

Queensland



FORESTRY ACT 1959

Reprinted as in force on 6 October 2000
(includes amendments up to Act No. 34 of 2000)

Warning—see last endnote for uncommenced amendments

Reprint No. 4

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Information about this reprint

This Act is reprinted as at 6 October 2000. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

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

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

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

Also see endnotes for information about—

- **when provisions commenced**
- **provisions that have not commenced and are not incorporated in the reprint**
- **editorial changes made in earlier reprints.**

Queensland



FORESTRY ACT 1959

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	9
5	Definitions	9
PART 2—ADMINISTRATION AND FUNCTIONS		
17	Appointment of officers	16
18	General powers of forest officers	16
19	Retention of document produced to forest officer	19
21	Officers not to trade in timber etc.	20
22	Auctioneer's licence not required by officers	21
PART 3—CLASSIFICATION AND RESERVATION OF STATE FORESTS AND TIMBER RESERVES		
CLASSIFICATION OF FOREST LANDS		
23	Classification of lands	21
STATE FORESTS		
25	Power to set apart and declare State forests	21
26	Restriction on alienation etc.	22
27	Amalgamation etc. of State forests	22
28	Power to set apart and declare timber reserves	23
32	Land for tourist purposes	23
PART 4—MANAGEMENT OF STATE FORESTS, TIMBER RESERVES AND FOREST ENTITLEMENT AREAS		
33	Cardinal principle of management of State forests	24
34	Use of State forests	24
34AA	Regulation of use of State forests by notices	26

34AB	Display in State forests of information notices in conjunction with regulatory notices	27
34A	Specialised management within State forests	28
34B	Application of Motor Vehicles Control Act	28
34C	Feature protection area	28
34D	State forest park	28
34E	Scientific area	29
34F	Forest drive	29
34G	Regulating movement of vehicles on feature protection areas etc.	30
34H	Self-registration camping areas	31
35	Granting of permit for land within State forest	32
35A	Permit to camp in State forest taken to have been granted by chief executive	33
36	Dealings with respect to timber reserves	35
37	Mining leases over State forest, timber reserve or forest entitlement area	35
39	Interfering with forest products on State forests etc.	36
39A	Forest entitlement areas	36
39B	Rights and liabilities of contracting party in respect of forest entitlement areas	39
39C	Interpretation	40
PART 6—CONTROL AND DISPOSAL OF FOREST PRODUCTS AND QUARRY MATERIAL		
44	Construction of other Acts etc.	40
45	Forest products etc. which are the property of the Crown	41
45A	Owner of quarry material	42
46	Sale of forest products or quarry material	43
46A	Sale of fossils and quarry materials to fossicker	43
47	Sale of forests products on Crown holdings or mining leases etc.	44
48	Getting or selling forest products	44
49	Power to purchase forest products	45
50	Contracts for the supply of forest products	45
51	Power to purchase etc. plant etc.	45
52	Power to subsidise road works	45

53	Interference with forest products on Crown holdings and mining leases . . .	46
54	Interfering with forest products on Crown lands etc.	47
54A	Interfering with quarry material in deeds of grant or freeholding leases . . .	47
55	Licences to get forest products etc.	47
56	Permits etc.	48
57	Power of entry under licence or permit	49
58	Power to cancel, suspend, permit, licence etc.	50
59	Transfer of permits etc.	53
60	Failure to comply with provisions of lease etc.	53
61	Removal of forest products	54
61A	Prohibition on sale of Aboriginal artefacts etc.	54
PART 6A—QUARRY MATERIAL IN DEED OF GRANT OR FREEHOLDING LEASE		
61B	Interpretation	55
61C	Entitlement under permit	55
61D	Withdrawal of consent	56
61E	Provision of security	56
61F	Compensation	58
61G	Prior notice of entry to be served	58
61H	Appeal to Land Court	58
61I	Appeal against Land Court's determination	59
PART 7—CONTROL AND PROHIBITION OF FIRES ON STATE FORESTS, TIMBER RESERVES AND FOREST ENTITLEMENT AREAS		
62	Control of fires on State forests etc.	59
63	Duty of lessee of State forest etc.	60
64	Certain person to be incapable of holding permits etc.	61
65	Control of fires on lands adjoining State forest etc.	62
66	Lighted match etc. not to be dropped near flammable material	64
67	Lighting of small fires on State forests etc.	64
68	Cooperative burnings	64
69	Forfeiture of leases and the like and cancellation of agreements	65

PART 7A—COMPETITION POLICY REFORM EXEMPTIONS

69A	Definitions for pt 7A	66
69B	Specific authorisation for allocation and sale of native forest sawlogs . . .	67
69C	Specific authorisation for grant of permit to get native forest sawlogs	68
69D	Expiry of pt 7A	68

PART 8—MISCELLANEOUS

70	Destruction of trees on roads	68
72	Wild stock	69
73	Unlawfully using State forests etc.	71
73A	Display of camping forms	72
74	Unauthorised building etc. within State forest etc.	72
75	Removal of trespassers	73
76	Entry on to reserves may be prohibited	74
77	Persons found in possession of forest products	74
78	Receiving forest products	75
79	Subpurchase	75
80	Accounts of forest products	75
81	Power to enter land	75
82	Powers for seized timber etc.	76
82A	Seizure and forfeiture of vehicles	77
82B	Receipt to be given	78
82C	Forest officer to allow inspection etc.	79
82D	Chief executive may return seized thing	79
82E	Chief executive's obligation to return seized things	79
82F	Chief executive may order forfeiture of unclaimed seized things	80
82G	Forfeiture of seized things on conviction	80
82H	Where and how to start appeal	80
82I	Hearing procedures	81
82J	Powers of Magistrates Court on appeal	81
82K	Appeal to District Court on questions of law only	82
82L	Seized forest products and quarry material become State's property	82
82M	Forfeited things seized become State's property	82

83	Dealing with forfeited forest products etc.	82
84	Matters may be completed by different officers	83
84A	Officer may direct person to leave State forest or timber reserve	83
85	Owners and occupiers to give all reasonable assistance	84
86	Obstruction of officer etc.	84
87	Forgery of licence etc. and other offences	86
87A	Interference with infringement notices or camping forms	87
88	Offences generally	87
88A	Infringement notices	90
88B	Service of infringement notices	91
88C	Effect of service of infringement notice	92
88D	Liability for forest infringements	93
88E	Evidentiary provisions	96
88F	Service of copies of statutory declaration	98
89	Recovery of moneys due	99
91	Power to waive proceedings	99
92	All moneys to be property of Crown	101
93	Judicial notice	101
94	Mistaken belief as to boundaries	102
95	Facilitation of proof	102
96	Acknowledgment of service	104
96A	Delegation by chief executive	105
97	Regulations—sch 2	105
98	Misnomer, inaccurate description etc.	106
102	Saving of certain Acts	106
103	Existing orders in council	107
104	Delegations continue until revoked	107

**PART 9—SAVINGS AND TRANSITIONAL PROVISIONS FOR
PRIMARY INDUSTRIES AND NATURAL RESOURCES
LEGISLATION AMENDMENT ACT 2000**

Division 1—Preliminary

104	Purposes of pt 9	107
105	Definitions for pt 9	108

Division 2—Appointment of replacement corporation

106	Council must appoint its replacement corporation	109
107	Conditions for appointment	109
108	Notice of appointment	109

Division 3—Transfer to replacement corporation

109	Application of div 3	111
110	Transfer of council's assets and liabilities	111
111	Registration of transferred assets	111
112	References to council	112
113	Continuity of proceedings	112
114	Employees	112
115	Minister's directions to give effect to transfer	113
116	Dissolution of council	113

SCHEDULE 2 114**SUBJECT MATTERS FOR REGULATIONS**

1	Officers	114
2	Training of officers	114
3	Mode of action, etc.	114
4	State forests	114
4A	State forest parks, feature protection areas and forest drives	115
5	Use etc. of buildings	115
6	Method of getting and disposal	115
7	Permits etc.	115
8	Deposits etc.	116
9	Auction etc. of forest products	116
10	Auction etc. of grazing permits etc.	116
11	Declarations etc.	116
12	Inspection	117
13	Grading	117
14	Sizes, quantities etc.	117
15	Brands	117
16	Records	118

17	Production of permits etc.	118
18	Fire prevention etc.	118
19	Felling trees	118
20	Prevention of pollution	118
22	Honorary rangers	119
23	Reservation of trees	119
24	Forms	119
25	Fees etc.	119
26	Stock	120
27	Penalties	120

ENDNOTES

1	Index to endnotes	121
2	Date to which amendments incorporated	121
3	Key	122
4	Table of earlier reprints	122
5	Tables in earlier reprints	123
6	List of legislation	123
7	List of annotations	127
8	Provisions that have not commenced and are not incorporated into reprint	147

FORESTRY ACT 1959

[as amended by all amendments that commenced on or before 6 October 2000]

An Act to provide for forest reservations, the management, silvicultural treatment and protection of State forests, and the sale and disposal of forest products and quarry material, the property of the Crown on State forests, timber reserves and on other lands; and for other purposes

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Forestry Act 1959*.

Definitions

5. In this Act—

“animal life” means all mammals, birds, reptiles, frogs, fish, molluscs, crustaceans, insects, and all other species of animal life and the eggs and young thereof.

“beds and banks”, used with reference to any watercourse the bed and banks thereof as defined in the *Water Act 2000* and where elevations or slopes of land contiguous to the bed and banks as hereinbefore in this definition defined of any watercourse confine or tend to confine the waters flowing in, into or out of such watercourse during the period of any flood or cyclone, the term **“bed and banks”** shall include all land covered by the waters so confined or tending to be so confined.

“camp” includes—

- (a) pitch, place or erect a tent, caravan, hut or other structure for the purpose of camping; and
- (b) place other camping equipment in position for the purpose of camping; and
- (c) stay overnight.

“camping form” means a form required to be made available by the chief executive under section 34H for use in relation to a self-registration camping area.

“chief executive (lands)” means the chief executive within the meaning of the *Land Act 1994*.

“contiguous”, when used in relation to lands set apart and declared as State forests, or timber reserves, includes lands that are separated only by a road or roads or by a watercourse, body of water or other natural feature.

“conviction” includes a finding of guilt, and the acceptance of a plea of guilty by a court.

“Crown holding” means land—

- (a) held under the *Land Act 1962* as a pastoral lease, stud holding, grazing homestead perpetual lease, special lease, development lease (issued on or after 31 December 1991), occupation licence, permissive occupancy or road licence; or
- (b) held as a perpetual town lease (non-competitive lease), perpetual suburban lease (non-competitive lease) or perpetual country lease (non-competitive lease)—
 - (i) that issued under the *Land Act 1962* over Crown land on or after 31 December 1991; or
 - (ii) that issued on or after 31 December 1991 on an application under the *Land Act 1962*, section 207 that was received—
 - (A) on or after 5 February 1990; or
 - (B) in respect of a lease issued under this Act and under an arrangement under the *Industrial Development Act*

Forestry Act 1959

1963, section 24¹ or issued before the commencement of the *Industrial Development Act 1963* under a recommendation of the Minister administering industrial development—on or after 3 October 1991; or

- (c) held as a term lease, a perpetual lease, a licence or permit issued under the *Land Act 1994*; or
- (d) held under a lease or licence prescribed under the regulations.

“Crown land” means all land in Queensland, except land which is, for the time being—

- (a) lawfully granted or contracted to be granted in fee simple by the Crown; or
- (b) reserved for or dedicated to public purposes; or
- (c) subject to any lease or licence lawfully granted by the Crown; or
- (d) set apart and declared as a State forest, protected area or timber reserve or deemed so to be.

However, land held under an occupation licence, other than an occupation licence referred to in the definition “Crown holding”, and an occupation licence granted over a timber reserve or any part thereof, shall be deemed to be **“Crown land”**.

“deed of grant” means land granted in fee simple under the *Land Act 1994*, and includes an indefeasible title under the *Land Act 1994*.

“destroy”, used in relation to any tree, means cut down, fell, ringbark, push over, poison or destroy by any means whatsoever.

“entrance”, in relation to a State forest or a part of a State forest, is an area of land—

- (a) developed with the authority of the chief executive for use as a vehicular entrance to the State forest or that part of the State forest; and
- (b) that is commonly used by persons for the purpose of driving or riding vehicles into the State forest or that part of the State forest.

¹ Section 24 was renumbered as section 9—now see *Industrial Development Amendment Act 1998*, section 30.

“feature protection area” means the whole or part of a State forest declared as such under this Act.

“forest drive” means that part of a State forest declared as such under this Act.

“forest entitlement area” has the same meaning as in the *Land Act 1994*.

“forest infringement” means an offence against—

- (a) section 34AA(5), 34G, 39, 53, 54, 60, 62, 66, 67, 73, 73A or 86(1)(j), (k) or (l); or
- (b) the regulations.

“forest officer” has the meaning given by section 17.

“forest products” means all vegetable growth and material of vegetable origin whether living or dead and whether standing or fallen, including timber, and, in relation to a State forest, timber reserve or forest entitlement area the term includes—

- (a) honey;
- (b) all form of indigenous animal life;
- (c) any nest, bower, shelter or structure of any form of indigenous animal life;
- (d) fossil remains;
- (e) Aboriginal remains, artefacts or handicraft of Aboriginal origin or traces thereof;
- (f) relics;
- (g) quarry material;

but does not include grasses (indigenous or introduced) or crops grown on a Crown holding by the lessee or by the licensee or on a forest entitlement area by the lessee or owner.

“freeholding lease” means a freeholding lease under the *Land Act 1994*, if the deed of grant that will issue from the freeholding lease would be required, under the *Land Act 1994*, section 22, to contain a reservation mentioned in the section.

“get”, used in relation to any forest products, includes get, win, cut, saw, fell, dig, gather, remove, convert, or obtain; and used in relation to any

Forestry Act 1959

earth, soil, or quarry material, includes dig, gather, remove, convert, or obtain.

“incidental thing” see section 18(1)(ga)(i).

“interfere with”, used in relation to any forest products, earth, soil, or quarry material, includes destroy, get, damage, mark, move, use, or in any way interfere with.

“management” includes control, regulation, construction, maintenance and protection.

“Mining Acts” means the *Coal Mining Act 1925*, the *Mineral Resources Act 1989* or the *Petroleum Act 1923*.

“motor vehicle” has the same meaning as in the *Transport Operations (Road Use Management) Act 1995*.

“native forest hardwood sawlogs” means native hardwood timber for use for sawmilling.

“native forest sawlog allocation system” see section 69A.

“notice” means a notice, sign, pictograph or other device, of whatever material and whether fixed or movable, erected or displayed in or near a State forest with the authority of the chief executive.

“officer” means the chief executive or a forest officer.

“official traffic sign” means an official traffic sign within the meaning of the *Transport Operations (Road Use Management) Act 1995*.

“owner” means, in relation to—

- (a) a vehicle that is registered under a law of a State or Territory providing for the registration of vehicles—the person in whose name the vehicle is registered; or
- (b) a deed of grant—the registered proprietor; or
- (c) a freeholding lease—the lessee.

“permit” means a permit granted or taken to have been granted under this Act and in force at the material time and, with reference to any particular provision of this Act, a permit of the description appropriate according to that provision.

“place” includes any house, office, room, tent, building, erection, structure,

premises (whether upon land or water), ship, vessel, vehicle or aircraft, and any road, street, thoroughfare, alley, right of way (whether public or private), and any land, whether public or private and whether enclosed or otherwise, and also includes any part of any place.

“prescribed” means prescribed by this Act.

“protected area” means an area dedicated under the *Nature Conservation Act 1992* as a national park (scientific), national park (Aboriginal land), national park (Torres Strait Islander land), conservation park or resources reserve.

“public purposes” means any objects or purposes included in the term “public purposes” within the meaning of the *Land Act 1962*.

“quarry material” includes—

- (a) guano; and
- (b) stone, gravel, sand, rock, clay, earth and soil;

but does not include—

- (c) minerals within the meaning of the *Mineral Resources Act 1989*; or
- (d) topsoil, if quarry material is reserved in a deed of grant; or
- (e) topsoil on a freeholding lease.

“recreational purposes” means any purpose other than a purpose of business.

“regulatory notice” means a notice referred to in section 34AA(1).

“requirement”, in relation to a regulatory notice or self-registration camping notice, includes a direction, instruction, indication, condition or other provision contained on the notice.

“sales permit” means a permit granted under section 56.

“scientific area” means the whole or part of a State forest declared as such under this Act.

“seized thing” see section 82B.

“self-registration camping area” means a State forest or a part of a State forest to which a self-registration camping notice relates.

“**self-registration camping notice**” means a notice referred to in section 34H(1).

“**State forest**” means land set apart and declared or deemed to be set apart and declared under this Act as a State forest.

“**State forest information notice**” means a notice erected or displayed under section 34AB(1).

“**State forest park**” means the whole or part of a State forest declared as such under this Act.

“**stock**” means cattle, horses, sheep, goats, or swine, or the young of any such animals.

“**timber**” includes the trunks, branches, stumps and roots of trees, whether standing or not, and all wood, whether or not the same is cut up, sawn, hewn, split, or otherwise fashioned.

“**timber reserve**” means land set apart and declared or deemed to be set apart and declared under this Act as a timber reserve.

“**topsoil**” means that part of the soil profile from the earth’s surface down to the limit of major biological activity that—

- (a) generally contains most of the root systems of native perennial plants; and
- (b) is generally darker in colour than underlying material.

“**trees**” includes not only timber trees, but all other trees, and shrubs, bushes, seedlings, saplings, and re-shoots of every description and any parts thereof.

“**vehicle**” includes—

- (a) a motor vehicle, trailer, bicycle, carriage, cart, wagon and any other means of transport or conveyance designed for movement upon wheels, whether or not the vehicle is for the time being capable of being operated or used in a normal manner; and
- (b) a hovercraft.

“**warden**” means a warden appointed under the *Mineral Resources Act 1989*, and includes an acting warden under that Act.

“**watercourse**” includes any river, stream or creek (whether subject to tidal

influence or not) in which water flows in a natural channel, either permanently, intermittently, or occasionally.

PART 2—ADMINISTRATION AND FUNCTIONS

Appointment of officers

17.(1) Forest officers and other officers may be appointed for the purposes of this Act by the chief executive.

(2) The chief executive may, in writing, appoint a person to act as a forest officer either generally or in relation to specified functions and powers of a forest officer.

(3) A person appointed to act as a forest officer may resign by written notice given to the chief executive.

General powers of forest officers

18.(1) Any forest officer, in addition to such other powers and duties as from time to time devolve upon the forest officer under this Act, may—

- (b)** be accompanied and aided by any person the forest officer may think competent to assist the forest officer in making any inspection or examination; and
- (c)** make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act have been or are being complied with by any person or in respect of any State forest, timber reserve, forest entitlement area, or any forest products or quarry material, the property of the Crown; and
- (d)** question, with respect to matters under this Act, the owner or occupier of any place, every person whom the forest officer finds in any place, and every person who has been within the preceding 6 months employed in or on any place to ascertain whether this Act has been or is being complied with, and require any such person to answer the questions put and to sign a declaration of the truth of the person's answers; and

Forestry Act 1959

- (e) require the production of any licence, permit, or other authority granted or agreement or contract made under and for the purposes of this Act and of any book, notice, record, list, or writing which by this Act is required to be had or kept or which, in the forest officer's reasonable opinion, may be material to an inquiry under paragraph (c), and inspect, examine, and take copies of or extracts from the same; and
- (f) at any time, search and examine all containers, vehicles, vessels, or other receptacles for holding or transporting any forest products or quarry material or reasonably suspected so to be, and for that purpose the forest officer may require the owner or person in charge thereof to open any such container, vehicle, vessel, or other receptacle, as the case may be, and expose its contents to view; and
- (g) subject to subsections (1A) and (3), enter and inspect a place in which the forest officer reasonably suspects are forest products or quarry material got or interfered with or that the forest officer reasonably suspects have been got or interfered with in contravention of this Act; and
- (ga) if the forest officer finds forest products or quarry material mentioned in paragraph (g) in a place entered under that paragraph—
 - (i) seize, take away and detain the forest products or quarry material together with anything (an **“incidental thing”**) including any document, equipment, gear, machinery, plant, vehicle or vessel, the officer reasonably suspects has been used or is intended to be used, in or in connection with, or is evidence of, the getting or interfering with the forest products or quarry material; and
 - (ii) subject to sections 82D to 82F, secure anything seized until the end of proceedings for a contravention of this Act; and
- (h) exercise such other powers, functions and authorities as may be prescribed.

