a person who has a permit or other authority under the Forestry Act (which may include an agreement or contract), or to a group of

Aboriginal or Torres Strait Islander people with traditional, customary or historical links to the area. Notably, the wording of the provision ensures that a permit is not required for every activity carried out by a group, but only for those activities that may restrict access to or enjoyment of the area by the general public. Section 73C is subject to section 73A.

Section 73D(1) provides that it is an offence to possess or use specified items in a State forest or timber reserve without a reasonable excuse. A specified item is anything used or capable of being used for taking wildlife or forest products, and includes items such as weapons, traps, poisons or implements. Sections 73D(2) and (3) provide for exceptions to the offence, including items used for lawful fishing, camping or a domestic purpose, items that remain securely stored in a vehicle or vessel, and an unloaded spear gun able to be lawfully used in an adjoining area. Sections 73D(3) also provides that a person can use a specified item in accordance with a permit or other authority under the Forestry Act and other specified Acts, or if a person is carrying out duties under the Forestry Act. Section 73D is subject to section 73A.

Section 73E prohibits a person from bringing a plant into a State forest or timber reserve. However, a person is allowed to bring in a plant if the plant is for food for people or for an animal brought into the area, or the plant remains securely stored in a vehicle or vessel, or the plant is brought in accordance with a permit or other authority under the Forestry Act, or the person is carrying out duties under the Forestry Act. This provision is intended to help prevent the spread of weeds and plant diseases. Section 73E is subject to section 73A.

Section 73F provides that it is any offence for a person to build or keep a structure or other works in a State forest, timber reserve or forest entitlement area without a permit or other authority (which may include an agreement or contract) under the Forestry Act or other specified Acts. However, in this section, a structure does not include a camping structure under a camping permit. Section 73F complements section 74 of the Forestry Act, which relates to the removal of unauthorised buildings and other things. Section 73F is subject to section 73A.

Clause 36 inserts a new section 75A which gives forest officers, and plantation officers in regard to plantation licence areas, the power to direct a person in charge of an animal (other than stock) in a State forest or timber reserve to remove the animal from the area. The direction can be given if the officer reasonably believes that the animal is unlawfully in the area, or has been causing a disturbance, or is a danger to persons, property, other animals or wildlife, or the animal is at risk from forest operations. This recognises the right of other people and wildlife in the area to be reasonably protected from nuisance and danger (such as an aggressive dog in a day use area). A person given a direction must comply and is not allowed to return the animal to the area for 24 hours. This is intended to ensure that the animal is not briefly removed and then brought back.

Clause 37 replaces section 84A with new sections 84A to 84F. These sections relate to the powers of forest officers and plantation officers in regard to the protection of forest areas, the safety of persons and property and enforcement of the requirements of the Act.

Section 84A gives forest officers, and plantation officers in regard to State forest, timber reserve or plantation licence areas, the power to give a person in control of a vehicle or vessel in a State forest or timber reserve a direction about the use of the vehicle or vessel. The direction may include directions for protecting forest products and waters, securing safety of

persons and property, minimising disturbance of others and protecting roads and other infrastructure from damage. The direction may be given by use of a sign or signal and may include a requirement to remove the vehicle or vessel from the area.

A person given a direction under section 84A is required to comply unless the person has a reasonable excuse. To remove any doubt, section 84A(5) provides that it is not a reasonable excuse that the person holds a permit or other authority that is inconsistent with the direction. For example, if wet weather has made an unsealed road in a State forest prone to damage from use, and an officer gives a person a direction not to travel on the road, the person must comply with the direction, even if the person holds a permit to traverse that particular road.

Section 84B gives forest officers, and plantation officers in regard to State forest, timber reserve or plantation licence areas, the power to give a direction to leave a State forest or timber reserve, with any accompanying persons and their possessions and equipment, and not return for a stated period of up to six days. The direction can be given if the officer finds a person committing or about to commit an offence against the Forestry Act, or in circumstances that lead the officer reasonably suspect the person has committed an offence, or has information that leads the officer to reasonably suspect the person has committed an offence. Additionally, the direction can only be given if the officer also reasonably believes the direction is necessary to prevent further offences or to secure evidence.

The section is subject to section 84F, which requires when giving the direction, the officer must state the reason and must warn the person that it is an offence not to comply. However, the officer does not need to give the warning if, in the circumstances, it is not possible to give the warning without endangering the safety of a person or property, or the officer or the State's property. For example, the officer need not give the warning if this could lead to the person becoming argumentative or aggressive in response, which in turn could put people or property at risk.

The person must comply with the direction, within the time stated by the officer or immediately if no time is stated, unless the person has a reasonable excuse. If a person fails to comply with a forest officer's direction to leave the area under section 84B the officer may take reasonable steps to secure compliance with the direction, which may include using reasonable force and removing the person's property from the area. This power to secure compliance would not be exercised except as a last resort and it is not possible to obtain police support at the time. Although this power to secure compliance is new for State forests, it is an established power in relation to national parks and recreation areas, and has been available to authorised officers for these areas since 2006.

