

# Forestry and Another Act Amendment Bill 2014

## Explanatory Notes

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## Amendment To Be Moved During Consideration In Detail By The Honourable Deputy Premier and Minister for State Development, Infrastructure and Planning.

### Title of the Bill

Forestry and Another Act Amendment Bill 2014

### Objectives of the Amendments

The objective of the amendment of the *Forestry Act 1959* (the Act) is to provide for an exemption from the requirement to obtain an authority in certain circumstances. The Act currently provides that it is an offence to interfere with forest products without an authority under the Act or another Act. Forest products include, amongst other things, vegetable growth and material of vegetable origin whether living or dead and whether standing or fallen.

As a result of Cyclone Ita in April 2014, there are state-owned properties in Cape York with a significant damaged native timber resource that is suitable for urgent salvage harvesting. The timber will otherwise rapidly deteriorate and in time present a fire risk.

To facilitate urgent salvage harvesting in Cape York, or unforeseeable circumstances more generally, it is desirable to enable persons to be exempted from the need to obtain an authority under the Act. It is noted that other authorities may need to be obtained under other legislative regimes.

### Achievement of the Objectives

The objective will be achieved by inserting a new clause 36A in the Bill that would insert new section 76A in the Act. This will provide that the Minister may grant an exemption from compliance with a provision of the Act in relation to forest products and quarry material.

### Alternative Ways of Achieving Policy Objectives

Amendment of the Act is required to give effect to the policy objective. An Act amendment could be made to exempt persons from compliance in relation to forest products and quarry material in certain circumstances, however it is not practical to identify all the circumstances in which an exemption may be appropriate.

Exemptions could also be granted by regulation that would be subject to disallowance by the Legislative Assembly pursuant to the *Statutory Instruments Act 1992*. However, this option is less flexible than the proposed approach and hence may not be as effective in achieving the policy objective.

## **Estimated Cost for Government Implementation**

The amendment will not incur any additional costs.

## **Consistency with Fundamental Legislative Principles**

The amendment is generally consistent with the Fundamental Legislative Principles. It could be argued, however, that it represents an inappropriate delegation of legislative power for section 4(4)(a) of the *Legislative Standards Act 1992*. The delegation of power is justified by the need to accommodate circumstances where the obligation to comply with provisions relating to forest products and quarry material is not practical or represents a barrier to the harvest and use of such resources that is in the public interest.

## **Consultation**

The Department of National Parks, Recreation, Sport and Racing, the Department of Agriculture, Fisheries and Forestry and the Department of Natural Resources and Mines were consulted on the proposed amendments and are supportive of this approach.

## **NOTES ON PROVISIONS**

*Amendment 1* amends clause 2 of the Bill, to provide that section 36A commences on assent.

*Amendment 2* inserts clause 36A in the Bill, to provide for the insertion of new section 76A in the Act. This amendment will provide that the Minister can exempt a person or a class of persons from compliance with a provision of the Act in relation to forest products and quarry material. The exemption is to be made by gazette notice, and conditions may be imposed on the exemption. A penalty of 10 penalty units applies if a person contravenes a condition of exemption imposed by the Minister in the notice.