(1A) The power to enter a place under subsection (1)(g) may be exercised—

- (a) for a place that is occupied land—only between sunrise and sunset or at any time with the consent of the owner or an agent or employee of the owner; or
- (b) otherwise—at any time.

Forest officer may require name and address

(2) Any forest officer who—

- (a) finds any person committing or who reasonably suspects any person of having committed an offence against this Act; or
- (b) is making inquiries or investigations with a view to establishing whether or not an offence against this Act has been committed by any person; or
- (c) is of the opinion that the name and address of any person is required for the purpose of giving effect to any provision of this Act, or for the purpose of enabling the forest officer to carry out his or her powers and duties under this Act;

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

Entry into dwelling

(3) Before a forest officer enters any part of a place, which part is being used as a dwelling at the time the entry is to be made, the forest officer shall, save where the forest officer has permission of the occupier of that part to the entry, obtain from a justice a warrant to enter.

(3A) Subsection (3) does not apply in respect of the curtilage of any premises.

(4) A justice who is satisfied upon the complaint of a forest officer that there is reasonable cause to suspect—

- (a) that there are in any place forest products or quarry material; and
- (b) that such forest products or quarry material have been got or interfered with contrary in any respect to this Act;

may issue a warrant directed to the forest officer to enter the place specified in the warrant for the purpose of the forest officer's exercising therein and

with respect thereto the powers conferred on a forest officer by this section.

(5) A warrant issued under subsection (4) shall be, for a period of 1 month from its issue, sufficient authority—

- (a) to the forest officer to whom it is directed and to all persons acting in aid of the forest officer to enter the place specified in the warrant; and
- (b) to the forest officer to whom it is directed to exercise in respect of the place specified in the warrant all the powers conferred on a forest officer by this section.

(6) In this section—

“occupied land” means land on which the owner is lawfully residing.

“owner”, of land, includes—

- (a) the lessee or licensee from the State of the land; or
- (b) the person who has lawful control of the land, on trust or otherwise; or
- (c) the person who is entitled to receive the rents and profits of the land.

Retention of document produced to forest officer

19.(1) This section applies if a forest officer makes a requirement under section 18(1)(e) (the **“requirement”**) for the production of a document.

(2) The document must be produced at the place and time stated in the requirement.

(3) The place stated in the requirement—

- (a) may be other than the place where the document is ordinarily kept; but
- (b) must be reasonable in the circumstances of the making of the requirement.

(4) The time stated in the requirement must be reasonable in the circumstances of the making of the requirement.

(5) To avoid any doubt, it is declared that—

- (a) the document must be produced in its original form; and
- (b) the forest officer may keep possession of the document for the time the forest officer reasonably requires to exercise the forest officer's powers under section 18(1)(e).

(6) The forest officer may continue to keep possession of the document after the forest officer has finished exercising the forest officer's powers under section 18(1)(e) if the forest officer is satisfied on reasonable grounds that continued retention of the document is necessary—

- (a) for the purpose of an inquiry under section 18(1)(c); or
- (b) to preserve the document as evidence for a prosecution for a contravention of this Act.

(7) Subsection (6)(a) does not authorise retention of the document after the end of—

- (a) the time reasonably necessary to complete the inquiry; or
- (b) the first 6 months after the production of the documents.

(8) Subsection (6)(b) does not authorise retention of the document after the end of—

- (a) if a prosecution for the contravention mentioned in subsection (6)(b) is started within the first 6 months after the production of the document—the prosecution for the contravention and any appeal from the prosecution; or
- (b) if paragraph (a) does not apply—the 6 months mentioned in paragraph (a).

(9) Until the document is returned, the forest officer must allow a person who would be entitled to possession of it, if it had not been retained by the forest officer, to inspect it and make copies of it.

Officers not to trade in timber etc.

21.(1) No officer in the officer's personal capacity shall become in any way concerned or interested in any lease, permit, or licence, or other similar right or authority granted under this Act or under any enactment repealed by this Act or in any contract or agreement made under or for any of the purposes of this Act or in anywise participate or claim to be entitled to

participate in the profit thereof or in any benefit or emolument arising therefrom.

(2) However, an officer may, with the consent in writing of the chief executive first had and obtained, purchase, on such terms as the chief executive deems fit, forest products and quarry material the property of the Crown for the officer's own personal use and enjoyment.

Auctioneer's licence not required by officers

22. Any officer holding any auction under or for the purposes of this Act may hold that auction without an auctioneer's licence under the *Auctioneers and Agents Act 1971*.

PART 3—CLASSIFICATION AND RESERVATION OF STATE FORESTS AND TIMBER RESERVES

CLASSIFICATION OF FOREST LANDS

Classification of lands

23. The chief executive shall from time to time cause to be made inspections and surveys of any lands within the State for the purpose of ascertaining whether or not such lands are suitable to be set apart under and for the purposes of this Act.

STATE FORESTS

Power to set apart and declare State forests

25.(1) The Governor in Council may, by regulation, set apart and declare as a State forest any Crown land, or any land or part thereof which may then be a timber reserve.

Restriction on alienation etc.

26.(1) The setting apart and declaration of a State forest by or under this Act shall not be revoked in whole or in part except under the authority of and in accordance with the provisions of subsection (2) or section 32.

(1A) No land comprised in a State forest shall be excluded therefrom, leased, or dealt with otherwise howsoever except under the authority of and in accordance with the provisions of this Act.

Revocation of declaration

(2) The setting apart and declaration by or under this Act of land as a State forest may be revoked in whole or in part in the following manner—

- (a) the Governor in Council shall cause to be laid on the table of the Legislative Assembly a proposal for such revocation;
- (b) after such proposal has been laid before the Legislative Assembly, the Governor in Council, on a resolution whereof not less than 14 days notice shall have been given being passed by the Legislative Assembly that such proposal be carried out, shall, by regulation, revoke such setting apart and declaration in accordance with that resolution.

(3) Subsection (2) does not apply to a regulation that merely—

- (a) sets apart and declares a State forest and an area of Crown land, or a timber reserve, as a State forest; or
- (b) sets apart and declares contiguous State forests as a single State forest; or
- (c) divides a State forest into 2 or more State forests.

Amalgamation etc. of State forests

27. The Governor in Council may, by regulation—

- (a) set apart and declare a State forest and an area of Crown land, or a timber reserve, as a State forest; or
- (b) set apart and declare contiguous State forests as a single State forest; or
- (c) divide a State forest into State forests.

Power to set apart and declare timber reserves

28.(1) The Governor in Council may, by regulation—

- (a) set apart any Crown land as a timber reserve; or
- (b) set apart a timber reserve and an area of Crown land as a timber reserve; or
- (c) set apart contiguous timber reserves as a single timber reserve.

(3) The setting apart by or under this Act of any land as a timber reserve shall not be rescinded or amended, in whole or in part, except under the authority and in accordance with the provisions of subsection (4) or section 32.

(3A) However, the setting apart of a timber reserve or part thereof under this Act as a State forest, shall without further or other authority revoke accordingly the whole or that part of the setting apart under this Act of the land as a timber reserve.

Revocation of timber reserves

(4) Where the Governor in Council is satisfied that, having due regard to the objects and purposes of this Act, it is expedient to revoke in whole or in part the setting apart of any land as a timber reserve, then the Governor in Council may, by regulation, revoke wholly or in part such setting apart as a timber reserve.

Land for tourist purposes

32.(1) Where the Governor in Council is satisfied that, having due regard to the objects and purposes of this Act and to the public interest, it is desirable to make any land comprised in a State forest or timber reserve available for the provision of accommodation and recreational facilities, or either of such facilities, for the purpose of encouraging and promoting the tourist industry or that any such land be opened or applied for use as a road for public use, the Governor in Council may, by regulation, exclude such land from such State forest or timber reserve.

(2) In any such exclusion due regard shall be had to access and any other matters which are necessary for the proper management of the balance of the State forest or timber reserve in question.

(3) Any land so excluded shall become and be Crown land and may be dealt with by the Governor in Council under the provisions of the *Land Act 1994*, in such manner as appears to the Governor in Council most appropriate to ensure its use for the purposes for which it was so excluded.

PART 4—MANAGEMENT OF STATE FORESTS, TIMBER RESERVES AND FOREST ENTITLEMENT AREAS

Cardinal principle of management of State forests

33.(1) The cardinal principle to be observed in the management of State forests shall be the permanent reservation of such areas for the purpose of producing timber and associated products in perpetuity and of protecting a watershed therein.

(2) The chief executive must ensure each State forest is used and managed in the way the chief executive considers appropriate to achieve the purposes of this Act, having regard to—

- (a) the benefits of permitting grazing in the area;
- (b) the desirability of conservation of soil and the environment and of protection of water quality;
- (c) the possibility of applying the area to recreational purposes.

Use of State forests

34.(1) The chief executive in addition to all other powers conferred by this Act may from time to time for the purposes of the use and management of State forests—

- (a) determine and cause to be put into operation the silvicultural system most suitable to the circumstances of any State forest;
- (b) make surveys including aerial and assessment surveys;
- (c) subject to the provisions of subsection (2), determine, in relation to the period specified in the determination, the maximum

Forestry Act 1959

quantities of forest products of any kind or description which may be removed from any State forest or State forests during such period without impairing the permanent productive capacity of the State forest or State forests in question, and any such determination may from time to time be altered, varied or rescinded;

- (d) make roads and tracks thereon;
- (e) undertake and carry out nursery operations thereon;
- (f) undertake, carry out and maintain thereon protection works of every kind and description whatsoever;
- (g) purchase, hire or rent plant, equipment, means or rights of access, or any other thing which the corporation deems necessary;
- (h) construct, build, erect, operate, or place thereon buildings, structures and other improvements (including but without limiting the generality hereof bridges, fences, fire lookouts, fire sheds, garages, houses, jetties, nurseries, offices, ranches, radio stations, storerooms, water supplies, wharves, workshops, workers' accommodation and telephone lines) and may furnish, equip, repair, improve and maintain the same;
- (i) let or lease any buildings, structures or other improvements thereon on such terms and conditions as the chief executive deems fit;
- (j) promote and encourage the use of a State forest or any part or parts thereof for recreational purposes.

(2) Any determination thereof by the chief executive of the maximum quantities of forest products of any kind or description which may be removed from any State forest or State forests during any specified period or any alteration, variation or rescission of any such determination shall be subject to the approval of the Minister.

(2A) Upon the approval of any such determination, or any alteration or variation thereof, forest products of any kind or description specified in the determination shall not during the period specified therein be removed from the State forest or State forests in question in excess of the maximum quantities thereof specified in the determination or, in the case of any alteration or variation thereof as aforesaid, in the determination as so altered

or varied.

(3) Notwithstanding any lease, licence, permit or other right or authority granted under this or any other Act, the chief executive may within any State forest from time to time construct, carry out, improve, maintain, operate, protect, control, and otherwise manage any silvicultural or other works of any description whatsoever which the chief executive considers necessary or desirable for the proper utilisation and management of the State forest or to carry out the objects and purposes of this Act (whether in relation to the State forest or not).

Regulation of use of State forests by notices

34AA.(1) The chief executive may authorise the erection or display in relation to a State forest or a part of a State forest of notices for the purpose of regulating or prohibiting—

- (a) the use of the State forest or that part of the State forest by persons; or
- (b) the use in the State forest or that part of the State forest of vehicles or vehicles included in a specified class of vehicles; or
- (c) the bringing into the State forest or that part of the State forest of animals or animals included in a specified class of animals.

(2) Without limiting the generality of subsection (1), the chief executive may authorise the erection or display of regulatory notices in the form of official traffic signs.

(3) A regulatory notice—

- (a) may be erected or displayed within, or at or near the entrances to, the State forest or the part of the State forest to which the notice relates; and
- (b) must specify or indicate a particular requirement or particular requirements to be complied with by persons entering, or in, the State forest or that part of the State forest; and
- (c) may expressly state that a contravention of a requirement contained on the notice constitutes an offence against this Act.

(4) A regulatory notice referred to in subsection (2) is, for the purposes

of subsection (3)(b), taken to contain the direction or indication given by the corresponding official traffic sign.

(5) A person must not knowingly or recklessly contravene or fail to comply with a requirement contained on a regulatory notice.

(6) Evidence that a regulatory notice was erected or displayed at a place referred to in subsection (3)(a) is evidence that the notice was so erected or displayed with the authority of the chief executive.

Display in State forests of information notices in conjunction with regulatory notices

34AB.(1) Where a regulatory notice is erected or displayed in relation to a State forest or a part of a State forest and the notice does not contain the statement referred to in section 34AA(3)(c), the chief executive—

- (a) must cause to be erected or displayed at or near the entrances to the State forest or that part of the State forest; and
- (b) may cause to be erected or displayed at such other places within the State forest as the chief executive considers appropriate;

notices that expressly state that a contravention of a requirement contained on the regulatory notice constitutes an offence against this Act.

(2) The chief executive must take reasonable steps to ensure that, while regulatory notices of the kind referred to in subsection (1) continue to apply in relation to a State forest or a part of a State forest, State forest information notices—

- (a) continue to be erected or displayed under subsection (1)(a); and
- (b) are properly maintained.

(3) A State forest information notice, in addition to containing the statement referred to in subsection (1), may contain such other information relating to the State forest or the use of the State forest by persons as the chief executive considers appropriate.

(4) In this section—

“regulatory notice” means—

- (a) a notice referred to in section 34AA(1); and

- (b) a notice referred to in section 34G(1);
other than a notice in the form of an official traffic sign.

Specialised management within State forests

34A. The Governor in Council may, by regulation—

- (a) declare the whole or a part of a State forest to be a feature protection area, scientific area or State forest park; or
- (b) declare a part of a State forest to be a forest drive.

Application of Motor Vehicles Control Act

34B. For the purposes of the *Motor Vehicles Control Act 1975* a feature protection area, scientific area, State forest park or forest drive shall be taken not to be a public place.

Feature protection area

34C. The chief executive—

- (a) must ensure a feature protection area is used and managed so that the features thereof which gave rise to its declaration as such under this Act continue to exist;
- (b) may provide roads and paths for the purpose of enabling persons generally to travel to, within and from a feature protection area;
- (c) may provide picnic and other facilities for the use of persons generally within a feature protection area.

State forest park

34D. The chief executive—

- (a) must ensure a State forest park is used and managed with a view to maintaining its forest setting;
- (b) shall provide roads and paths for the purpose of enabling persons generally to travel to, within and from a State forest park;

- (c) shall provide such recreational facilities as to the chief executive seem appropriate in a State forest park;
- (d) may cause to be erected and maintained at each entrance to and also within a State forest park such number of signs as to the chief executive seem desirable showing details of the recreational activities for which facilities are available within the park.

Scientific area

34E.(1) The chief executive—

- (a) must ensure a scientific area is used and managed to preserve it as a sample of the natural environment of the State forest concerned;
- (b) may permit persons, who in the chief executive's opinion are suitably qualified, to study the nature and environment of a scientific area;
- (c) may carry out or allow to be carried out in any scientific area any works which the chief executive considers necessary or desirable.

(2) Permission given pursuant to subsection (1)(b) shall be in writing and may be given subject to such provisions, reservations and conditions as the chief executive considers appropriate.

(3) A person who contravenes or fails to comply with a provision, reservation or condition of a permit given to the person pursuant to subsection (1)(b) commits an offence.

Forest drive

34F. The chief executive—

- (a) shall provide upon a forest drive a road for the purpose of enabling persons generally to travel along the route of the forest drive;
- (b) may provide on a forest drive such facilities as to the chief executive seem desirable for the use and enjoyment of persons generally;
- (c) may cause to be erected and maintained within a State forest such number of signs as to the chief executive seem desirable with a

view to informing persons generally of the existence and route of a forest drive.

Regulating movement of vehicles on feature protection areas etc.

34G.(1) The chief executive may, by erecting a notice or notices on or adjacent to any feature protection area, State forest park or forest drive, regulate and prohibit the movement of vehicles thereon.

(1A) A notice erected under subsection (1) may be in the form of an official traffic sign and, in such a case, is taken to contain a provision that is the same as the direction or indication given by the corresponding official traffic sign.

(2) A person who fails to comply with or contravenes a provision of a notice mentioned in subsection (1) commits an offence.

(2A) Evidence that a notice was erected on or adjacent to a place referred to in subsection (1) is evidence that the notice was so erected by the chief executive.

(3) Section 73(1)(e) does not apply to a person who traverses a State forest or part thereof that is a feature protection area, State forest park or forest drive.

(4) A person shall not on any feature protection area, State forest park or forest drive—

(a) drive or ride a vehicle—

(i) in any manner that would cause that vehicle to swerve, veer or turn violently without reasonable cause;

(ii) at such speed or in such other manner as may endanger himself or herself or endanger or inconvenience any other person;

(iii) in such a manner that an unreasonable amount of damage (having regard to the conditions existing at the time) is caused to any part of the feature protection area, State forest park or, as the case may be, forest drive;

(b) use a vehicle in such a manner as is likely to cause annoyance to any person.

Self-registration camping areas

34H.(1) The chief executive may authorise the erection or display in, or at or near the entrances to, a State forest of a notice or notices indicating that the State forest, or the specified part of the State forest, is, during the specified period or periods, a self-registration camping area.

(2) A self-registration camping notice—

- (a) must, in relation to the use of camping forms, indicate, in general terms, the procedures to be followed by persons proposing to camp in the self-registration camping area; and
- (b) must, if applicable, specify the maximum number of persons authorised to camp in the self-registration camping area under the authority of a single permit; and
- (c) must specify the maximum period for which camping is authorised in the self-registration camping area; and
- (d) must specify any requirements relating to—
 - (i) the maximum number of persons authorised to camp on; or
 - (ii) the maximum number of permits that may apply in relation to;
a single camp site in the self-registration camping area; and
- (e) must specify the amount of the camping fee prescribed by the regulations in relation to camping in the self-registration camping area; and
- (f) must indicate the effects of camping in a State forest without a permit; and
- (g) may contain such other information relating to camping in the self-registration camping area as the chief executive considers appropriate.

(3) The chief executive is to make available in a self-registration camping area in a prominent position and at a place that is readily accessible, and take reasonable steps to ensure that there continues to be so available—

- (a) forms for use in relation to self-registration camping areas; and
- (b) a sealed, secure container for the deposit of—

- (i) the appropriate completed parts of camping forms; and
 - (ii) camping fees.
- (4) A form for use in relation to a self-registration camping area—
- (a) is to be in a form approved by the chief executive; and
 - (b) is to comprise 2 detachable parts, one part being an envelope that is designated as the part required to be dealt with in the manner referred to in section 35A(1)(b) and the other part being designated as the part required to be dealt with in the manner referred to in section 73A(1); and
 - (c) must indicate the procedures to be followed by a person in relation to the use of the form; and
 - (d) must contain on the part of the form comprising the envelope a section for use for credit card payments of camping fees; and
 - (e) may contain such other information relating to—
 - (i) the use of the form; or
 - (ii) camping in a self-registration camping area;as the chief executive considers appropriate.

Granting of permit for land within State forest

35.(1) With respect to any land comprised in any State forest the chief executive may from time to time grant, subject to such provisions, reservations and conditions as the chief executive thinks fit—

- (a) permits to occupy for a term fixed by the chief executive but not exceeding 7 years (“**occupation permits**”), but so that the area in respect whereof any such occupation permit is granted shall not exceed 10 ha; or
- (b) permits to camp; or
- (c) permits to graze stock for a term fixed by the chief executive but not exceeding 7 years (“**stock grazing permits**”); or
- (d) permits for apiary sites for a term fixed by the chief executive (“**apiary permits**”); or

(e) permits to search for and collect minerals.

(1A) However, in any case where the term of an occupation permit or a stock grazing permit has been fixed at less than 7 years the chief executive may, from time to time, extend the same for such term as the chief executive thinks fit but so that the term originally fixed and any extension or extensions thereof shall not, in the aggregate, exceed 7 years.

(1B) In addition, no permit to which this section relates shall be granted or extended or subjected to any provision or condition unless the chief executive is satisfied that the objects of this Act would not be thereby prejudiced or opposed, and no permit to search for and collect minerals shall be granted unless the land comprised in the State forest or part thereof in question is the subject of a subsisting declaration under the *Mining Act 1968*, section 45A(1).