Section 84C provides that, in circumstances that may endanger a person or person's property, (such as a bushfire) a forest officer or plantation officer may give a person a direction to leave a State forest, timber reserve or plantation licence area, with the person's possessions, and not return for a stated period. The direction to leave can also be given in circumstances of an emergency or rescue activity. A person given a direction to leave is not able to return until authorised by the chief executive. In practice, this authorisation could include advice published on a sign or the department's website.

The section is subject to section 84F, which requires when giving the direction, the officer must state the reason and must warn the person that it is an offence not to comply. However, the officer does not need to give the warning if, in the circumstances, it is not possible to give

the warning without endangering the safety of a person or property, or the officer or the State's property.

The person must comply with the direction, within the time stated by the officer or immediately if no time is stated, unless the person has a reasonable excuse. If a person fails to comply with a forest officer's direction to leave the area under section 84B the officer may take reasonable steps to secure compliance with the direction, which may include using reasonable force and removing the person's property from the area. This power to secure compliance would not be exercised except as a last resort, for example, in an emergency situation where a person's refusal to leave would put other people (such as other forest users or emergency services personnel) at risk, and it is not possible to obtain police support at the time. Although this power to secure compliance is new for State forests, it is an established power in relation to national parks and recreation areas, and has been available to authorised officers for these areas since 2006.

Section 84D provides that where a forest officer or plantation officer finds a person committing an offence, or reasonably suspects a person of committing an offence, the officer may direct the person to stop committing the offence or stop activities which the officer believes are related to the conduct of an offence, and remain in a place to enable the officer to exercise their powers under the Forestry Act. For example, if an officer locates a person walking in a State forest carrying a chainsaw, the officer may direct the person to stop while the officer makes further enquiries with the person and determines whether they have committed an offence.

Section 84E provides that where a forest officer believes something in a vehicle or vessel may provide evidence of an offence, the officer may direct a person to stop the vehicle or vessel or relocate the vehicle or vessel to allow further investigation. When giving the direction the officer must clearly identify themselves and then produce their identify card immediately after the vehicle stops to enable the person in control of the vehicle or vessel to verify the forest officer's identity. For example, if a person is observed driving a vehicle with cut logs in their vehicle which the officer suspects have come from the State forest, the officer may direct them to stop while the officer further investigates the circumstances.

The person must comply with the direction unless they have a reasonable excuse, or doing so would endanger someone else or cause loss or damage, in which case, the person must comply with the direction as soon as it is practicable to do so.

Section 84F provides a general provision requiring a forest officer or plantation officer who gives a direction under the Forestry Act to explain to the person whom they are directing why the direction has been given and warn the person that it is an offence to not comply with the direction. However under section 84F(3) an officer does not need to give the explanation and warning if, in the circumstances, it is not possible to give the warning without endangering the safety of a person or property, or the officer or the State's property.

Clause 38 updates section 96B of the Act relating to the powers that the chief executive may delegate to a plantation licensee, plantation sublicensee, plantation manager, plantation officer or registered mortgagee or other party exercising power under section 61SQ. The references being inserted relate to the chief executive's powers to erect regulatory notices in relation to entry of dams, lakes and watercourses and powers for the appointment of forest officers and the issue and return of identify cards.

Clause 39 inserts a new Division 4 comprising section 134 to 139 which specify transitional provisions for the Bill.

Section 134 inserts a definition to clarify that references to ‘old’ in the Division relate to provisions in force immediately before the commencement of the *Forestry and Another Act Amendment Act 2014*.

Section 135 states that prior to the commencement of the *Forestry and Another Act Amendment Act 2014* a certificate of appointment granted to a person appointed as a forest officer or plantation officer is taken to be an instrument of appointment on and after the commencement of the amendment Act. Similarly the person’s certificate of appointment is taken to be their identify card for a period of 12 months or until the person is issued an identity card, whichever occurs first. The section also clarifies that an identity card issued prior to the commencement of the amendment act continues to be an identity card for the purposes of section 17C, provided it complies with the requirements to contain the person’s photo, the person’s signature, identifies the person as a forest officer or plantation officer and has an expiry date on the card.

Section 136 clarifies that if a direction was given to a person, for example, by a forest officer or plantation officer, and was still in effect before the commencement of the amendment Act, that the direction continues in effect and is taken to comply with any requirements of the Act on and after commencement.

Section 137 states that where a notice under the previous sections 34AA, 34AB and 34G are on display before the commencement of the section, upon commencement the notice is taken to be a notice under the amended sections relating to notices.

Section 138 clarifies that any application for a permit to camp made prior to the commencement of the amendment act, and that has not been decided, continues to be a valid application for a camping permit after commencement.

Section 139 states that a permit to camp held under the former section 35 or 35A that is still in force before the commencement of this section, remains in force until the permit would have ended under the former section 35 or 35A.