Special leases of land within State forests

(2) A term lease under the *Land Act 1994* may be granted over land in a State forest and for the purpose of this subsection such land shall be deemed to be land reserved and set apart for public purposes, and the provisions of that Act so far as they are not inconsistent with so much of this Act as relates to State forests shall extend and apply to all such special leases accordingly.

(3) However, no such lease shall be granted or subjected to any condition unless the Governor in Council is satisfied that the objects of this Act would not be thereby prejudiced or opposed.

Permit to camp in State forest taken to have been granted by chief executive

35A.(1) Where, in relation to a self-registration camping area, a person—

- (a) completes a camping form in the manner indicated in the form and detaches the relevant part of the form; and
- (b) deposits in the container provided for the purpose the part of the camping form, duly completed, required to be so deposited; and
- (c) pays to the chief executive in accordance with subsection (4) the appropriate camping fee calculated in accordance with the details relating to camping fees specified on the self-registration camping

notice;

a permit to camp is, subject to this section, taken to have been granted under section 35 in relation to that self-registration camping area for the period specified in the form to—

- (d) the person specified in the form; and
- (e) each other person accompanying that person for the purpose of camping.

(2) The permit is not to be taken to have been granted—

- (a) to a number of persons exceeding the number of persons referred to in the camping form; or
- (b) to a number of persons exceeding the maximum number of persons authorised by the relevant self-registration camping notice; or
- (c) in relation to any period during which the area is not a self-registration camping area; or
- (d) for any period exceeding the maximum period for which camping is authorised by the relevant self-registration camping notice; or
- (e) if payment of the amount of the camping fee relating to the permit was purported to have been made by cheque and the cheque was not honoured on presentation.

(3) The permit is subject to any requirements contained on the relevant self-registration camping notice.

(4) The camping fee is to be paid—

- (a) by placing in the part of the camping form comprising the envelope the amount of the fee in cash or a cheque for the amount of the fee and depositing the envelope, duly sealed, in the container provided for the purpose; or
- (b) by properly completing and signing the section of the camping form relating to credit card payments appearing on the part of the form comprising the envelope and depositing the envelope in the container provided for the purpose.

Dealings with respect to timber reserves

36.(1) Subject to this Act, a lease or permit may be granted under the *Land Act 1994* with respect to any timber reserve or any part thereof.

(2) For the purpose of the grant, extension or renewal of any lease authorised by this section the land to be made subject to such lease, extension or renewal shall be deemed to be land reserved and set apart for public purposes and for the purpose of the grant, extension or renewal of any licence authorised by this section the land with respect to which the licence is to be granted, extended or renewed shall be deemed to be Crown land.

(3) A lease mentioned in subsection (1) may be granted, extended or renewed subject to conditions.

Mining leases over State forest, timber reserve or forest entitlement area

37.(1) The Governor in Council or the chief executive may impose provisions, reservations or conditions on the grant of a mining lease, exploration permit, mineral development licence, authority to prospect or petroleum lease under the Mining Acts.

Grant of mineral lease subject to conditions

(2) In the case of any such lease, permit licence or authority over a State forest or any part thereof the lease, permit licence or authority may be so granted subject to such provisions, reservations and conditions (including conditions as to securing payment to the chief executive for any loss and any damage to the State forest and to any works thereon the property of the State) as the Governor in Council or the chief executive, as the case may be, may fix for the purpose of the protection of the State and of the State forest and all works thereon (if any) the property of the State.

(2A) The Governor in Council or the chief executive, as the case may be, may, in addition to or in lieu of fixing any such conditions, require such sum to be deposited with the chief executive as will, in the Governor in Council's or chief executive's opinion, be sufficient to meet all loss or damage to the State forest and to all works thereon (if any) the property of the State by reason of the grant of the lease, permit licence or authority.

(2B) The lessee or holder of any such lease, permit, licence or authority

over a State forest or any part thereof shall be liable to the State for any loss and any damage to the State forest and to any works thereon vested in or under the control of the State by reason of the grant of the lease, permit, licence or authority and such loss or damage or loss and damage may be recovered by the State by action as for a debt in any court of competent jurisdiction or as otherwise prescribed.

Stumpage on timber cut on mining lease over State forest

(3) The lessee or holder of any such lease, permit licence or authority over a State forest or any part thereof shall be liable to pay to the chief executive the stumpage at the rate prescribed for the time being in respect of any timber cut or interfered with in or on the area of any such lease, permit licence or authority, notwithstanding that such timber may have been utilised for the purposes of such lease, permit licence or authority and notwithstanding any provisions of the Mining Acts to the contrary.

(4) The Mining Acts shall be read subject to the provisions of this section.

Interfering with forest products on State forests etc.

39.(1) A person shall not interfere with, or cause to be interfered with, any forest products on any State forest, timber reserve or forest entitlement area except under the authority of and in compliance in every respect with the requirements of a lease, licence, permit, agreement or contract granted or made under this Act, the *Land Act 1994* or the Mining Acts.

Maximum penalty—

- (a) for a first offence—1 000 penalty units; and
- (b) for a subsequent offence—3 000 penalty units.

(2) This section shall not be applicable to any matter or thing done or step taken by a person performing duties under this Act for the purpose of executing this Act or in the due execution of the person's powers and duties under this Act.

Forest entitlement areas

39A.(1) The cardinal principle to be observed in the administration of forest entitlement areas shall be the utilisation and management of such

areas for the production of indigenous timber and associated products in perpetuity and the chief executive must ensure forest entitlement areas are used and managed in such manner as appears to the chief executive most appropriate to achieve that purpose and, in doing so, the chief executive shall endeavour to have the person with whom there subsists at the material time an agreement made pursuant to this section participate in the protection and silviculture treatment of the timber thereon under the supervision of the chief executive.

(2) In addition to all other powers conferred on the chief executive by this Act, for the purpose of using and managing a forest entitlement area the chief executive—

- (a) shall have free right of access including ingress, egress and regress, for the chief executive or persons performing functions under this Act or persons authorised by the chief executive to and from the area including rights of ingress, egress and regress in, into, over, upon, along, across and out of the area and such other part of the freeholding lease or deed of grant concerned as are agreed to by the lessee or owner of the land or, failing such agreement, as will cause in the opinion of the chief executive as little damage as possible to the land and as little inconvenience as possible to the lessee or owner thereof;
- (b) may—
 - (i) determine and cause to be put into operation the silvicultural system most suitable in the chief executive's opinion to the circumstances of the area;
 - (ii) make or cause to be made surveys (including aerial surveys and assessment surveys) of the area;
 - (iii) determine the quantities and kinds of forest products that may be got, sold or removed from the area and the times at which the same may be got, sold or removed;
 - (iv) control, manage, work and protect the area and control, manage, work, protect, get, sell and remove forest products therein or thereon, and authorise other persons to do any of such things;
 - (v) determine and implement methods of managing, working,

Forestry Act 1959

- getting, selling or removing forest products in or on the area;
- (vi) make on the area and on land in respect of which the chief executive has free right of access under paragraph (a) fire breaks and such formed and unformed tracks, bridges, culverts and other works as are necessary for the management, protection and getting of forest products in or on the area;
- (vii) undertake, carry out and maintain on the area fencing and protection works of every kind and description;
- (c) may—
- (i) make an agreement with the lessee or owner of land that is or includes the area or with any person approved by the lessee or owner whereby the contracting party may participate in the protection and silvicultural treatment of the timber on the area, under the supervision of the chief executive, on the terms and conditions agreed to, which terms and conditions may provide for a sharing by the State and the contracting party of the proceeds of the sale of forest products in or on the area;
- (ii) permit the contracting party to make and effect improvements and works of development in the area with the approval of the chief executive first had and obtained and on such terms and conditions as the chief executive considers appropriate;
- (iii) permit the contracting party to do in the area such things as the chief executive approves and on such terms and conditions as the chief executive considers appropriate;
- (iv) permit the destruction by the contracting party of such trees in the area as the chief executive determines on such terms and conditions as the chief executive considers appropriate;
- (d) may, by agreement with the contracting party, cancel an agreement made pursuant to this section and make further such agreements with the person who was such contracting party and with 1 or more other persons being in each case the lessee or owner of land that is or includes the area or any part thereof or a

Forestry Act 1959

person approved by the lessee or owner so that each further agreement relates to a part of the area;

- (e) may cancel an agreement made with any person pursuant to this section by notice in writing given to the contracting party or in any other manner authorised by this Act, if the contracting party commits an offence or permits the commission of an offence against any provision of this Act, or fails to perform or comply with any term or condition of the agreement that binds the person whereupon (without prejudice to the operation of section 58) the rights, privileges and liabilities of the contracting party in respect of the area, that attached by reason of the person being a party to the agreement, shall cease, save for a liability on account of anything done or omitted by the person or on the person's behalf before the cancellation of the agreement.

(3) The rights of a contracting party under an agreement made under this section and the obligation of a contracting party to perform such an agreement—

- (a) shall not attach to the land of which the contracting party is lessee or owner and shall not pass with such land;
- (b) shall not survive the contracting party;
- (c) shall not be capable in law of being assigned and any purported assignment thereof shall be void;
- (d) shall cease upon the contracting party being made bankrupt or otherwise taking advantage of the law relating to bankruptcy.

Rights and liabilities of contracting party in respect of forest entitlement areas

39B. A contracting party—

- (a) shall comply with all requirements of the chief executive in respect of the control, management, working and protection of the forest entitlement area, or part thereof, to which the agreement made with him or her pursuant to section 39A relates, and of the control, management, working, protection, getting, removal and sale of forest products therein or thereon;

- (b) where the agreement made with the contracting party pursuant to section 39A provides for the contracting party sharing in the proceeds of sale of any forest products in or on the forest entitlement area to which the agreement relates, shall not be entitled to any amount on account of such proceeds until the forest products concerned have been sold and the proceeds of sale are in the hands of the State;
- (c) subject to section 39A(3), shall have the rights and liabilities conferred or imposed on the contracting party by the agreement made with the contracting party pursuant to section 39A for as long as the agreement subsists.

Interpretation

39C. In sections 39A and 39B—

“**contracting party**” means every party to a subsisting agreement made under section 39A in relation to a forest entitlement area, or any part thereof, or in relation to the management, control or use of such an area or part, or in relation to the forest products therein or thereon, being a person with whom the chief executive has made the agreement.

PART 6—CONTROL AND DISPOSAL OF FOREST PRODUCTS AND QUARRY MATERIAL

Construction of other Acts etc.

44.(1) Unless otherwise indicated or provided, the provisions of every other Act or law (except the *River Improvement Trust Act 1940*), and every provision (excepting this part) of this Act shall be read and construed and shall have operation and effect, subject to this part.

(2) Furthermore every lease, licence, permit or other authority granted under any Act, whether before, on, or after the commencement of this Act, in relation to any Crown holding or any lease or other entitlement granted under the Mining Acts shall be read and construed so as not to limit the

operation and effect of, but so as to be subject to, this part.

(3) However, no provision of a permit or licence under this part shall authorise or be deemed to authorise the destruction of any tree contrary to any prohibition against its destruction imposed by or pursuant to the *River Improvement Trust Act 1940*.

Forest products etc. which are the property of the Crown

45. Except where otherwise expressly provided by some other Act and without prejudice to the powers of any local government had and exercisable in respect of forest products on any road under its control which powers howsoever shall not be taken to authorise or empower the local government to sell, without the consent of the chief executive, any such forest products, it is hereby declared that in addition to all forest products on State forests and timber reserves, the following shall at all times be presumed to be the absolute property of the Crown, unless and until the contrary is proved—

- (a) all forest products and quarry material on all Crown lands;
- (b) all forest products and quarry material on all lands granted in trusts or reserved for or dedicated to public purposes (including all roads save State-controlled roads under the *Transport Infrastructure Act 1994*);
- (d) all quarry material—
 - (i) other than topsoil, in all leases, containing an entitlement to a deed of grant in fee simple, held under the *Land Act 1994* if granted after 31 December 1991, unless the lessee was the owner of that material at that time; and
 - (ii) in all deeds of grant containing a reservation of quarry materials under the *Land Act 1994*;
- (e) all forest products and quarry material on all forest entitlement areas and on all Crown holdings at all times;
- (f) all forest products or quarry material on lands the property of the Crown comprised in any lease or other entitlement granted under the Mining Acts;
- (g) commercial species of timber on a lease subject to an agreement

between the Minister and a lessee for commercial timber on the land under the *Land Act 1994*.

(2) Subsection (1) does not affect the operation of the *Mineral Resources Act 1989*, section 236.

Owner of quarry material

45A. A lessee is to be taken to be the owner of quarry material in respect of a lease granted under the *Land Act 1962*—

- (a) on an application, under the *Land Act 1962*, section 139 received before 5 February 1990; or
- (b) on an application, under the *Land Act 1962*, section 191 received before—
 - (i) 5 February 1990; or
 - (ii) 3 October 1991, in respect of a lease issued or a lease converted from a special lease issued—
 - (A) under the *Land Act 1962* and under an arrangement under the *Industrial Development Act 1963*, section 24²; or
 - (B) before the commencement of the *Industrial Development Act 1963*—under a recommendation of the Minister administering industrial development; or
- (c) on an application, under the *Land Act 1962*, section 207 received before—
 - (i) 5 February 1990; or
 - (ii) 3 October 1991, in respect of a lease issued—
 - (A) under the *Land Act 1962* and under an arrangement under the *Industrial Development Act 1963*, section 24³; or

² Section 24 was renumbered as section 9 under the *Industrial Development Amendment Act 1998*, section 30.

³ Section 24 was renumbered as section 9 under the *Industrial Development Amendment Act 1998*, section 30.

- (B) before the commencement of the *Industrial Development Act 1963*—under a recommendation of the Minister administering industrial development; or
- (C) subject to a condition relating to the freeholding of the lease.

Sale of forest products or quarry material

46.(1) The chief executive may from time to time under, subject to, and in accordance with the provisions of this part sell, on behalf of the Crown, any forest products or quarry material the absolute property of the Crown save forest products on protected areas.

(1A) Such a sale may be made to such persons at such prices or at such rates and on such terms and subject to such conditions and reservations as the chief executive thinks fit, and unless otherwise prescribed the sale may be by auction, tender, or otherwise.

(2) It shall be deemed to be a condition of every sale by the chief executive on behalf of the Crown of any forest products or quarry material on any land that the purchaser shall not get from the land the forest products or quarry material the subject of the sale, or any part thereof, except under the authority of and in compliance in every respect with the requirements of a sales permit for getting the forest products or quarry material.

(3) Without limiting subsection (2), a sales permit for getting native forest hardwood sawlogs under the native forest sawlog allocation system for south-east Queensland may—

- (a) be granted for a period of not more than 25 years; and
- (b) provide for compensation payable to the permittee in stated circumstances; and
- (c) require the permittee to give the State the first right of refusal to an assignment or transfer of the permit.

Sale of fossils and quarry materials to fossicker

46A.(1) This section applies to a person fossicking under a licence under the *Fossicking Act 1994* on a State forest, timber reserve or forest entitlement area (“**forest land**”) where fossicking is permitted under the

Act.

(2) If the person collects not more than 1 m³ of fossils or quarry materials in a year, the State is taken to have sold the fossils or quarry materials to the person at no cost.

(3) No royalty is payable for fossils or quarry materials mentioned in subsection (2).

Sale of forests products on Crown holdings or mining leases etc.

47. The Minister may give directions to the chief executive with respect to the selling or getting of—

- (a) forest products or quarry material on or in any Crown holding; or
- (b) forest products on or in any lease granted under the Mining Acts; or
- (c) quarry material reserved in a deed of grant; or
- (d) quarry material in a freeholding lease; or
- (e) commercial species of timber subject to an agreement between the Minister and a lessee for commercial timber on the land under the *Land Act 1994*.

Getting or selling forest products

48. The chief executive may cause to be got and sold or otherwise disposed of, any forest products which are the absolute property of the Crown, other than forest products situate on a protected area, and for these purposes a person performing duties under this Act—

- (a) may enter and re-enter the land on which such forest products are situate; and
- (b) establish and carry on thereon such operations and works as the chief executive thinks fit; and
- (c) convey or cause to be conveyed any forest products to any place the chief executive considers suitable for their better disposal.

Power to purchase forest products

49. The chief executive may from time to time enter into contracts with owners of land whereon forest products or quarry material are not the absolute property of the Crown for the purchase by the chief executive of any forest products or quarry material on that land and may get, or enter into such contracts or other arrangements as the chief executive thinks fit for the getting of, such forest products or quarry material on and from that land by such means as the chief executive considers proper.

Contracts for the supply of forest products

50. The chief executive may from time to time enter into contracts, subject to such provisions and conditions as the chief executive thinks fit, for the supply by the chief executive of any forest products or quarry material.

Power to purchase etc. plant etc.

51.(1) The chief executive may from time to time purchase, hire or rent any plant, equipment, means or rights of access, or other thing the chief executive deems necessary for the purpose of the getting and proper marketing of any forest products or quarry material, and, subject to any contract in respect thereof, may hire or otherwise make any such thing available for public use.

Power to construct roads

(2) The chief executive may from time to time construct, improve, maintain or protect, or cause to be constructed, improved, maintained or protected, roads or other means of access necessary for the proper marketing of forest products or quarry material.

Power to subsidise road works

52.(1) The chief executive may from time to time authorise the subsidisation of any department of the government, any local government, or any person, to the extent the chief executive thinks fit in the construction, improvement, maintenance, operation, or protection of roads or other means of access necessary for the proper marketing of any forest products or for

the management of any State forest or timber reserve.

(2) Any such subsidy may take the form of a money grant or authority to get any forest products or quarry material as specified in such authority free of charge or at concessional rates or any combination of these.

Interference with forest products on Crown holdings and mining leases

53.(1) A person must not—

- (b) destroy a tree, or get other forest products or quarry material, on a Crown holding; or
- (c) destroy a tree, or get other forest products or quarry material, on any lands, the property of the Crown, that are included in a lease or other entitlement granted under the Mining Acts; or
- (d) destroy commercial species of timber on a lease subject to an agreement between the Minister and a lessee for commercial timber on the land under the *Land Act 1994*;

otherwise than in accordance with a permit, lease, licence, agreement or contract granted or made under this Act, the *Land Act 1962*, the Mining Acts or another Act.

Maximum penalty—

- (a) for a first offence—1 000 penalty units; and
- (b) for a subsequent offence—3 000 penalty units.

(2) Where on any Crown holding the destruction of any tree or the getting of any other forest products or, as the case may be, any quarry material, is prohibited by this section, then the selector, lessee, or, as the case may be, holder of that Crown holding who allows or permits that prohibited act to be done shall be deemed for the purposes of this section to have done that act and proceedings may be taken against the person and the person shall be liable as if the person had destroyed that tree or got those other forest products or that quarry material, as the case may be, whether or not proceedings are taken against any other person for destroying that tree or getting such other forest products or quarry material.

Interfering with forest products on Crown lands etc.

54.(1) A person shall not interfere with, or cause to be interfered with, any forest products, any quarry material, or any earth or soil—

- (a) on any Crown land; or
- (b) on any land reserved for or dedicated to public purposes (including any road, save a State-controlled road under the *Transport Infrastructure Act 1994*);

except—

- (c) under the authority of any other Act or law; or
- (d) under the authority of and in compliance in every respect with the requirements of a permit, lease, licence, agreement or contract granted or made under this Act.

Maximum penalty—

- (a) for a first offence—1 000 penalty units; and
- (b) for a subsequent offence—3 000 penalty units.

(2) Nothing in this section shall derogate from or otherwise affect any of the provisions of the *Transport Infrastructure Act 1994*.

Interfering with quarry material in deeds of grant or freeholding leases

54A.(1) A person must not, without lawful authority, interfere with quarry material in the land contained in—

- (a) a deed of grant that contains a reservation of quarry materials under the *Land Act 1994*; or
- (b) a freeholding lease.

(2) However an owner may use quarry material taken from a deed of grant or a freeholding lease for use on the grant or lease.

Licences to get forest products etc.

55.(1) Licences may be granted by the chief executive under, and in accordance with this Act in respect of any land comprised in—

- (a) any State forest or timber reserve; or
- (b) any Crown land; or
- (c) any land reserved for or dedicated to public purposes (including any road, save a State-controlled road under the *Transport Infrastructure Act 1994*); or
- (d) any Crown holding;

for all or any of the following purposes—

- (e) to get timber for fuel;
- (f) to cut and split slabs, fencing material, and shingles;
- (g) to get quarry material;
- (h) such other purposes as may be prescribed.

(1A) Subsection (1)(d) does not apply to material that is owned by the lessee and mentioned in subsection (1)(e), (f), (g) or (h).

(1B) The chief executive may grant licences for the purpose of getting quarry material from—

- (a) deeds of grant that contain a reservation of quarry materials under the *Land Act 1994*; or
- (b) freeholding leases.

Licence fees

(3) Every such licence shall be granted subject to such terms and conditions as the chief executive deems fit and shall state the purpose for which it is granted and shall be granted subject to the payment by the licensee of such fees, or other moneys as may be prescribed in relation to the materials obtained thereunder and the class to which the licence belongs.

Permits etc.

56.(1) Subject to this Act, the chief executive shall have power and authority to grant to or make with any person, exclusively or in common with others, permits, licences, leases, or other authorities, and agreements or contracts under and for the purposes of this Act and to extend any of the same from time to time and every permit, licence, lease, authority, agreement or contract shall be granted or made or extended subject to the

payment by the permittee, licensee, lessee or, as the case may be, the person with whom the agreement or contract is made of such charges, rents, purchase moneys, royalties, stumpages, fees or other moneys, and to such provisions, conditions and reservations as may be prescribed or, in so far as not prescribed, as the chief executive may determine.

(2) However, no permit, licence, lease, other authority or agreement or contract shall be so granted or made if it is inconsistent with any existing permit, licence, lease, other authority, or agreement or contract granted or made by the chief executive in respect of the same land.

Public competition

(3) Unless otherwise prescribed, every proposed permit, licence, lease, and other authority, and every proposed agreement or contract, under this Act may be by auction, tender, or otherwise howsoever according as the chief executive shall determine at the chief executive's discretion.

Power of entry under licence or permit

57.(1) A permit or licence under this Act shall confer on the permittee or, as the case may be, licensee, subject to this Act and to the conditions and reservations subject to which the permit or licence is granted, rights to enter (with such agents, assistants, plant, vehicles, animals, and equipment as are necessary for the purpose for which the permit or licence is granted) upon the land in relation to which that permit or licence is granted and upon any other Crown land or land comprised in a Crown holding in, into, over, upon and out of which it is necessary to pass for the purpose of exercising or enjoying the aforesaid rights of entry upon the land in relation to which the permit or licence is granted and to carry out on the land in relation to which the permit or licence is granted, all operations necessary for the purpose for which the permit or licence is granted.

(1A) Such rights to enter shall include such right of ingress, egress, and regress in, into, over, upon and out of as may be necessary in the circumstances.

(1B) However, the permittee or licensee shall be liable in damages for any injury done by the permittee or licensee or any of his or her agents or assistants to any cultivated land, crops, or other improvements whatsoever the property of any other person on any land over or on which the permittee or licensee so enters or passes.

Power to direct route for entry

(2) The selector, lessee, or holder of the land, other than the land in relation to which the permit or licence is granted, may give directions regarding the route or track by or over which the permittee or licensee shall pass for the purpose of exercising the right of entry conferred by this section in relation to such land, and the permittee or licensee shall comply in all respects with any directions so given unless or until the direction is altered, varied or cancelled by a determination of the Minister under subsection (3).

Minister to determine dispute

(3) The Minister shall have power to determine the question whether or not entry upon the land in question is necessary for the purposes of giving effect to this section, and, if the Minister decides that question in the affirmative, or if the matter of the necessity of entry is not in dispute, the question as to the route or track by or over which the right of entry shall be exercised.

(4) The Minister, if the Minister determines that entry is necessary upon the land in question, may require the right of entry be exercised subject to such conditions and reservations the Minister deems proper and by or over such route or track as the Minister may direct.

(5) The Minister, if the Minister determines the route or track by or over which the right of entry over the land in question shall be exercised, may require such right be exercised subject to such conditions and reservations as the Minister deems proper.

(6) The Minister's determination of any such question shall be final and the terms thereof shall be complied with in all respects by the parties to the dispute.

Power to cancel, suspend, permit, licence etc.

58.(1) Every permit, licence, lease, or other authority, and every agreement or contract granted or made under this Act shall be deemed to be granted or made subject to the power of the chief executive to cancel or suspend, according to the chief executive's discretion, that permit, licence, or other authority, or to forfeit that lease, or to cancel that contract or agreement on the failure by the holder of the permit, licence, or lease or other authority, or, as the case may be, the person with whom the agreement

or contract is made, or the assignee of any such person, to comply with any provision of this Act or of the *Fire Service Act 1990*, part 7⁴ or with any provision, condition, or restriction subject to which the same was granted or, as the case may be, made.

(1A) The fixing of any condition for any agreement, contract, permit, licence, lease, or other authority with respect to payment for money due to the State whether in respect of the sale of any forest products or quarry material or in respect of any royalty or stumpage on any forest products or quarry material or as compensation for any loss or any damage resulting from the acts or omissions of the permittee, licensee, lessee or holder or, as the case may be, the person with whom the agreement or contract is made or the assignee of any such person or otherwise howsoever, or any failure to observe or enforce that condition or any part thereof shall not prejudice or otherwise affect the recovery by the State of all money owing to the State by that permittee, licensee, lessee or holder or, as the case may be, the person with whom the agreement or contract is made or the assignee of any such person and with respect to which that condition was fixed.

Cancellation or suspension of agreements etc.

(1B) The chief executive may forfeit any lease, or cancel or suspend any agreement, contract, permit, licence, or other authority granted or made under this Act for failure by the holder of that lease, permit, licence, or other authority or, as the case may be, the person with whom the agreement or contract is made or the assignee of any such person to comply with any provision, condition, or restriction subject to which the same was granted notwithstanding that such holder or, as the case may be, the person with whom the agreement or contract is made or the assignee of any such person has not been proceeded against for any offence constituted by such failure.

Power to suspend conditions of agreements

(2) The chief executive may, in the case of any agreement, contract, permit, licence, lease, or other authority granted or made under this Act, suspend on such conditions and for such periods as may be prescribed, or in so far as are not prescribed as the chief executive may determine, the obligations of the holder or, as the case may be, the person with whom the agreement or contract is made or the assignee of any such person thereof to

⁴ Now see *Fire and Rescue Authority Act 1990*, part 7 and *Fire Service Amendment Act 1996*, section 5.

observe any provisions or conditions subject to which the same is or is deemed to be granted or made, except the obligation for payment of any moneys thereunder.

Suspension of agreements etc. during fire hazard

(3) Where the chief executive is of the opinion that a state of high fire hazard exists in the whole or part of any State forest, the chief executive may, by notice in writing, suspend for such period as the chief executive deems expedient, any agreement, contract, permit, licence, or other authority made or granted under this Act in relation to the State forest or part thereof in question.

(3A) Notwithstanding the provisions of subsection (4), the period during which such agreement, contract, permit, licence, or other authority would ordinarily remain in force shall be extended for a period equal to the period of such suspension.

Effect of suspension of agreement etc.

(4) Suspension under this Act of any agreement, contract, permit, licence, or other authority—

- (a) shall, whilst such agreement, contract, permit, licence, or other authority is so suspended, have the same effect as the cancellation thereof; and
- (b) (if the period of such suspension is less than the period during which that agreement, contract, permit, licence, or other authority ordinarily would have remained in force) shall not, unless the chief executive otherwise directs, upon the termination of that suspension, extend the period during which that agreement, contract, permit, licence, or other authority thereafter remains in force beyond the period during which that agreement, contract, permit, licence, or other authority would have remained in force if it had not been suspended.

Rights to cease on forfeiture

(5) On forfeiture of a lease or cancellation of an agreement, contract, permit, licence, or other authority, the lease, agreement, contract, permit, licence, or other authority affected thereby and, unless otherwise determined by the chief executive, all rights, interests, and privileges thereunder shall absolutely cease and determine.

Cancellation, suspension may be published in gazette

(6) Without limiting the mode of forfeiting a lease or cancelling or suspending an agreement, contract, permit, licence, or other authority, any lease may be forfeited and any agreement, contract, permit, licence, or other authority may be cancelled or suspended by notice published in the gazette.

No compensation on forfeiture

(7) When under this Act a lease is forfeited or an agreement, contract, permit, licence, or other authority is cancelled or suspended, the person to or with whom that lease, agreement, contract, permit, licence, or other authority was granted or made shall not be entitled to claim or receive any compensation in respect of such forfeiture, suspension, or cancellation, or any expense the person may have incurred in acting or with a view to taking action under that lease, agreement, contract, permit, licence, or authority.

(8) Subsection (7) does not prevent the payment of compensation for suspension or cancellation of a sales permit in particular circumstances if the permit provides for compensation to be paid in the circumstances.

Transfer of permits etc.

59.(1) No lease, agreement, contract, permit, licence, or other authority granted or made under this Act shall be assigned or transferred, except with the consent in writing of the chief executive.

Surrender of permits etc.

(2) The chief executive may accept a surrender, on such conditions as the chief executive may determine, of any lease, agreement, contract, permit, licence, or other authority granted under this Act.

Failure to comply with provisions of lease etc.

60.(1) Any person who fails to comply in any respect with any provision, condition, or restriction subject to which any lease, agreement, contract, permit, licence, or other authority is granted or made under this Act shall be guilty of an offence against this Act.

(2) This section shall be in addition to and not in diminution of or in substitution for any other provision of this Act.

Removal of forest products

61.(1) All forest products and quarry material obtained under the authority of an agreement, contract, permit, licence, or authority granted or made under this Act shall be removed from the area to which the agreement, contract, permit, licence, or authority applies during the currency of such agreement, contract, permit, licence, or authority, on such conditions (if any) as the chief executive may deem fit to impose and are specified in the agreement, contract, permit, licence, or, as the case may be, authority.

(1A) However, the chief executive may grant an extension or further extension of the time as aforesaid for the removal of the forest products or quarry material in which event the same shall be removed before that extended time expires.

(2) Any forest products and quarry material not removed as required by subsections (1) and (1A) shall be deemed to be forfeited to the Crown.

(3) A person shall not without the written authority of a forest officer remove from any land any forest products or quarry material got under the authority of any agreement, contract, permit, licence, or other right or authority granted or made under this Act without previously paying the proper royalty, stumpage or other fees or charges (if any) payable in respect thereof.

(4) All forest products and quarry material sold, cut, or got, upon which any purchase moneys, royalties, stumpages or charges are payable under this Act, shall, until payment thereof, remain the property of the Crown, and may be seized and detained or removed by any forest officer until such purchase moneys, royalties, stumpages and charges have been paid, and in default of payment within 1 month of seizure may, by direction of the Minister, be disposed of.

Prohibition on sale of Aboriginal artefacts etc.

61A. The chief executive shall not sell or otherwise dispose of any Aboriginal remains, artefacts or handicraft of Aboriginal origin or traces thereof situate or which were situate on or in any State forest or timber reserve unless the provisions of the *Cultural Record (Landscapes Queensland and Queensland Estate) Act 1987* have first been complied with.

PART 6A—QUARRY MATERIAL IN DEED OF GRANT OR FREEHOLDING LEASE

Interpretation

61B. In this part—

“**permit**” means—

- (a) a permit for the sale of quarry material in a deed of grant or freeholding lease; or
- (b) a licence to remove quarry material in a deed of grant or freeholding lease.

Entitlement under permit

61C.(1) A permit does not authorise a person to enter the surface of land of an owner that is—

- (a) within 200 m laterally of—
 - (i) a dwelling house, or other building (not of a temporary nature) on that land, principally used for accommodation of persons or the conduct of business; or
 - (ii) a building (not of a temporary nature) on that land used for community, sporting or recreational purposes or as a place of worship; or
- (b) within 100 m laterally of—
 - (i) a principal stockyard or a dam, bore or artesian well of that owner or other artificial water storage of that owner connected to a supply of water; or
 - (ii) a cemetery or burial place;except with the written consent of the owner of the land lodged with the chief executive.

(2) In this section—

“**building**” means a fixed structure that is wholly or partly enclosed by walls and is roofed.

“**dwelling house**” means a fixed structure that is wholly or partly enclosed by walls and is roofed.

Withdrawal of consent

61D. Consent mentioned in section 61C may only be withdrawn by the giving of written notice to—

- (a) the holder of the permit; and
- (b) the chief executive.

Provision of security

61E.(1) A permit must not be granted until the applicant deposits the security (if any) determined by the chief executive to ensure compliance with the permit and this Act.

(2) The security must cover any damage to land or improvements that may be caused by a person acting under the authority of the permit.

(3) The owner of land may apply in writing to the chief executive to rectify the damage mentioned in subsection (2) that has been caused by activity allegedly authorised under a permit in respect of the land.

(4) If the chief executive is satisfied (whether or not on an application referred to in subsection (3)) that damage mentioned in subsection (2) has been caused by a person purporting to act under the authority of a permit, the chief executive must require the person to take all action necessary to rectify the damage.

(5) The chief executive may, at any time (whether during or after the term of a permit and whether or not the chief executive cancels the permit), use the whole or part of the amount of the security deposited in respect of the permit—

- (a) to rectify any damage mentioned in subsection (4); or
- (b) towards payment of amounts (including penalties) owing to the Crown under this Act or for a breach of any of the conditions of the permit or of this Act.

(6) If, at any time (whether during or within 28 days after the term of a permit)—

Forestry Act 1959

- (a) the amount or part of the amount deposited under this section is used as provided by subsection (5); or
- (b) the chief executive considers that, because of the damage caused or likely to be caused by a person purporting to act under the authority of the permit or for any other reason, a further amount of security should be deposited in respect of the permit;

the chief executive must, by written notice, require the holder or former holder of the permit to deposit the further security within the time specified in the notice.

(7) The chief executive may accept a bond or guarantee by, or other financial arrangement with, a financial institution, insurance company or another credit provider approved by the chief executive, or another form of security acceptable to the chief executive, as the whole or part of the security to be deposited under this section.

(8) It is a condition of a permit that the holder must deposit security or further security from time to time in accordance with requirements made under this section.

(9) Subject to subsection (5), if a permit has ended or been terminated, the chief executive must refund to the holder of the permit (or as the holder in writing directs) any security deposited, and not used as provided by subsection (5), less any amount determined by the chief executive to be used after—

- (a) the receipt by the chief executive of written agreement by the owners of all occupied land so specified; or
- (b) the expiration of 28 days from the date of expiration or termination of the permit, whichever first occurs.

(10) For the purposes of subsection (9)(a), if more than 1 person is the owner of a parcel of land, the agreement of 1 such person is, in the absence of evidence to the contrary, taken to be the agreement of those persons.

(11) If the chief executive accepts a bond or guarantee by, or another financial arrangement with, a financial institution, insurance company or another credit provider as security under this section, an amount payable to the holder under subsection (9) is to be refunded to the financial institution, insurance company or credit provider and not to the holder of the permit to which the security relates.

(12) In this section—

“credit provider” see *Consumer Credit (Queensland) Act 1994*.

Compensation

61F.(1) Despite section 61E, the Crown or an owner is entitled to recover in the Land Court compensation in respect of damage or injury suffered or loss incurred because of a person acting or purporting to act under the authority of a permit.

(2) Amounts paid under section 61E in respect of rectification of damage the subject of the proceeding must be taken into account in assessing compensation.

(3) The holder of a permit is not liable under this section in respect of damage or injury or loss caused by a person who is not authorised by the holder to be on the land the subject of the permit.

Prior notice of entry to be served

61G.(1) The holder of a permit is to notify the owner of occupied land (other than a reserve for a road) of the holder’s intention to enter the land at least 7 days before initial entry is made under the authority of a permit.

(2) The owner of the land may, by an endorsement on the application for the permit or the permit, agree to a shorter period of notice.

Appeal to Land Court

61H.(1) The Land Court is authorised to hear and determine matters under this division.

(2) Application may be made to the Land Court for it to settle the amount of compensation payable to an owner of the land for—

- (a) deprivation of possession of the surface of land; and
- (b) diminution of the value of land or improvements; and
- (c) diminution of the use made, or that may be made, of land or improvements; and
- (d) severance of part of land from other parts or from other land; and

- (e) surface rights of access; and
- (f) loss or expense because of the grant or renewal of a permit.

Appeal against Land Court's determination

61I. The *Land Act 1962*, section 44, as continued by the *Land Act 1994*, applies to a party aggrieved by a determination of the Land Court made under section 61H.

PART 7—CONTROL AND PROHIBITION OF FIRES ON STATE FORESTS, TIMBER RESERVES AND FOREST ENTITLEMENT AREAS

Control of fires on State forests etc.

62.(1) A person, other than a person performing duties under this Act, shall not at any time light, maintain or use or cause, permit or suffer to be lit, maintained or used, a fire on any land within any State forest, timber reserve or forest entitlement area for the purpose of, or which is likely to have the effect of, burning off or clearing any vegetation on or from the land within the State forest, timber reserve or forest entitlement area except in accordance with an authority given by a permit obtained under the *Fire Service Act 1990*, part 7⁵ and then remaining in force.

(2) Any person who is convicted of an offence against this section may on conviction, in addition to the penalty imposed, be ordered by the court to pay to the chief executive in respect of any damage or injury and the costs of controlling and extinguishing any fire occasioned or caused by the commission of such offence, such amount as is fixed by the court after taking the evidence on oath of a forest officer as to the nature and extent of such damage or injury and costs of controlling or extinguishing the fire and, in default of payment thereof, such amount may be recovered in the same way as a pecuniary penalty.

⁵ Now see *Fire and Rescue Authority Act 1990*, part 7 and *Fire Service Amendment Act 1996*, section 5.

(3) The provisions of this section shall be in addition to and not in diminution of or substitution for the provisions of any other enactment of this Act.

Duty of lessee of State forest etc.

63.(1) Every person holding any lease, licence, permit or other authority or entitled to any right or privilege under an agreement or contract granted or made under this or any other Act over or in respect of the whole or any part of any State forest, timber reserve or forest entitlement area or the forest products thereon (the “**holder**”), shall at the person’s own cost and expense—

- (a) at all times make all reasonable provision for preventing, detecting, controlling and extinguishing bush, grass, or other rural fires on the State forest, timber reserve or forest entitlement area or, as the case may be, part thereof, over or in respect whereof or the forest products thereon, the lease, licence, permit, authority, agreement or contract was so granted or made; and
- (b) on becoming aware of any fire burning on the State forest, timber reserve or forest entitlement area, or as the case may be, part thereof as aforesaid, or burning elsewhere, which is likely to spread to such State forest, timber reserve or forest entitlement area, or as the case may be, part thereof (such not being a fire authorised under the provisions of the *Fire Service Act 1990*, part 7⁶), promptly do everything reasonably within his or her power to extinguish the fire whether or not there is immediate danger of it causing damage, and shall forthwith cause the nearest forest officer or person performing duties under this Act to be notified of the fire and of the measures taken by the person to extinguish the same, and if, at the time of so notifying the forest officer or person performing duties under this Act, the fire is not extinguished, the person shall continue so far as possible to control and endeavour to extinguish the fire until it is brought under control or extinguished or until the person obtains the approval of the forest officer or person performing duties under

⁶ Now see *Fire and Rescue Authority Act 1990*, part 7 and *Fire Service Amendment Act 1996*, section 5.

this Act to desist.

(1A) For the purposes of subsection (1)(b)—

“holder” shall include any agent, manager, supervisor or other person whomsoever acting in the general management or control of the business of the holder carried on, in or on the State forest, timber reserve or forest entitlement area, or part thereof as aforesaid (the **“agent”**).

(2) Any person refusing, neglecting or failing to comply with the provisions of this section shall be guilty of an offence against this Act and shall be deemed to have committed a forest offence.

False statements as to whereabouts

(3) Any holder or agent who makes a false statement as to his or her whereabouts or makes a statement knowing the same to be false as to the whereabouts of any of the employees or agents of the holder at the time of the outbreak of any such fire shall be guilty of an offence against this Act.

(4) Nothing contained in this section shall be read as to relieve any person from any liability or obligation to which the person may be subject under the person’s lease, agreement, contract, permit, licence, other authority, or under any other Act or law, and the provisions of this section shall be read as in addition to and not in derogation from the provisions of any other Act.

Certain person to be incapable of holding permits etc.