Clause 40 amends schedule 2 of the Forestry Act (Subject matters for regulations). The heading of section 4, and sections 4(1) and (2) of schedule 2 are amended to allow for regulations to be made about the specified matters in respect of timber reserves as well as State forests. Section 4(3) is amended to clarify that regulations can be made about camping fees for camping generally, rather than just self-registration camping. Section 9(1) is amended to state that sale of forest products or quarry material may be by auction, tender ‘or other method of sale’ in order to clarify that the method of sale need not be by a competitive process.

Clause 41 amends definitions in schedule 3 (Dictionary) of the Forestry Act. Subclause (1) removes definitions that are no longer required, or are being replaced or have been moved to other places in the Act. Subclause (2) inserts new or modified definitions relevant to other amendments under the Bill, as well as some cross-references to definitions in other places in the Act.

Clause 41, subclause (3) replaces the current definition of ‘recreational purposes’ to provide that a ‘recreational purpose’ can include recreational activities provided by a business. (This definition relates to sections 33 and 34 of the Act which allow the chief executive to consider the possibility of applying a State forest area to ‘recreational purposes’.) Recreational purposes are currently defined in schedule 3 of the Act as ‘any purpose other than a purpose of business’. The amended definition will allow consideration of the provision by a business of recreational activities on a State forest, which may be the most effective means of providing that service.

Part 3 Amendment of Recreation Areas Management Act 2006

Part 3 of the Bill amends the *Recreation Areas Management Act 2006* and includes clauses 42 to 46. These sections allow for a simplified process to apply to renewal of an existing commercial activity permit if the commercial activities to be carried out under the renewed permit will remain substantially unchanged.

A renewal under these circumstances will require simpler assessment than a permit with changed requirements, and so the scheduled fee for a renewal application will be less than the fee for a new permit application.

Clause 42 provides that Part 3 of the Bill amends the *Recreation Areas Management Act 2006*.

Clause 43 amends section 35 to provide that a commercial activity permit expires either at the end of its term, or, if the person submits a renewal request, the permit expires when the chief executive decides the renewal request, or 3 months from when the permit would have otherwise expired, whichever occurs first.

Clause 44 amends section 55A to recognise that commercial activity permits may apply to timber reserves as well as State forests.

Clause 45 inserts new sections 55B to 55E. The new section 55B provides that the holder of an existing commercial activity permit can make an application to renew the existing permit before the existing permit expires. The application to renew must be made in the approved form, include any information prescribed by regulation and be accompanied by the required fees. The provision provides for a permit the subject of an appropriately made renewal application to stay in force for a period of up to 3 months until a decision of the application is made or the application is sooner withdrawn. However, the existing permit may still be suspended or cancelled during that time.

Section 55C specifies that a condition of a commercial activity permit can be omitted or amended when it is renewed if the chief executive considers this necessary because of an amendment that may be made under sections 61, 63 or 64 of the Recreation Areas Management Act. (These sections of the Recreation Areas Management Act relate to various matters, including matters related to safety or conservation, and the permit holder’s previous compliance with the permit or the Act.)

Sections 55D(1) and (2) provide that a commercial activity permit can be renewed if the chief executive is not aware of any information that is likely to change consideration of a matter for the existing permit mentioned in section 53 of the Recreation Areas Management Act (which specifies matters to be considered when granting a commercial activity permit), and the chief executive is satisfied the permit holder has complied with requirements to provide relevant information and fees under the existing permit, unless the permit is for filming or photography (in which case separate arrangements will apply under the permit).

Section 55D(3) specifies that if the renewal application is granted, the renewed permit cannot include any new activities or new locations and the scale of the activities under the permit can be no greater, for example, in terms of the number of people, vehicles, structures or animals involved. This reflects the intention that the simple renewal process will apply only to permits that will remain substantially unchanged. The renewed permit will also commence immediately after the existing permit would otherwise have expired.

Section 55(4) requires that, if the renewal application is refused, the applicant must be given a notice stating the reasons for refusal and that the refusal does not prevent the applicant from applying for a new commercial activity permit.

Section 55E provides that the chief executive is not required to give the applicant an information notice about the renewal decision. This means that the renewal decision is not open to review. However, in practice, if the applicant is dissatisfied with the renewal decision, the applicant can apply for a new permit, as indicated in section 55(4). The new permit application will then be subject to complete assessment, with opportunity for review of the new permit decision.

Clause 46 amends the schedule (Dictionary) to insert a cross reference to the term commercial activity permit in section 34(1)(d). It also amends the definition of commercial activity to replace '2 persons' with '10 people'. This has the effect that filming or photography that involves up to 10 people and does not involve the use of specified structures, or equipment, including a vehicle used other than for transport or camping does not require a commercial activity permit.

Part 4 Minor and consequential amendments

Clause 47 states that Schedule 1 amends the Acts stated in the Schedule.

Schedule 1 Minor and consequential amendments

Schedule 1 makes minor and consequential amendments to the Forestry Act mostly to insert headings for divisions and subdivisions into the Act. It also corrects a cross reference in section 86(1)(l) to recognise a section number change made by this Bill.