64.(1) Where any person convicted of an offence against any provision of the *Fire Service Act 1990*, part 7 or of section 62 or 63,⁷ was, at the time when the offence was committed, the holder of any permit, licence, or lease granted, or the person entitled for the time being to the benefit of any agreement or contract made, under the *Land Act 1994* or this Act over or in respect of the whole or part of any State forests, timber reserve or forest entitlement area or the forest products thereon, which permit, licence, lease, agreement or contract has, subsequent to such conviction, been forfeited or cancelled, the Minister may, by signed writing, direct that such person shall not be capable of holding any permit, licence or lease, or of entering into or

⁷ Now see *Fire and Rescue Authority Act 1990*, part 7 and sections 62 and 63 and *Fire Service Amendment Act 1996*, section 5.

being entitled to the benefits of any agreement or contract under the *Land Act 1994* or this Act, over or with respect to the whole or part of any State forest, timber reserve or forest entitlement area whatsoever or the forest products thereon, for such period, not exceeding 5 years, as shall be specified in the direction.

(2) A permit, licence or lease shall not be granted nor an agreement or contract made, under the *Land Act 1994* or this Act, over or with respect to the whole or part of any State forest, timber reserve or forest entitlement area whatsoever or the forest products thereon, to or with any person with respect to whom such a direction has been made or given, during the period for which the direction remains in force.

(3) Any such direction may, at any time and from time to time, be varied, altered or rescinded by the giver thereof or the giver's successor in office.

Control of fires on lands adjoining State forest etc.

65.(1) If a person performing duties under this Act discovers any fire burning within 3 km of any State forest, timber reserve or forest entitlement area, and the person is of the opinion that such fire is likely to spread to and cause damage to the State forest, timber reserve or forest entitlement area, the person may (with such assistants, plant, vehicles, animals and equipment as are necessary for the purpose) enter upon the land on which such fire is burning and perform any acts necessary to control and extinguish the fire.

(1A) No liability shall attach to the chief executive or any person performing duties under this Act in respect of any loss or damage to property occasioned by any person as aforesaid in the exercise in good faith of the person's powers, pursuant to this section, in connection with any fire but any damage shall be deemed to be damage by a fire within the meaning of any policy of insurance against fire covering the damaged property and every such policy of insurance whether issued before or after the commencement of this Act shall notwithstanding anything therein contained be read and construed accordingly.

Recovery of expenses incurred in extinguishing fires

(2) Where it is established that the owner or occupier of the land on which the fire originated, or the owner's or occupier's agent or employee, was responsible for the lighting of such fire and its lighting was not

authorised under the *Fire Service Act 1990*, part 7,⁸ then the State may recover from the owner or occupier of the land on which the fire originated, in any court of competent jurisdiction, all reasonable expenses incurred by a person performing duties under this Act in controlling and extinguishing such fire (including, but without limiting the generality hereof, salaries and wages of officers and employees and compensation for the use of plant, vehicles and equipment).

(2A) The provisions of subsection (2) shall be in addition to and not in diminution of or substitution for the provisions of any other enactment of this Act.

(3) Where any person performing duties under this Act has, within the boundaries of any State forest, timber reserve or forest entitlement area, as the case may be, extinguished or caused to be extinguished a fire burning within that State forest, timber reserve or forest entitlement area, as the case may be, then, if it be established that such fire originated on land other than that State forest, timber reserve or forest entitlement area, as the case may be, and that the owner or occupier of the land on which such fire originated, or his or her agent or employee, was responsible for the lighting of such fire and that its lighting was not authorised under the *Fire Service Act 1990*, part 7,⁹ the State may recover from the owner or occupier of the land on which the fire originated, in any court of competent jurisdiction, all reasonable expenses incurred by a person performing duties under this Act in controlling and extinguishing such fire (including, but without limiting the generality hereof, salaries and wages of officers and employees and compensation for the use of plant, vehicles and equipment).

(3A) The provisions of subsection (3) shall be in addition to and not in derogation of or substitution for the provisions of any other enactment of this Act.

Forest officer deemed to be first officer of bush fire brigade

(4) For the purpose of the exercise and performance by a forest officer or person performing duties under this Act of the powers, functions and authorities conferred upon the forest officer or person by this section, such

⁸ Now see *Fire and Rescue Authority Act 1990*, part 7 and *Fire Service Amendment Act 1996*, section 5.

⁹ Now see *Fire and Rescue Authority Act 1990*, part 7 and *Fire Service Amendment Act 1996*, section 5.

forest officer or person shall be deemed to be the first officer of a bush fire brigade under and within the meaning of the *Fire Service Act 1990*¹⁰ and shall have and may exercise all the powers, functions and authorities conferred upon the said first officer by the said Act.

Lighted match etc. not to be dropped near flammable material

66. A person shall not within any State forest, timber reserve or forest entitlement area throw, drop, place or leave any lighted match, pipe ashes, lighted cigar, lighted tobacco, lighted cigarette or any burning or smouldering substance within 10 m of any flammable material.

Lighting of small fires on State forests etc.

67.(1) A person shall not at any time light, maintain or use or cause to be lit, maintained or used, any fire in the open air, other than in a properly constructed fire place provided on any State forest, timber reserve or forest entitlement area for the purpose of a camp, billy or other like fire, unless a space of ground immediately around the site of the fire of a width of 2 m at least in all parts, or, where in any prescribed locality or localities or on any prescribed land a greater width is prescribed, then of that width at least in all parts, has previous to the lighting of the fire been cleared and is then clear of all flammable material.

(2) A person, having lit, maintained or used any fire referred to in subsection (1), shall not leave the same unattended temporarily or otherwise without completely extinguishing that fire.

Cooperative burnings

68. The chief executive may on any property, the nearest boundaries of which are within 3 km of any State forest, timber reserve or forest entitlement area, join with the owner or occupier of such property, or render such assistance as the chief executive deems fit, in carrying out any burning

¹⁰ Now see *Fire and Rescue Authority Act 1990* and *Fire Service Amendment Act 1996*, section 5.

operations which have been duly authorised under the *Fire Service Act 1990*, part 7.¹¹

Forfeiture of leases and the like and cancellation of agreements

69.(1) Where the Minister is satisfied that, by reason of the failure to comply with any of the provisions of the *Fire Service Act 1990*, part 7¹² or this part by any person to whom has been granted, or who is the holder of, any lease, licence, permit, or other authority granted, whether before or after the commencement of this Act, under any Act over or in respect of the whole or part of any State forest or timber reserve, the continuance in force of that lease, licence, permit, or other authority is prejudicial to the objects of this Act and is detrimental to the public interest, the Minister may so advise the Minister administering the Act under which the lease, licence, permit, or other authority is granted.

(2) Where a Minister has been so advised as aforesaid, the Governor in Council or other authority by whom the lease, licence, permit, or other authority is granted may, notwithstanding anything to the contrary contained in any Act, forfeit that lease or cancel or suspend that licence, permit, or other authority.

(3) Where the Minister is satisfied that, by reason of a failure to comply with any provision of the *Fire Service Act 1990*, part 7¹³ or this part by any party to an agreement made with the Minister by the chief executive under section 39A, the continuance of that party's rights in respect of the forest entitlement area, or part thereof, to which the agreement relates is prejudicial to the objects of this Act and detrimental to the public interest the Minister may instruct the chief executive to cancel the agreement and the chief executive must cancel the agreement accordingly in the manner prescribed.

(3A) The power conferred by subsection (3) is in addition to any other power of cancellation conferred by this Act or had by any person.

¹¹ Now see *Fire and Rescue Authority Act 1990*, part 7 and *Fire Service Amendment Act 1996*, section 5.

¹² Now see *Fire and Rescue Authority Act 1990*, part 7 and *Fire Service Amendment Act 1996*, section 5.

¹³ Now see *Fire and Rescue Authority Act 1990*, part 7 and *Fire Service Amendment Act 1996*, section 5.

(4) Upon a cancellation of an agreement made under section 39A, whether the cancellation be effected pursuant to subsection (3) or pursuant to any other power conferred by this Act—

- (a) the Minister shall cause notice in writing of the cancellation to be given to every party to the contract (other than the chief executive) affected thereby;
- (b) the obligation of every person with whom the chief executive has made the agreement affected by the cancellation to perform that agreement shall cease but without prejudice to any liability incurred by any such person on account of anything done or omitted before the cancellation.

(5) Section 58(5) to (7) shall apply, with all necessary adaptations, to a forfeiture, cancellation or suspension effected under this section.

PART 7A—COMPETITION POLICY REFORM EXEMPTIONS

Definitions for pt 7A

69A. In this part—

“allocation holder” means a person who holds an allocation, under the native forest sawlog allocation system, for native forest sawlogs in an allocation zone.

“allocation zone” means an allocation zone under the native forest sawlog allocation system.

“**competition legislation**” means the *Trade Practices Act 1974* (Cwlth), section 51(1)(b)¹⁴ or section 51¹⁵ of the Competition Code of Queensland.¹⁶

“**native forest sawlog**” means native hardwood or cypress timber for use for sawmilling.

“**native forest sawlog allocation system**” means the non-competitive system established by the chief executive for the allocation and sale, under part 6, of native forest sawlogs.

“**sales permit**” means a permit granted under section 56¹⁷ for getting native forest sawlogs under the native forest sawlog allocation system.

Specific authorisation for allocation and sale of native forest sawlogs

69B. The following things are specifically authorised for the competition legislation—

- (a) the allocation and sale of native forest sawlogs by the chief executive under the native forest sawlog allocation system;
- (b) the allocation of native forest sawlogs in an allocation zone to a person based on—
 - (i) the sustainable yield of sawlogs in the zone; and
 - (ii) the past performance of each allocation holder in getting sawlogs in the zone.

¹⁴ *Trade Practices Act 1974* (Cwlth), section 51 (Exceptions)

¹⁵ Section 51 of the Competition Code of Queensland states that in deciding whether a person has contravened the Competition Code, part IV, certain things must be disregarded. Section 51 of the Code provides that the following must be disregarded—

- (a) ...
- (b) anything done in a State, if the thing is specified in, and specifically authorised by:
 - (i) an Act passed by the Parliament of that State; or
 - (ii) regulations made under such an Act.

¹⁶ The Code applies as a law of Queensland under the *Competition Policy Reform (Queensland) Act 1996*, part 2.

¹⁷ Section 56 (Permits etc.)

Specific authorisation for grant of permit to get native forest sawlogs

69C.(1) The following things are specifically authorised for the competition legislation—

- (a) the grant of a sales permit to a person;
- (b) the imposition by the chief executive of a permit condition on the grant of a sales permit.

(2) In this section—

“permit condition”, for a sales permit, means a condition imposed on the permit about any of the following—

- (a) the area to which the permit applies;
- (b) the volume of native forest sawlogs the permittee may get under the permit;
- (c) the period in which the permittee may get the sawlogs;
- (d) the minimum tree size a permittee may get under the permit;
- (e) the prices payable under the permit by the permittee to the chief executive;
- (f) the payment of compensation to the permittee in stated circumstances;
- (g) the State’s first right of refusal to an assignment or transfer of the permit.

Expiry of pt 7A

69D. This part expires on 27 November 2009.

PART 8—MISCELLANEOUS**Destruction of trees on roads**

70. The chief executive may from time to time grant permits to such persons as the chief executive deems fit and subject to such provisions,

conditions and reservations as the chief executive deems fit, authorising the destruction of trees on roads (save State-controlled roads under the *Transport Infrastructure Act 1994*).

Wild stock

72.(1) If the chief executive is satisfied that stock are unlawfully in, and are detrimental to a State forest, timber reserve or forest entitlement area (the “**area**”) the chief executive may—

- (a) cause to be twice inserted in a newspaper circulating in the district wherein the area is situated, a notification that on a day or days specified therein, and being not less than 28 days from the date of the second insertion of such notification, a muster or musters of all or any of such stock in the area will be made at a stockyard or stockyards, the location of which shall be adequately set out in the notification, and that the owners of such stock as may be mustered and other interested persons may claim such stock at such stockyard or stockyards;
- (b) cause to be made a muster or musters of all or any of such stock in the area and, for this purpose, issue a permit to muster stock to such persons performing duties under this Act and to such other persons as the chief executive deems necessary.

(1A) A copy of that notification shall be posted up at the forestry office nearest to the area and a further copy thereof sent to—

- (a) every clerk of a Magistrates Court for the Magistrates Courts district or districts within which the area is situated; and
- (b) every inspector of stock for the district or districts within which the area is situated;

and, upon receipt, posted up by those officers at their respective offices.

(1B) However, the chief executive shall not issue a permit to muster stock with respect to any part of an area which is comprised in a Crown holding or is subject to a permit (other than a sales permit) granted under this Act without the consent in writing of the lessee, licensee or permittee first had and obtained.

(2) All stock mustered during any muster at a stockyard shall be held at

that stockyard until noon on the day following the day of its muster at that stockyard unless otherwise lawfully dealt with under the provisions of this section.

(3) At least 1 forest officer shall attend at a stockyard on the day or days of each muster at that stockyard and until noon on the day following the last day of such muster.

(4) The forest officer in attendance at a stockyard shall release from that stockyard and shall deliver to the claimant therefor any stock in respect of which a person has—

- (a) claimed ownership, or a right to possession, on the day of the muster at that stockyard or before noon on the day following the day of such muster; and
- (b) established his or her claim to the satisfaction of the forest officer; and
- (c) paid to the forest officer such fees as may be from time to time prescribed.

(4A) However, if the claimant has participated in and assisted the muster, and the forest officer thus certifies to the chief executive, the claimant may be granted a rebate of such sum on account of fees as the chief executive may determine.

(4B) Before the forest officer releases stock from a stockyard under subsection (4) the forest officer shall give to the person to whom the stock is to be released a permit to remove stock and travel it to the boundary of the area.

(5) Any person who removes, or causes to be removed, stock from a stockyard notified in accordance with the provision of subsection (1) shall be guilty of an offence unless the person has been given by the forest officer in attendance at that stockyard prior to such removal a permit referred to in subsection (4B).

(6) Stock remaining in a stockyard at noon on the day following the day of its muster at that stockyard shall be dealt with in the following manner—

- (a) all stock that is unbranded or carries no decipherable brand (when clipped if necessary) or in respect of which a claim has been made in accordance with the provisions of subsection (4) but has not been established to the satisfaction of the forest officer in

attendance at the stockyard or in respect of which a claim has been so established but the fees have not been paid as required by subsection (4) shall be sold, destroyed or otherwise disposed of in such manner and on such terms as the chief executive may determine;

- (b) all other stock shall be dealt with in accordance with the provisions of the *Local Government Act 1993* relating to the impounding of animals by private persons.

(7) The proceeds of sale of any stock and fees paid with respect to any stock under this section shall be paid to Consolidated Fund.

(8) No owner, nor any person claiming a proprietary or possessory interest in any stock sold, destroyed, disposed of or otherwise dealt with in pursuance of this section shall have any claim to damages or compensation or otherwise against the Crown or any other person on account of anything done or omitted to be done bona fide with respect to such stock in the course of carrying out or giving effect to the provisions of this section, anything in any Act or law or process of law to the contrary notwithstanding.

Unlawfully using State forests etc.

73.(1) Any person who, except under the authority of and in compliance in every respect with a permit or licence or other right or authority granted under this Act, or a lease, licence, or other authority from the Crown, on any State forest, timber reserve or forest entitlement area—

- (a) depastures any stock; or
- (b) occupies, resides or camps upon, or encloses any land or waters, or grows crops upon any land, or clears or breaks up any land for cultivation or for any other purpose; or
- (c) places any beehives; or
- (d) searches for or collects minerals; or
- (e) traverses any part of such area with vehicles, teams, horses, or other animals;

shall be guilty of an offence against this Act.

(2) The chief executive may from time to time grant permits for the purposes of subsection (1)(e) to such persons as the chief executive deems fit and subject to such provisions, reservations and conditions as the chief executive deems fit.

Display of camping forms

73A.(1) Where, by virtue of section 35A(1), a permit to camp is taken to have been granted under section 35, the person specified in the camping form must—

- (a) forthwith cause to be securely affixed in a conspicuous position—
 - (i) to the tent, caravan or other structure being used by the person for camping; or
 - (ii) if such a structure is not being so used—to any other camping equipment or vehicle being used by the person for camping;

the part of the camping form required to be so affixed; and

- (b) take reasonable steps to ensure that, while a person continues to camp under the authority of the permit, the part of the form remains so affixed.

(2) A person must not affix or cause to be affixed, in the manner referred to in subsection (1), the part of a camping form referred to in that subsection to a tent, caravan, other structure, camping equipment or vehicle being used by the person for camping in a self-registration camping area unless a permit to camp is, by virtue of section 35A(1), taken to have been granted under section 35 to the person in relation to the area in connection with the use of the form.

Unauthorised building etc. within State forest etc.

74.(1) When any building, hut, tramline, fence, dam, weir, standing crop, or any other thing, or any property that appears to have been abandoned, is found within a State forest, timber reserve or forest entitlement area and—

- (a) the owner or occupier thereof does not on demand produce any lease, licence, permit, or other authority therefor; or

- (b) after reasonable enquiries made by a forest officer the owner or occupier thereof cannot be ascertained or cannot be found;

then on the hearing of the complaint by a forest officer acting with the authority of the chief executive, any Magistrates Court may fix a time within which such building, hut, tramline, fence, dam, weir, crop, or other thing, or that property, shall be removed.

Unauthorised building to become property of Crown

(2) If such removal is not effected within the time so fixed, such building, hut, tramline, fence, dam, weir, crop, or other thing, or that property, shall become the property of the Crown and may be disposed of or otherwise dealt with as the chief executive may direct.

Service of order for removal of buildings etc.

(3) In any case where after such enquiries by a forest officer as aforesaid an owner or occupier has not been ascertained or has not been found, the order of the Magistrates Court fixing the time for removal of the building, hut, tramline, fence, dam, weir, crop, or other thing, or the property, shall, within a period fixed by the court for that purpose, be posted on some conspicuous part of the land on which the building, hut, tramline, fence, dam, weir, crop, or other thing, or the property, is situated and no other service or publication of that order need be made or given.

(4) In this section—

“**owner**”, in relation to property that has been abandoned, means the person who was the owner of the property immediately before the property was abandoned.

Removal of trespassers

75. Any forest officer who has reason to believe that any person is in unlawful occupation of any State forest, timber reserve or forest entitlement area, or part thereof, may make complaint before justices, who shall hear and determine the matter in a summary way, and on being satisfied of the truth of the complaint, shall issue their warrant, addressed to any police officer, requiring the police officer forthwith to remove such person from such land, and to take possession of the same on behalf of the Crown, and the person to whom the warrant is addressed shall forthwith carry the same into execution.

Entry on to reserves may be prohibited

76.(1) Whenever the Minister thinks it reasonable and necessary the Minister may, by notification in the gazette, prescribe that, while the notification remains in force, no person shall, in respect of a State forest or timber reserve, or a specified part thereof, and no person other than a person who is therein under the authority conferred by an agreement made in relation to that area under section 39A or by the person being lessee or owner of land that is or includes that area, shall, in respect of a forest entitlement area or a specified part thereof, be in or on the forest, reserve or, as the case may be, area specified in the notification or, where a part only thereof is specified therein, the part so specified, except under and in accordance with a permit granted by the chief executive for the purposes of this section.

(1A) The Minister may at any time in like manner revoke or vary a notification made under subsection (1).

(2) Any person who contravenes or fails to comply with any notification in force under subsection (1) shall be guilty of an offence against this Act.

(3) The chief executive may from time to time grant subject to such conditions as the chief executive thinks fit permits for the purposes of this section.

(4) The provisions of this section shall be in addition to and not in derogation from any other provisions of this Act.

Persons found in possession of forest products

77. Any person found within any State forest, timber reserve, forest entitlement area, reserve for public purposes, Crown land, or Crown holding, the forest products or quarry material whereon are the property of the Crown, or in the vicinity thereof, and having in the person's possession any forest products, quarry material, or earth, who on being thereunto required by a forest officer, refuses or otherwise fails to give an account to the satisfaction of such officer of the manner in which the person became possessed of such forest products, quarry material, or earth, shall be deemed to have got the same on or from that State forest, timber reserve, forest entitlement area, reserve for public purposes, Crown land, or, as the case may be, Crown holding in contravention of the provisions of this Act,

and shall be guilty of an offence against this Act, unless the person satisfies the court to the contrary.

Receiving forest products

78. Any person who receives any forest products or quarry material, the getting of which is an offence against this Act, knowing the same to have been so got shall be guilty of an offence against this Act.

Subpurchase

79. Every purchaser of forest products, quarry material, or earth from a person holding an agreement or a contract or permit, licence, or other right or authority made or granted under this Act shall be deemed to have purchased the same subject to the terms and provisions, conditions, and reservations of such agreement, contract, permit, licence, or, as the case may be, other right or authority and with notice thereof.

Accounts of forest products

80.(1) Every purchaser of forest products or quarry material under this Act shall keep such books and accounts and shall furnish such returns concerning the forest products or quarry material got as are required by the chief executive, and shall permit any forest officer to have access at all reasonable times to all such books and accounts and to all documents and writing relating thereto and to take copies thereof and extracts therefrom.

(2) The chief executive may require such returns to be verified by statutory declaration as to the truth or correctness thereof.

Power to enter land

81. Any person performing duties under this Act or any other person authorised by the chief executive by writing so to do, may for the purposes of this Act, without any previous notice—

- (a) enter upon any land or waters whatsoever for the purpose of inspecting any forest products thereupon or therein, whether growing or otherwise, or for giving effect to any of the provisions

of this Act and upon such entry carry out such purpose;

- (b) upon such entry, make surveys and examine any timber or other forest products and any quarry material thereupon or therein;
- (c) upon such entry, do anything necessary for ascertaining the suitability of the land or waters for any forestry purposes or for the purposes of this Act.

Powers for seized timber etc.

82.(1) Where timber has been seized under section 18(1)(ga)(i), the forest officer making the seizure may brand the timber for the purposes of identification.

(2) When any forest products, quarry material, or earth have been seized under section 18(1)(ga)(i) the forest officer making such seizure may, in lieu of detaining and removing the same, place in a conspicuous position upon any such forest products, quarry material or earth, a notice signed by the forest officer and specifying so as to sufficiently identify it, the forest products, quarry material, or earth seized and the place wherein or whereon it is situated at the time of seizure and the date and time of such seizure and thereupon any such forest products, quarry material, or earth shall be deemed to be in the custody and possession of that forest officer pending proceedings or until that forest officer by notice placed in the manner as aforesaid notifies that the forest officer has gone out of possession of such forest products, quarry material, or earth.

(3) Every person who without authority alters, uses, interferes with, or removes or disposes of in any way any timber or other forest products, quarry material, or earth seized under section 18(1)(ga)(i) or attempts to do any such act whilst it is, or pursuant to this section is deemed to be, in the custody and possession of a forest officer shall be guilty of an offence against this Act.

(4) The provisions of subsection (3) shall not derogate from or otherwise affect the provisions of section 86 of this Act.

(5) Any forest officer, person performing duties under this Act, or other person authorised by the chief executive by writing so to do, may (with such assistants, plant, vehicles, animals, and equipment as may be necessary for the purpose) enter upon any place and thereon or therein

remain and do and take all such things and steps as will enable the forest officer or person to obtain and remove anything seized or which has become and remains the property of the Crown.

(6) Such power of entry shall include such right of ingress, egress, and regress as may be necessary in the circumstances.

(7) Despite sections 82C to 82F, and 82H, a forest officer may seize any beehive or beehives which have been placed on a State forest otherwise than under the authority of a permit granted under this Act, and may remove such beehive or beehives from such State forest and may sell or otherwise dispose of the same.

(8) Before seizing a beehive under subsection (7), the forest officer must—

- (a) make reasonable inquiries to find the owner (the “**apiarist**”) of the hive; and
- (b) if the apiarist can be found—require the apiarist, by written notice, to remove the hive within a stated reasonable time.

(9) The apiarist must comply with a requirement under subsection (8).

Maximum penalty—20 penalty units.

(10) If the apiarist can not be found or contravenes subsection (8), the forest officer may then exercise the power under subsection (7).

(11) The proceeds (if any) of such sale or disposal shall be paid into consolidated fund.

(12) The provisions of this section shall be in addition to and not in diminution of or substitution for any other provisions of this Act.

Seizure and forfeiture of vehicles

82A.(1) Any forest officer may, if the forest officer has reasonable grounds for believing—

- (a) that a vehicle presently on a State forest or timber reserve is being or has been used in contravention of section 73; or
- (b) that a vehicle presently on a State forest is being or has been used in connection with an offence against section 34G;

seize, remove and detain that vehicle.

(2) Despite sections 82D and 82E, where the owner or other person claiming a proprietary interest in a vehicle being detained under this section produces to a forest officer at the place where that vehicle is being detained—

- (a) proof to the forest officer's satisfaction of such ownership or interest; and
- (b) where that person was not using the vehicle at the time of commission of the alleged offence referred to in subsection (1)—proof to the forest officer's satisfaction of the identity and address of the person who was using the vehicle at that time;

the vehicle shall be returned to the person forthwith upon the person signing a receipt for the same.

Receipt to be given

82B.(1) As soon as practicable after a thing (a “**seized thing**”) is seized by a forest officer under this Act, the forest officer must give a receipt for it to the person from whom it was seized.

(2) The receipt must describe generally the condition of the seized thing and, if more than 1 thing is seized, must include an inventory or general description of them.

(3) If, for any reason, it is not practicable to comply with subsection (1), the forest officer must—

- (a) leave the receipt at the place where the thing is seized; and
- (b) ensure the receipt is left in a reasonably secure way in a conspicuous position.

(4) This section does not apply if—

- (a) it is not practicable to comply with subsection (1); and
- (b) it is not practicable to comply with subsection (3); and
- (c) the owner of the seized thing can not be decided after reasonable inquiries or, having regard to its value, it is not reasonable to make inquiries about its owner.

Forest officer to allow inspection etc.

82C. Until a seized thing is forfeited, returned or otherwise finally dealt with under this Act, a forest officer must allow a person who would be entitled to possession of it, if it had not been seized, to inspect it and, if it is a document, make copies of it.

Chief executive may return seized thing

82D.(1) The chief executive may return a seized thing to its owner.

(2) The chief executive may return the thing to its owner on conditions, including conditions to ensure that the thing is available for forfeiture.

(3) If the thing is not ordered to be forfeited to the State, the chief executive must return any property, including any security, taken by the chief executive under a condition imposed under subsection (2) at the end of—

- (a) 6 months after the seizure; or
- (b) if a prosecution for an offence involving the forest products or quarry material to which the seizure of the thing related is started within the 6 months—the prosecution for the offence and any appeal from the prosecution.

Chief executive's obligation to return seized things

82E.(1) The chief executive must return a seized thing to its owner at the end of—

- (a) 6 months; or
- (b) if a prosecution for an offence involving the forest products or quarry material to which the seizure of the thing related is started within the 6 months—the prosecution for the offence and any appeal from the prosecution.

(2) Despite subsection (1), the chief executive must return the thing to its owner immediately if the chief executive is not satisfied, or stops being satisfied, its retention as evidence is necessary.

(3) However, the chief executive may keep the thing if the chief executive believes, on reasonable grounds, the thing is liable to forfeiture under this

Act.

(4) This section does not require the return of a thing that has been forfeited under section 82F, 82G or 82L or another law.

Chief executive may order forfeiture of unclaimed seized things

82F.(1) This section applies if the owner of a seized thing can not be found after reasonable inquiries or, having regard to its value, it is not reasonable to make inquiries about its owner.

(2) The chief executive may order the forfeiture of the thing.

Forfeiture of seized things on conviction

82G.(1) On the conviction of a person for an offence against section 39, 53 or 54, the court may order the forfeiture of a seized thing including any incidental thing seized in connection with the offence under section 18(1)(ga)(i).

(2) The court may make an order under subsection (1) in relation to the thing whether or not the thing has been returned to its owner.

(3) The court may make any order to enforce the forfeiture that it considers appropriate.

(4) This section does not limit the court's powers under the *Crimes (Confiscation) Act 1989*, the *Penalties and Sentences Act 1992* or any other law.

Where and how to start appeal

82H.(1) A person from whom a seized thing has been seized may appeal to the Magistrates Court nearest to where the thing was seized.

(2) The appeal is started by—

- (a) filing a written notice of appeal with the clerk of the court of the Magistrates Court; and
- (b) giving a copy of the notice to the chief executive.

(3) Without limiting subsection (2)(b), the chief executive is given a copy

of the notice if a copy is given to the forest officer who seized the thing.

(4) The notice of appeal must state the grounds of the appeal.

Hearing procedures

82I.(1) The power to make rules of court under the *Magistrates Courts Act 1921* includes power to make rules of court for an appeal to Magistrates Courts under section 82H.

(2) The procedure for the appeal is to be—

- (a) in accordance with the rules made under the *Magistrates Courts Act 1921*; or
- (b) in the absence of relevant rules, as directed by a magistrate.

(3) In deciding the appeal, the Magistrates Court—

- (a) is not bound by the rules of evidence; and
- (b) must observe natural justice; and
- (c) may hear the appeal in court or chambers.

(4) However, the Magistrates Court is not to require the chief executive or any witness to disclose any evidence or information, including the name of a witness that may prejudice—

- (a) an investigation of an offence against this Act; or
- (b) a proceeding for a contravention of this Act, whether or not a proceeding has then been commenced.

Powers of Magistrates Court on appeal

82J.(1) In deciding the appeal, the Magistrates Court may—

- (a) confirm the seizure of the thing; or
- (b) set aside the seizure and order the return of the thing.

(2) Without limiting subsection (1), a Magistrates Court may give any necessary directions about the seized thing before the appeal is heard or to dispose of the appeal.

Appeal to District Court on questions of law only

82K.(1) A party dissatisfied by the decision of the Magistrates Court may appeal to the District Court, but only on a question of law.

(2) The District Court may give any necessary directions about the seized thing before the appeal is heard or to dispose of the appeal.

Seized forest products and quarry material become State's property

82L.(1) This section applies—

- (a) if a seized thing is forest products or quarry material; and
- (b) despite sections 82E to 82G.

(2) The forest products and quarry material are forfeited if—

- (a) their seizure is not the subject of an appeal to a Magistrates Court within 14 days after their seizure; or
- (b) their seizure is the subject of an appeal to a Magistrates Court within 14 days after their seizure, but the seizure is confirmed on appeal; or
- (c) the chief executive and the person (the “**claimant**”) claiming to be entitled to the forest products and quarry material agree, in writing, that the forest products and quarry material are forfeited.

Forfeited things seized become State's property

82M. On the forfeiture of a seized thing under section 82F, 82G or 82L, the thing becomes the State's property.

Dealing with forfeited forest products etc.

83.(1) Forest products, quarry material, earth or any vehicle or incidental thing, forfeited under this Act shall be dealt with or disposed of as the chief executive may direct.

(2) Any such forfeiture, dealing with, or disposal shall not confer upon any person any right to compensation.

Saving of Crown rights in respect of forest products

(3) The provisions of this section or any other provision of this Act relating to the seizure, detention, removal, or forfeiture of any forest products, quarry material, or earth, shall not prejudice the rights of the Crown with respect to any forest products, quarry material, or earth which are the property of the Crown, and any such right may be exercised at any time by the Crown anything to the contrary in this Act notwithstanding.

Matters may be completed by different officers

84.(1) If an officer has issued any order or given any direction or notice or made any request or taken any action under this Act, the officer or any other officer who is empowered by this Act to issue, give, or make a like order, direction, notice, or request, or, as the case may be, to take any like action, may at any time (and shall if so directed by the chief executive) withdraw or revoke or from time to time vary the order, direction, notice, request, or action, or take further steps thereon.

Prevention of breach of Act

(2) Any officer may, without further warrant or authority than this subsection, summarily interfere to prevent any actual or attempted breach of this Act.

Certificates of appointment

(3) Every officer shall be furnished with a certificate of appointment, signed by the chief executive and upon entering any place for the purposes of this Act shall, if required, produce such certificate to the occupier of the place.

(4) Every person performing duties under this Act or other person authorised by the chief executive to enter upon any place for the purposes of this Act shall, if required, produce the person's authority to the occupier of the place.

Officer may direct person to leave State forest or timber reserve

84A. An officer may direct a person—

- (a) who has committed or attempted to commit; or

- (b) who the officer suspects, on reasonable grounds, of having committed or attempted to commit;

an offence against this Act on a State forest or timber reserve to forthwith leave the State forest or, as the case may be, timber reserve.

Owners and occupiers to give all reasonable assistance

85. The owner or occupier of any place and a person in charge or apparently in charge of any place shall furnish to any officer or other person acting under lawful authority under or pursuant to this Act, all reasonable assistance and all such information which the owner, occupier or other person is capable of furnishing or as required by that officer or person with respect to the exercise of his or her powers and the discharge of his or her duties under this Act.

Obstruction of officer etc.

86.(1) A person shall not—

- (a) assault, obstruct, hinder, threaten, abuse, insult, or intimidate any person performing duties under this Act in the exercise of the person's powers or the discharge of the person's duties under this Act, or offer or attempt, or invite or encourage any other person, so to do; or
- (b) fail to facilitate by all reasonable means the entry and inspection of any place by any person performing duties under this Act; or
- (c) refuse to allow to be removed, seized or detained under this Act any forest products, quarry material, incidental thing or vehicle; or
- (d) take, retake, remove or otherwise interfere with or attempt to take, retake, remove or otherwise interfere with forest products, quarry material, incidental thing or vehicle removed, seized, detained or forfeited under this Act; or
- (e) when required by or under this Act to furnish any assistance or to furnish any information to a person performing duties under this Act fail to furnish that assistance or information, as the case may be, or, in the latter case, furnish information which is in any respect false or misleading; or

Forestry Act 1959

- (f) fail, without reasonable excuse, the proof whereof shall lie upon the person, to produce any licence, permit, or other authority, book, notice, record, list, document, or writing which the person is required under this Act by a person performing duties under this Act to produce, or fail to allow a person performing duties under this Act to take a copy of or extract from any such licence, permit, or other authority, book, notice, record, list, document, or writing; or
- (g) fail to comply with the lawful requisition or lawful direction or any part of the lawful requisition or lawful direction of any person performing duties under this Act; or
- (h) give or agree to give or offer to any person performing duties under this Act any gift or consideration as an inducement or reward for any act done or to be done, or any forbearance observed or to be observed, or any favour shown or to be shown by such officer or employee in or in relation to the exercise of his or her powers or the discharge of his or her duties under this Act: (For the purpose of this paragraph, a gift or consideration shall be deemed to be given as an inducement or reward if the receipt or any expectation whereof would be in any way likely to influence the person to do or leave undone something contrary to the person's duty); or
- (i) knowingly furnish any officer with a false or incorrect statement of any forest products, quarry material, or earth got by the person or by any person as the person's agent or employee on which royalties, stumpage, fees, charges, or other moneys whatsoever are payable to the Crown or the chief executive; or
- (j) without lawful authority, the proof whereof shall lie upon the person, take, destroy, damage, or otherwise interfere with or cause to be taken, destroyed, or otherwise interfered with any buildings, fences, gates, roads, tracks, works, notices, materials, tools, goods, or chattels of any nature the property of the State and being on any State forest or timber reserve; or
- (k) within any State forest or timber reserve behave in a manner likely to cause danger, inconvenience or annoyance to any person; or

- (1) having left a State forest or timber reserve pursuant to a direction given to the person under section 84A, on the same day as the direction was given re-enter or enter any State forest or timber reserve.

Person not obliged to criminate himself or herself

(2) No person shall be obliged under this Act to answer any question, or give any information or evidence, or to sign any declaration tending to criminate himself or herself.

(3) In this section—

“**officer**” includes any person acting under lawful authority under or pursuant to this Act.

Forgery of licence etc. and other offences

87. A person shall not—

- (a) forge or counterfeit any licence, permit, certificate, or other authority granted under and for the purposes of this Act; or
- (b) utter, or make use of any such licence, permit, certificate, or other authority so forged or counterfeited; or
- (c) counterfeit or unlawfully fix to any forest products any mark used by and appropriated for the use of forest officers, or unlawfully alter, remove, disfigure, or obliterate any mark placed upon any forest products by any forest officer; or
- (d) without due authority, make or cause to be made, or use or cause to be used, or have in the person’s possession, a brand or stamp which resembles or purports to be a brand or stamp such as is usually used by forest officers; or
- (e) unlawfully alter, obliterate, deface, pull up, remove, or destroy any boundary-mark or any notice which has been posted, erected or displayed in any place for the purposes of this Act; or
- (f) personate any person named in any licence, permit, certificate, or other authority granted under and for the purposes of this Act; or
- (g) make or cause to be made in any book, record, return, declaration, or statement directed by this Act to be kept or made, any entry or

writing which is to the person's knowledge false in any material particular; or

- (h) knowingly or recklessly furnish information in a camping form that is false or misleading in a material particular; or
- (i) connive at any such forging, counterfeiting, uttering, making use, fixing, making, using, personating, making of the entry or writing or furnishing of the information, as aforesaid.

Maximum penalty—

- (a) for a first offence—1 000 penalty units or 1 year imprisonment; and
- (b) for a subsequent offence—3 000 penalty units or 2 years imprisonment.

Interference with infringement notices or camping forms

87A.(1) A person must not remove or interfere with an infringement notice placed on or affixed to a vehicle under section 88B(1)(b)(ii) unless the person is—

- (a) the owner of the vehicle; or
- (b) in charge of the vehicle; or
- (c) authorised in that behalf by the owner or person in charge of the vehicle.

(2) While a person continues to camp under the authority of a permit to camp taken, by virtue of section 35A(1), to have been granted under section 35, a person must not remove or interfere with the part of a camping form affixed to a structure, equipment or vehicle under section 73A(1).

Offences generally

88.(1) Any person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence against this Act.

(1A) Every person who attempts, aids, abets, counsels, or procures, or is in any way knowingly concerned in, the commission of an offence against this Act shall be deemed to have committed that offence, and shall be

punishable accordingly.

(1B) Where by this Act any authority is given to any person to direct anything to be done or to forbid anything to be done and anything so directed to be done is not done or anything so forbidden to be done is done, then every person who has offended against such direction or, as the case may be, prohibition shall be guilty of an offence against this Act.

General penalty

(2) A person guilty of an offence against any provision of this Act is liable, if no specific penalty is provided for the offence, to a penalty of—

- (a) for a first offence—100 penalty units; and
- (b) for a second or subsequent offence against the same section or that is similar to the first or a previous offence—200 penalty units.

Loss or damage

(2A) Any person guilty of an offence against any provisions of this Act relating to State forests or timber reserves, or any forest products or quarry material the property of the Crown, shall, in every case, be liable for all loss and all damage caused by that offence, in addition to the penalty for the offence, and such loss and damage may be awarded by the court in fixing the penalty, and may be recovered in the same way as a pecuniary penalty.

(2B) For the purposes of subsection (2A), the loss and damage caused by the offender shall include the value of the forest products or quarry material in respect of which the offence was committed, and also the value of the damage to the forest including any works or improvements thereon caused by the offence.

(2C) However, all such loss and damage may be recovered by the State by action as for a debt in any court of competent jurisdiction.

(2D) Furthermore the value of any tree in relation to which the offence was committed, shall be taken to be the sale price ordinarily obtainable on the sale of the tree then and there standing.

(2E) Where a person is convicted of an offence in respect of unauthorised interference with forest products on land reserved or dedicated for public purposes under the control of a local government (including any road save a State controlled road within the meaning of the *Transport*

Infrastructure Act 1994, chapter 5), the court pronouncing the conviction may, if it is satisfied that the local government in which control of the land is vested is willing to undertake the work, in addition to imposing a penalty upon that person, order the person to pay to the chief executive a sum by way of compensation to cover the cost of—

- (a) clearing from the land debris caused by the offence;
- (b) replacing trees destroyed by that person and tending trees so replaced for a period of 12 months.

(2F) The chief executive shall remit to the local government concerned moneys received by the chief executive by way of compensation pursuant to subsection (2E) and that local government shall use those moneys for the purposes for which they were ordered to be paid.

Penalties to be in addition to fines under licences or permits

(2G) Penalties imposed for offences against this Act shall be in addition to and not in substitution for any penalty or fine (pecuniary or otherwise) imposed by or under any agreement, contract, lease, permit, or licence or other authority under this Act.

(2H) Any penalty or punishment to which the person committed may be liable under this Act upon the person's conviction shall be in addition to any forfeiture under this Act.

Summary proceeding

(3) All offences against this Act may be prosecuted and all amounts of fees, royalties, stumpages, charges, or other moneys payable under this Act and not paid may be recovered in a summary way under the *Justices Act 1886* on complaint by any forest officer or by any other person authorised in that behalf either generally, or in the particular case, by the chief executive.

Time for commencement of prosecutions

(4) A prosecution for an offence against this Act may be instituted at any time within 12 months after the commission of the offence or within 6 months after the commission of the offence comes to the knowledge of the complainant, whichever is the later period.

Infringement notices

88A.(1) Where a forest officer believes on reasonable grounds that a forest infringement has been committed, the officer may serve or cause to be served an infringement notice in accordance with section 88B.

(2) An infringement notice is to be in a form approved by the chief executive and must—

- (a) be identified by a serial number; and
- (b) subject to section 88B(4), specify the full name, or surname and initials, and address of the person on whom it is served; and
- (c) specify the day, time and place of the commission of the alleged forest infringement; and
- (d) clearly indicate the nature of the alleged forest infringement; and
- (e) if the forest infringement involves a vehicle or an animal—specify the vehicle or animal; and
- (f) contain a notification to the person on whom it is served that, if the person does not wish the matter to be dealt with by a court, the person may pay the amount of the prescribed penalty specified in the notice within—
 - (i) 14 days after the service of the notice; or
 - (ii) such further time as the chief executive, whether before or after the end of that period of 14 days, allows; and
- (g) clearly indicate the place at which, the manner in which, and the person to whom, the prescribed penalty may be paid; and
- (h) if the forest infringement involves a vehicle—inform the person on whom the notice is served in general terms of section 88D(3) to (11).

(3) For the purposes of this section, the prescribed penalty for a forest infringement is—

- (a) in respect of an offence against section 34AA(5) or 34G(2) (where the relevant notice is in the form of an official traffic sign) or section 73(1)(b) or 73A—
 - (i) such amount as is prescribed by the regulations; or

- (ii) if an amount is not so prescribed—\$30; and
- (b) in respect of an offence against section 34AA(5) (other than an offence against section 34AA(5) referred to in paragraph (a)) or section 60, 66, 67, 73(1)(a), (b) or (d) or 86(1)(k) or the regulations—1 penalty unit; and
- (c) in respect of an offence against section 34G(2) (other than an offence against section 34G(2) referred to in paragraph (a)) or section 34G(4), 39, 53, 54, 62, 73(1)(e) or 86(1)(j) or (l)—2 penalty units.

Service of infringement notices

88B.(1) An infringement notice may be served—

- (a) by serving the notice personally or by post on the person who appears to have committed the forest infringement; or
- (b) if the forest infringement involves a vehicle—
 - (i) by serving the notice personally or by post on the owner of the vehicle; or
 - (ii) by securely placing the notice on, or securely affixing the notice to, the vehicle in a conspicuous position; or
- (c) if the forest infringement involves a vehicle and the owner of the vehicle has given a statutory declaration under section 88D(3)—by serving the notice personally or by post on the person whose name is specified in the declaration as that of the person—
 - (i) in charge of the vehicle at the time of the alleged forest infringement; or
 - (ii) to whom the vehicle had been sold or otherwise disposed of before the time of the alleged forest infringement;

as the case may be.

(2) Where, by virtue of subsection (1), service on a person of an infringement notice may be effected personally or by post, the notice may, instead of being served in that manner, be served by leaving the notice at the place of residence or business of the person last known to the forest officer

with a person apparently over the age of 16 years and apparently an occupant of or employed at that place.

(3) Where an infringement notice is to be served by post on a person, the notice may be addressed to the person—

- (a) at the place of residence or business of the person last known to the forest officer; or
- (b) if the person is the owner of a vehicle registered under a law of a State or Territory providing for the registration of vehicles—at the latest address of the owner in the record of registration of the vehicle; or
- (c) if the person is a person whose name is specified in a statutory declaration given under section 88D(3) in relation to a vehicle as that of the person in charge of the vehicle at that time of the alleged forest infringement or to whom the vehicle was sold or disposed of before the time of the alleged forest infringement—at the address of the person specified in the declaration.

(4) Where an infringement notice is served in the manner referred to in subsection (1)(b)(ii), the notice—

- (a) is taken to have been served on the owner of the vehicle; and
- (b) may be addressed to ‘the owner’ of the vehicle without further description of the owner.

Effect of service of infringement notice

88C.(1) Where an infringement notice has been served and, within—

- (a) the period of 14 days referred to in the notice; or
- (b) such further time as the chief executive, whether before or after the end of that period, allows;

the amount of the prescribed penalty is paid in accordance with the notice—

- (c) any liability of a person in relation to the alleged forest infringement is discharged; and
- (d) no further proceedings may be taken in relation to the alleged forest infringement.

(2) Nothing in this part prevents the service of more than 1 infringement notice in relation to the same forest infringement, but it is sufficient for the application of subsection (1) to a person on whom more than 1 such notice has been served for the person to pay the prescribed penalty in accordance with any 1 of those notices.

(3) Where the amount of the prescribed penalty in relation to a forest infringement is paid by cheque, payment is taken not to have been made unless and until the cheque is honoured upon presentation.

(4) Except as provided by subsection (1), nothing in this part in any way—

- (a) prejudices or affects the institution or prosecution of proceedings in relation to an alleged forest infringement; or
- (b) limits the amount of the penalty that may be imposed by a court in relation to a forest infringement.

(5) Nothing in this part is to be construed as requiring the serving of an infringement notice under this part or as affecting the liability of a person to be prosecuted in a court in respect of an alleged forest infringement in relation to which a notice has not been served.

Liability for forest infringements

88D. (1) Subject to this section, where—

- (a) a forest infringement that involves a vehicle occurs; and
- (b) an infringement notice in relation to the infringement is served on the owner of the vehicle;

the owner of the vehicle at the time of the occurrence of the infringement is taken to have committed the infringement notwithstanding that the actual offender may have been another person.

(2) Nothing in this section affects the liability of an actual offender other than the owner of the vehicle but—

- (a) the owner and the actual offender are not both to be liable for the same forest infringement; and
- (b) where a penalty has been imposed on a person in relation to a forest infringement—a further penalty is not to be imposed upon

or recovered from another person in relation to the same forest infringement.

(3) The owner of a vehicle is not to be taken to have committed a forest infringement if, within 10 days after the service on the owner of an infringement notice or a summons in relation to the alleged forest infringement the owner or, if the owner is a corporation, a director, manager or secretary of the corporation, makes and gives to the chief executive a statutory declaration that complies with subsection (4) or (5).

(4) A statutory declaration made for the purposes of subsection (3) (other than a statutory declaration referred to in subsection (5)) must state—

- (a) that the declaration is made for the purposes of this section; and
- (b) that—
 - (i) where the owner is a natural person—he or she was not in charge of the vehicle at the time of the alleged forest infringement; and
 - (ii) where the owner is a corporation—the vehicle was not being used for the purposes of the corporation at the time of the alleged forest infringement; and
- (c) the name and address of the person who was in charge of the vehicle at that time.

(5) A statutory declaration made for the purposes of subsection (3) (other than a statutory declaration referred to in subsection (4)) must state—

- (a) that the declaration is made for the purposes of this section; and
- (b) facts which establish that the owner had sold or otherwise disposed of the vehicle before the time of the alleged forest infringement, including—
 - (i) the name and address of the person to whom the vehicle was sold or disposed of; and
 - (ii) the time and date of the sale or disposal; and
 - (iii) the name and address of the agent (if any) who made the sale or disposal on behalf of the owner.

(6) Where a statutory declaration is given under subsection (3) that complies with subsection (5), this section has effect as if the person

specified in the declaration as the person to whom the vehicle was sold or otherwise disposed of were, as from the time of the sale or disposal, the person in whose name the vehicle is registered under a law of a State or Territory providing for the registration of vehicles.

(7) Where an infringement notice or a summons has been served on the owner of a vehicle in relation to an alleged forest infringement, the owner or, if the owner is a corporation, a director, manager or secretary of the corporation, may, within 10 days after the service of the notice or summons, as the case requires, make and give to the chief executive a statutory declaration that complies with subsection (8) or (9).

(8) A statutory declaration made for the purposes of subsection (7) (other than a statutory declaration referred to in subsection (9)) must state—

- (a) that the declaration is made for the purposes of this section; and
- (b) that—
 - (i) where the owner is a natural person—he or she was not in charge of the vehicle at the time of the alleged forest infringement; and
 - (ii) where the owner is a corporation—to the knowledge of the declarant, from the facts as set out in the declaration, the vehicle was not being used for the purposes of the corporation at the time of the alleged forest infringement; and
- (c) that the declarant has not been able to ascertain who was in charge of the vehicle at that time; and
- (d) the nature of the inquiries made for the purpose of ascertaining the name and address of the person who was in charge of the vehicle at that time.

(9) A statutory declaration made for the purposes of subsection (7) (other than a statutory declaration referred to in subsection (8)) must state—

- (a) that the declaration is made for the purposes of this section; and
- (b) facts which establish that the vehicle was, at the time of the alleged forest infringement, stolen or illegally taken or used.

(10) In proceedings in relation to a forest infringement against the owner of a vehicle who has given a statutory declaration under subsection (7) that complies with subsection (8), the court is not to find the owner liable for the

infringement if it is satisfied (whether on the statements contained in the declaration or otherwise)—

- (a) that—
 - (i) where the owner is a natural person—the owner was not in charge of the vehicle at the time of the alleged forest infringement; and
 - (ii) where the owner is a corporation—the vehicle was not being used for the purposes of the corporation at the time of the alleged forest infringement; and
- (b) that the inquiries made for the purpose of ascertaining the name and the address of the person who was in charge of the vehicle at that time—
 - (i) were reasonable in the circumstances of the case; and
 - (ii) were carried out with due diligence.

(11) In proceedings in relation to a forest infringement against the owner of a vehicle who has given a statutory declaration under subsection (7) that complies with subsection (9), the court is not to find the owner liable for the infringement if it is satisfied (whether on the statements contained in the declaration or otherwise) that the vehicle was, at the time of the alleged forest infringement, stolen or illegally taken or used.

Evidentiary provisions

88E.(1) In proceedings in relation to a forest infringement in respect of which an infringement notice has been served under this part, a certificate signed by the chief executive and stating—

- (a) that the chief executive did not allow further time, for the purposes of section 88C(1), for the payment of the prescribed penalty in relation to the forest infringement; and
- (b) that the penalty was not paid in accordance with the notice;

is evidence of the matters so stated.

(2) In proceedings in relation to a forest infringement in respect of which an infringement notice has been served under this part, a certificate signed by the chief executive and stating—

- (a) that the chief executive allowed, for the purposes of section 88C(1), the further time specified in the certificate for the payment of the prescribed penalty in relation to the forest infringement; and
- (b) that the penalty was not paid in accordance with the notice or the further time so allowed;

is evidence of the matters so stated.

(3) In proceedings in relation to a forest infringement, a certificate signed by the chief executive and stating that an infringement notice (a copy of which is attached to the certificate) was, on the date specified in the certificate, duly served by securely placing the notice on, or securely affixing the notice to, in a conspicuous position, the vehicle specified in the certificate is evidence of the matters so stated.

(4) In proceedings in relation to a forest infringement, a certificate signed by the chief executive and stating that a person specified in the certificate has not, in relation to the forest infringement, given a statutory declaration to the chief executive for the purposes of a provision of section 88D is evidence of the matters so stated.

(5) In proceedings in relation to a forest infringement, a document—

- (a) issued under—
 - (i) regulations under the *Transport Infrastructure (Roads) Act 1991*; or
 - (ii) a corresponding law of a State or Territory; or
- (b) issued by—
 - (i) the chief executive (of the department in which the *Transport Infrastructure Act 1994* is administered); or
 - (ii) a person authorised by the chief executive (of the department in which the *Transport Infrastructure Act 1994* is administered) in that behalf; or
 - (iii) a person or authority having responsibilities in connection with the registration of vehicles under a law of a State or Territory corresponding to the regulations under the *Transport Infrastructure (Roads) Act 1991*; or

- (iv) a person authorised in that behalf by the person or authority referred to in subparagraph (iii);

and stating that on a specified date or during a specified period a specified person was the person whose name was registered as the owner of a specified vehicle is evidence of the matters so stated.

(6) For the purposes of this section, a document that purports to have been signed by the chief executive is to be taken to have been so signed unless the contrary is proved.

(7) A document that purports to be a document referred to in subsection (5) is to be taken to be such a document, duly issued, unless the contrary is proved.

Service of copies of statutory declaration

88F.(1) Where, in relation to an alleged forest infringement involving a vehicle, a statutory declaration is given under section 88D(3) naming a person as being the person in charge of the vehicle at the time of the alleged forest infringement, or to whom the vehicle was sold or otherwise disposed of before the time of the alleged forest infringement—

- (a) proceedings in relation to the infringement are not to be instituted against the person unless and until a copy of the declaration has been served on the person in the same manner as a summons may be served under the *Justices Act 1886*; and
- (b) in any proceedings instituted in relation to the infringement—
 - (i) the declaration is admissible in evidence; and
 - (ii) is evidence that the person was in charge of the vehicle at that time, or was the owner of the vehicle at that time, as the case may be.

(2) In proceedings in relation to a forest infringement, a document that purports to be a statutory declaration given under section 88D(3) is to be taken to be such a statutory declaration, duly made and given, unless the contrary is proved.

Recovery of moneys due

89.(1) All moneys due to the Crown in respect of the sale of any forest products or quarry material or in respect of any royalty or stumpage on any forest products or quarry material got in pursuance of this Act or in respect of any loss or damage to any forest products or quarry material, the property of the Crown or in respect of any other matter or thing whatsoever under this Act may be recovered by the State in any court of competent jurisdiction by action as for a debt.

(2) Where the liability for the payment of any such moneys arises by reason of, or in connection with, a contravention of this Act, such moneys shall be recoverable under this Act whether proceedings in respect of that contravention are commenced or not and whether any person is convicted therefor or not.

(3) The provisions of this section are in addition to and not in diminution of or substitution for the provisions of any other enactment of this Act.

Power to waive proceedings

91.(1) Where any forest products are or any quarry material is got, ringbarked, destroyed, damaged, used, marked or in any way interfered with in contravention of this Act the chief executive may demand payment of—

- (a) the value of such forest products or quarry material; and
- (b) the value of the damage to the forest and any property of the State occasioned by the contravention; and
- (c) the cost and expense of the investigation by or on behalf of the chief executive of the contravention;

in such amount or amounts as the chief executive determines, from the person who actually committed the contravention of this Act or, where the contravention has occurred by reason of any instruction or information given by any other person, from that other person.

(1A) Upon payment to the chief executive by the person upon whom such demand is made of the amount or amounts so demanded the chief executive may, in the chief executive's discretion, allow such person to gather and remove the whole or any part of the forest products or quarry

material in relation to which the contravention of this Act occurred and to retain the same.

(1B) Where 2 or more persons have given any instruction or information, by reason of which the contravention of this Act was committed, demand under subsection (1) shall be made on the person who first gave that instruction or information.

(1C) Any amount so demanded and not paid may be recovered by the State by summary proceedings upon complaint or by action as for a debt in any court of competent jurisdiction.

(1D) A proceeding or action under this section for the recovery of any amount may be commenced whether or not proceedings for prosecution of an offence against this Act are commenced or not and whether any person is convicted therefor or not.

(1E) For the purposes of this section the value of any tree shall be taken to be the sale price ordinarily obtainable on the sale of the tree as it stood immediately before the act that has rendered the person concerned liable under this section to a demand upon the person by the chief executive.

(2) Notwithstanding the provisions of subsection (1) and anything done or omitted to be done thereunder, the chief executive may, at any time, either before or after making a demand upon any person, sell all or any part of the forest products or quarry material affected by the act which has rendered any person liable to a demand thereunder on such terms and conditions as the chief executive thinks fit.

(3) The net proceeds of any such sale may be applied towards the reduction of the value demanded or to be demanded by the chief executive under this section.

(4) Should the net proceeds of any such sale equal or exceed the value demanded, or to be demanded, by the chief executive under this section then the person upon whom the demand has been made, or would otherwise have been made, shall not be required to make a payment in respect of the value of the forest products or quarry material so sold.

(5) For the purposes of subsections (3) and (4)—

“net proceeds” means the proceeds of the sale of any forest products or quarry material less such expenses incurred in relation to—

(a) such forest products or quarry material with a view to the sale

thereof or, any part thereof; and

- (b) the sale of such forest products or quarry material or any part thereof;

as the chief executive may determine.

All moneys to be property of Crown

92.(1) All debts and other moneys whatsoever for the time being owing to the chief executive under this Act by any person on any account whatsoever, are hereby declared to be the property of the Crown and recoverable as from debtors to the Crown with such interest (if any) as prescribed.

Recovery of moneys

(2) Any money due to the Crown under this Act may be recovered by summary proceedings on complaint, or by action as for a debt in any court of competent jurisdiction.

(3) The several remedies for the recovery of amounts of fees, rents, charges, royalties, stumpages and other sums payable under this Act and not paid shall be alternative and no such remedy shall prejudice or otherwise affect any other excepting that resort shall not be had to more than 1 such remedy in respect of any 1 and the same amount of fees, rents, charges, royalties, stumpages or other sums so payable.

Judicial notice

93.(1) Judicial notice shall be taken of—

- (a) the boundaries of every State forest and timber reserve; and
- (b) every notification under this Act published in the gazette.

Timber presumed to be property of Crown

(2) When in any proceedings under or for the purpose of this Act a question arises as to whether any forest products or quarry material are the property of the Crown, such forest products or quarry material shall be presumed to be the property of the Crown until the contrary is proved.

Mistaken belief as to boundaries

94.(1) In every case of a sale of any forest products or quarry material situated on any land or part of any land whereon forest products or, as the case may be, quarry material are not the property of the Crown and which land or part thereof is adjoining or situate in the vicinity of lands whereon the forest products or, as the case may be, quarry material are the property of the Crown, it shall be the duty of the seller to clearly and correctly indicate to the buyer and of the buyer clearly and correctly ascertain the boundaries of that land or, as the case may be, part.

(2) Any person who is charged with an offence against this Act with respect to the getting, ringbarking, destroying, damaging, or other interference with any earth, forest products or quarry material, or with respect to trespass or encroachment upon, or unlawful use of, any State forest or timber reserve, shall not escape liability for that offence by pleading any mistaken belief as to the situation of the boundaries of any land or part of any land whereon the person was lawfully entitled to get, ringbark, destroy, damage, or otherwise interfere with any forest products, quarry material, or, as the case may be, earth, or of that State forest or, as the case may be, timber reserve.

Facilitation of proof

95. In any proceedings under or for the purpose of this Act—

- (a) it shall not be necessary to prove the appointment of any person performing duties under this Act, or the authority of any person performing duties under this Act, to do any act or to take the proceedings or to give any direction or order, but this shall not prejudice the right of any defendant to prove the extent of such authority;
- (b) a signature purporting to be that of any person performing duties under this Act shall be taken to be the signature it purports to be until the contrary is proved;
- (c) it shall not be necessary to prove the limits of any area or locality whatsoever, or that any place is within a State forest or timber reserve, or an area or a locality, or part thereof, but this shall not prejudice the right of any defendant to prove the limits of the area or locality or that any place is not within the State forest or timber

Forestry Act 1959

reserve, area, or locality, or part thereof;

- (d) a document purporting to be a duplicate or a copy of a lease, permit, licence, certificate, or other authority, agreement or contract, notice, or order granted, given or made under this Act shall, upon its production in evidence, be evidence of that lease, permit, licence, certificate, other authority, agreement or contract, notice, or, as the case may be, order, and in the absence of evidence in rebuttal thereof, shall be conclusive evidence thereof;
- (e) a document purporting to be made by the chief executive and stating that at any specified time there was or was not in force a lease, agreement, contract, permit, licence, certificate, or other authority, as described therein granted, given or made under this Act to or with a specified person, and, if stated therein, that such lease, agreement, contract, permit, licence, certificate, or other authority was or was not subject to terms, conditions, or restrictions, or was or was not issued or made subject to the provisions, conditions, and restrictions set out in that document, or that at any specified time a specified person was or was not exempted from any specified provisions of this Act, shall, upon its production in evidence, be evidence of the matters in that document, and in the absence of evidence in rebuttal thereof, shall be conclusive evidence of such matters;
- (f) a document purporting to be a copy of any letter or telegram and purporting to be made by the chief executive and purporting to authorise any person to institute any legal proceedings shall be admissible in evidence at the proceedings, and shall be accepted as evidence of the authority of the person to institute and prosecute the proceedings;
- (g) the averment in any complaint of the date on which the commission of any offence under this Act came to the knowledge of the complainant shall be evidence of that matter and in the absence of evidence in rebuttal shall be conclusive evidence of such matter;
- (h) where an offence is committed by a person in respect of more than 1 Crown holding or area of Crown lands, or State forest, timber reserve, reserve for public purposes, or road, or any combination of these, a complaint may aver that the offence has

been so committed and it shall not be necessary to show the extent of the offence in respect to any 1 of such areas;

- (i) a map or plan purporting to be made by the chief executive or by a person performing duties under this Act, or purporting to be issued or published by any department of the government or any officer thereof, shall, upon its production in evidence, be evidence of the matters stated or delineated thereon, and in the absence of evidence in rebuttal thereof, shall be conclusive evidence of such matters;
- (j) copies of any plans, sections, specifications and books of reference relating to matters arising under this Act, or of any alteration or correction thereof, or extracts therefrom, certified by a person performing duties under this Act in that behalf to be true copies or, as the case may be, extracts thereof (which certificates such officer shall give to all parties interested when required, on payment of such fees as are prescribed) shall, upon production in evidence, be evidence of the contents thereof, and in the absence of evidence in rebuttal thereof, shall be conclusive evidence of the contents thereof;
- (k) a document purporting to be made by the chief executive and certifying that the amount of fees, royalties, stumpages, rents, compensation, costs, charges, expenses, or other sums specified therein is payable under this Act and has not been paid by a specified person shall, upon its production in evidence, be evidence of the matter or matters certified to therein, and in the absence of evidence in rebuttal thereof shall be conclusive evidence of such matter or matters;
- (l) any document whatever purporting to be issued or written by or under the direction of the chief executive shall be received in evidence and shall be deemed to be issued or written by or under the direction of the corporation until the contrary is proved: (The expression “**document**” includes any order, direction, and notice).

Acknowledgment of service

96. A person or the person’s manager, servant, or agent shall, if

thereunto required by a person performing duties under this Act, acknowledge any notice, order, direction, or other document given, delivered, or served under this Act, by signing the original or, as the case may be, duplicate copy retained by the person performing duties under this Act.

Delegation by chief executive

96A.(1) The chief executive may delegate the chief executive's powers under this or another Act to an appropriately qualified officer or employee of a department responsible for the administration of this Act.

(2) In subsection (1)—

“appropriately qualified” includes having the qualifications, experience or standing appropriate to exercise the power.

Example of ‘standing’—

A person's classification level in the public service.

Regulations—sch 2

97.(1) The Governor in Council may from time to time make regulations, not inconsistent with this Act, prescribing all matters and things which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act and, without limiting the generality of the foregoing provisions of this section, regulations may be made for or in respect of all or any of the purposes, matters, and things set forth in schedule 2.

(2) The power to make with respect to State forests, timber reserves, forest products, quarry material, or matters or things whatsoever, any regulation under this Act shall include power to make that regulation so that it may be of general or specially limited application according to time, place, purposes, classes, or circumstances, or otherwise as is prescribed, and so that any regulation or specially limited application may or may not differ from any other regulation of specially limited application with respect to the same persons, matters, or things.

(3) The power to make regulations with respect to any matter shall

include power to make regulations under this section prohibiting that matter either generally or to meet particular cases.

Misnomer, inaccurate description etc.

98.(1) No misnomer, inaccurate description, or omission in or from any proclamation, order in council, regulation, order, or notification, shall in anywise prevent or abridge the operation of this Act with respect to the subject matter of that misnomer, inaccurate description, or omission provided the same is designated so as to be understood.

(2) No proclamation, order in council, or notification purporting to be made under this Act and being within the powers conferred on the Governor in Council or other authority shall be invalid on account of any non-compliance with any of the matters required by this Act as preliminary to the same.

Saving of certain Acts

102.(1) Unless otherwise expressly provided, the provisions of this Act are in addition to, and do not limit the operation of, the following Acts—

- (a) Criminal Code;
- (b) the *Nature Conservation Act 1992*;
- (c) *Fire Service Act 1990*;¹⁸
- (f) *Petroleum (Submerged Lands) Act 1982*;
- (h) *Sawmills Licensing Act 1936*;
- (i) *Timber Utilisation and Marketing Act 1987*.

(2) If there is any inconsistency between this Act and the *Petroleum (Submerged Lands) Act 1982*, the later Act is to prevail to the extent of the inconsistency.

¹⁸ Now see *Fire and Rescue Authority Act 1990*, and *Fire Service Amendment Act 1996*, section 5.

Existing orders in council

103.(1) An order in council in force under section 25, 27, 28 or 34A immediately before the commencement of this section continues to have effect after the commencement, and may be repealed or amended as if it were a regulation.

(2) Without limiting subsection (1), but despite section 26(2), an order in council setting apart and declaring a State forest may be repealed by a regulation without the resolution of the Legislative Assembly if the area of land comprising the State forest is set apart and declared as a State forest under the regulation.

Delegations continue until revoked

104. A delegation made by the chief executive under the *Primary Industries Corporation Act 1992*, section 10, before the commencement of this section—

- (a) is taken to have been made by the chief executive under this Act; and
- (b) continues to have effect until revoked by the chief executive.

**PART 9—SAVINGS AND TRANSITIONAL
PROVISIONS FOR PRIMARY INDUSTRIES AND
NATURAL RESOURCES LEGISLATION
AMENDMENT ACT 2000**

Division 1—Preliminary

Purposes of pt 9

104. The purposes of this part are—

- (a) to transfer the assets and liabilities of the council to a body

corporate appointed by the council (its **“replacement corporation”**) that is not a public authority; and

(b) to dissolve the council.

Definitions for pt 9

105. In this part—

“authorised person”, for the council’s replacement corporation, means its secretary or someone else with the written authority of its board of directors.

“company limited by guarantee” means a company limited by guarantee under the Corporations Law, section 9.¹⁹

“constitution”, of a replacement corporation that is a company limited by guarantee, means its constitution, or proposed constitution, under the Corporations Law.

“council” means the Timber Research and Development Advisory Council established under this Act.

“eligible participant” means a person who, immediately before the transfer day, held a permit under section 56 that was issued subject to section 22S.²⁰

“replacement corporation” see section 104(a).

“transfer day” means the day the *Primary Industries and Natural Resources Legislation Amendment Act 2000*, section 7, commences.

¹⁹ Corporations Law, section 9—

“company limited by guarantee” means a company formed on the principle of having the liability of its members limited to the respective amounts that the members undertake to contribute to the property of the company if it is wound up.

Corporations Law, section 124(1) (Legal capacity and powers of a company) provides that: ‘A company limited by guarantee does not have the power to issue shares.’

²⁰ Section 56 (Permits etc.)

Section 22S (Additional stumpage). This section was omitted by 2000 No. 26 section 7.

Division 2—Appointment of replacement corporation**Council must appoint its replacement corporation**

106.(1) The council must appoint its replacement corporation.

(2) It is the intention of Parliament that, unless this part otherwise provides—

- (a) the following issues about the council's replacement corporation are to be resolved when making the appointment—
 - (i) its constitution;
 - (ii) its membership and the conditions for becoming a member;
 - (iii) the obligations, restrictions and rights imposed on its members;
 - (iv) its officers; and
- (b) laws concerning the incorporation of, and laws that apply to, the replacement corporation continue to apply.

Conditions for appointment

107. A replacement corporation may be appointed for the council only if—

- (a) the replacement corporation has, by a notice to the council signed by an authorised person for the corporation, agreed to the appointment; and
- (b) the replacement corporation's constitution allows the transfer of all the assets and liabilities of the council to the corporation; and
- (c) the replacement corporation is a company limited by guarantee.

Notice of appointment

108.(1) As soon as practicable after the council has appointed its replacement corporation, it must give the Minister notice of the appointment.

(2) The notice must state the following—

- (a) the replacement corporation's name;
- (b) the day the appointment was made;
- (c) that the replacement corporation's constitution allows the transfer of all the assets and liabilities of the council to the replacement corporation;
- (d) that the replacement corporation is a company limited by guarantee.

(3) The notice must also state that the council is satisfied that, on the transfer of the council's assets and liabilities to the replacement corporation—

- (a) the objects of the replacement corporation will include—
 - (i) the promotion, merchandising and market development of timber and timber products; and
 - (ii) the conduct of research into timber and timber products; and
 - (iii) the provision of advice regarding timber processing and use; and
 - (iv) the conduct of research into product development and processing costs in the timber processing industry; and
 - (v) education and training in relation to timber processing and use; and
- (b) having regard to the requirements and purposes of the transfer, the following will be appropriate—
 - (i) the corporation's constitution;
 - (ii) the conditions under which each eligible participant may become a member of the corporation;
 - (iii) the obligations, restrictions and rights that will attach to members of the corporation;
 - (iv) the corporation's officers; and
- (c) each eligible participant will be given an opportunity to become a member.

(4) The notice must be accompanied by a copy of the notice mentioned in section 107(a).

Division 3—Transfer to replacement corporation**Application of div 3**

109. This division applies on the transfer day.

Transfer of council's assets and liabilities

110. The council's assets and liabilities are transferred to its replacement corporation and become assets and liabilities of the corporation.

Registration of transferred assets

111.(1) A certificate signed by an authorised person for the council's replacement corporation is evidence of an asset having become an asset of the corporation on the transfer day if the certificate—

- (a) identifies the asset; and
- (b) states the asset was, immediately before the transfer day, an asset of the council; and
- (c) states that, under this division, the asset became an asset of the replacement corporation on the transfer day.

(2) If the certificate is given to an entity with registration functions for assets of that kind under a law of the State, the entity must do the following as if the certificate were an appropriate instrument of transfer of the asset—

- (a) register the matter in the same way as transactions for assets of that kind;
- (b) deal with, and give effect to, the certificate.

Examples of 'entity with registration functions'—

- ASIC
- the registrar of titles.

(3) Subsection (2) applies despite the Corporations Law, section 268 or

the Corporations Law, chapter 7, part 7.13.²¹

(4) A transfer of an asset to the replacement corporation may be registered or given effect to under the law of another State if—

- (a) the certificate is given to an entity with registration functions for assets of that kind under the other State's law; and
- (b) the entity is permitted by law to do so.

References to council

112. A reference to the council in an Act or document existing before its dissolution, from its dissolution has effect as if it were a reference to the council's replacement corporation, if the context permits.

Continuity of proceedings

113.(1) A proceeding, other than a proceeding that has ended, by or against the council may be continued or finished by or against its replacement corporation.

(2) If a proceeding could have been taken by or against the council if it had continued to exist, the proceeding may be taken by or against its replacement corporation.

Employees

114.(1) A person employed by the council immediately before the transfer day becomes an employee of the council's replacement corporation.

(2) Subsection (1) does not—

- (a) constitute a redundancy or retrenchment of the person's employment by the council; or
- (b) entitle the person to a benefit or payment merely because the person is no longer employed by the council; or
- (c) interrupt the person's continuity of service.

²¹ Corporations Law, section 268 (Assignment and variation of charges) or chapter 7, part 7.13 (Title to, and transfer of, securities)

(3) For the Industrial Relations Act, the person's period of employment with the council is taken to be an equivalent period of employment with the replacement corporation.

(4) Subject to the Industrial Relations Act, the person has the same employment rights against the replacement corporation that the person had against the council immediately before the transfer day.

(5) If an industrial instrument under the Industrial Relations Act bound the person and the council immediately before the transfer day, it binds the person and the replacement corporation.

(6) In this section—

“**employment rights**” includes existing and accruing rights to—

- (a) remuneration; and
- (b) recreation, long service, sick or other leave; and
- (c) superannuation or other benefits and entitlements.

“**Industrial Relations Act**” means the *Industrial Relations Act 1999*.

Minister's directions to give effect to transfer

115.(1) The Minister may give the council a written direction to give effect to the transfer of the council's assets and liabilities to its replacement corporation.

(2) After the direction has been given it must be—

- (a) gazetted as soon as practicable; and
- (b) tabled in the Legislative Assembly within 14 sitting days.

Dissolution of council

116.(1) On the transfer day, the council is dissolved and the persons who were members of the council go out of office.

(2) No compensation is payable to a person because of subsection (1).

SCHEDULE 2**SUBJECT MATTERS FOR REGULATIONS**

section 97

Officers

1. Prescribing the powers, functions, authorities and duties of forest officers and other persons performing duties under this Act.

Training of officers

2. Providing for the training of officers.

Mode of action, etc.

3. Prescribing and defining the manner of doing or performing any act or thing under or for the purposes of this Act, and the time when or within which it shall be done or performed.

State forests

4.(1) Regulating and controlling—

- (a) the management and control of State forests;
- (b) the conduct and duties of persons in State forests;
- (c) recreational and commercial activities within State forests.

(2) Providing for the payment of charges for the use of facilities and improvements on State forest and prescribing the amount thereof.

(3) Providing for camping fees payable in relation to camping in self-registration camping areas.

SCHEDULE 2 (continued)

State forest parks, feature protection areas and forest drives

4A.(1) Regulating and controlling recreational activities in or on State forest parks, feature protection areas and forest drives.

(2) The regulations may vary in respect of different State forest parks, feature protection areas and forest drives.

Use etc. of buildings

5. Providing for, regulating and controlling the use, management, and letting of any building or structure or other improvement the property of the State.

Method of getting and disposal

6. Prescribing, regulating, and controlling the method, system, or order of getting and disposal of quarry material and forest products within all or any parts of State forests and timber reserves, or other prescribed lands whereon quarry material or forest products are the property of the Crown.

Permits etc.

7.(1) Prescribing, regulating, and controlling applications for, and the granting and issuing of leases, permits, licences, and other authorities, and the entering into agreements and contracts, under or for the purposes of this Act.

(2) Prescribing the provisions, conditions, and reservations subject to which all or any such leases, permits, licences, other authorities, agreements and contracts shall be granted or made, held, transferred, mortgaged, extended, determined, cancelled, forfeited, surrendered, or withdrawn.

(3) Prescribing, regulating, and controlling the exercise of the powers and authority conferred by leases, permits, licences, other authorities, agreements and contracts, and all or any matters incidental thereto.

(4) Prescribing the conditions under which, and the period or maximum period for which, the obligations under this Act of the holder of a lease, permit, licence, or other authority, or of a party to a contract or agreement to

SCHEDULE 2 (continued)

perform any conditions thereof may be suspended.

(5) Prescribing the manner and form of forfeiture or cancellation or suspension of leases, permits, licences, other authorities, and agreements and contracts, and the conditions under which such may be made, and the procedure to be observed.

Deposits etc.

8. Prescribing the deposits to be lodged with an application or tender under this Act and prescribing the conditions under which such deposits may be forfeited.

Auction etc. of forest products

9.(1) Prescribing and regulating the method and the procedure for the sale, whether by auction, tender, or otherwise, of forest products or quarry material, and enabling upset prices or minimum royalties, stumpages, or charges to be fixed.

(2) Providing for the drawing up from time to time of price lists for various timbers and other forest products and various classes and specifications of timbers and other forest products whether in the forest or converted in any way or delivered to any place.

Auction etc. of grazing permits etc.

10. Prescribing the procedure for the sale by auction or tender or otherwise of rights, stock grazing permits, occupation permits, or apiary permits, and enabling upset prices or minimum charges to be fixed.

Declarations etc.

11.(1) Providing in respect of forest products or quarry material, irrespective of source, for the making of declarations or statements in writing as to the quantity and description of forest products or quarry material got, held, treated, consigned, or exported, or otherwise disposed of, and as to the place where any forest products or quarry material were

SCHEDULE 2 (continued)

obtained, and as to the place to which they were or were intended to be consigned or otherwise disposed of.

(2) Prescribing the time within which such declarations or statements shall be made.

Inspection

12.(1) Providing for the inspection of forest products or quarry material for export and for local uses.

(2) Prescribing the forms and certificates to be used, the fees to be paid, and the brands or marks to be used.

Grading

13. Prescribing rules for the naming, classifying, and grading of timber and other forest products for export and for local use.

Sizes, quantities etc.

14.(1) Prescribing the kinds, sizes, and quantities of any forest products or quarry material which may be got.

(2) Prohibiting the removal of any forest products or quarry material until branded or marked, or otherwise permitted by a forest officer.

Brands

15.(1) Prescribing for all or any purposes of this Act the mode in which any forest products are to be branded or marked, and the mode in which such brands or marks shall be registered.

(2) Requiring the registration of brands by all or any timber-workers operating under agreements, contracts, permits, or licences.

(3) Prescribing the manner of and the fees to be paid for all or any such registrations.

(4) Requiring the holders of permits or licences and all owners of private

SCHEDULE 2 (continued)

forests to register and retain the use of a brand whereby timber or other forest products cut or removed under their permits or licences or cut in or removed from their holdings may be distinguished from any other timber or other forest products.

(5) Prescribing the manner of and the fees to be paid for all or any such registrations.

Records

16. Prescribing the books and records to be kept and the returns to be made by persons working or taking delivery of forest products or quarry material.

Production of permits etc.

17. Requiring the production of any lease, permit, licence, or other authority, agreement or contract by the holder thereof, for the purpose of making an endorsement thereon, or for any other purposes.

Fire prevention etc.

18. Prescribing means for fire prevention and protection in State forests and timber reserves.

Felling trees

19. Regulating and controlling the felling or cutting of trees which are on any State forest or timber reserve.

Prevention of pollution

20. Prescribing with respect to the depositing or discharge of effluent, rubbish, refuse, garbage, litter or other matter whether in a solid or fluid state on State forests or timber reserves.

SCHEDULE 2 (continued)

Honorary rangers

22. Prescribing the powers, functions and authorities of honorary rangers.

Reservation of trees

23.(1) Reserving from sale any tree or kind or class of trees within State forests or timber reserves or other place whereon the forest products are the property of the Crown, either wholly or to such extent as is considered necessary.

(2) Prohibiting the getting, destroying, or damaging of reserved trees.

Forms

24. Prescribing forms (including registers, records, books, documents, instruments, licences, permits, agreements, contracts, and other writings) under and for the purposes of this Act and the respective purposes for which such forms, or forms to the like effect, shall be used and specifying such information as is required to be contained in such forms, and requiring the verification of any statements inserted in or on any prescribed forms by declaration made under the *Oaths Act 1867*.

Fees etc.

25. Prescribing the matters or things in respect whereof fees, costs, royalties, stumpages, charges, and expenses shall be payable under this Act (including royalties, stumpages, and charges to be paid to the Crown) in respect of any forest products or quarry material cut or got and removed pursuant to licences, permits, agreements or contracts under this Act, and the amounts of such fees, costs, royalties, stumpages, charges, and expenses, and prescribing the persons who shall be liable for the payment of such fees, costs, royalties, stumpages, charges, and expenses, and when such fees, costs, royalties, stumpages, charges, and expenses shall be payable and paid, and providing for the manner of payment thereof and for the recovery of any amount thereof not duly paid.

SCHEDULE 2 (continued)

Stock

26. Prescribing all or any matters and things necessary or desirable with respect to the disposal of or dealing with stock found on State forests, timber reserves and forest entitlement areas.

Penalties

27. Prescribing either generally or for the purposes of particular regulations penalties for offences against the regulations, not exceeding in any case 10 penalty units.

ENDNOTES

1 Index to endnotes

	Page
2 Date to which amendments incorporated	121
3 Key	122
4 Table of earlier reprints	122
5 Tables in earlier reprints	123
6 List of legislation	123
7 List of annotations	127
8 Provisions that have not commenced and are not incorporated into reprint .	147

2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 6 October 2000. Future amendments of the Forestry Act 1959 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

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

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

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

Reprint No.	Amendments included	Reprint date
1	to Act No. 70 of 1993	27 May 1994
2	to Act No. 81 of 1994	7 July 1995
2A	to Act No. 57 of 1995	25 June 1996
2B	to Act No. 54 of 1996	21 March 1997
2C	to Act No. 20 of 1997	8 August 1997
3	to Act No. 20 of 1997	31 October 1997
3A	to Act No. 78 of 1997	10 February 1998
3B	to Act No. 50 of 1998	2 December 1998
3C	to Act No. 19 of 1999	13 May 1999
3D	to Act No. 79 of 1999	31 January 2000
3E	to Act No. 5 of 2000	30 March 2000

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	1, 2
Changed names and titles	1, 2
Corrected minor errors	1, 2
Obsolete and redundant provisions	1, 2
Renumbered provisions	1

6 List of legislation

Forestry Act 1959 8 Eliz 2 No. 58

date of assent 22 December 1959

commenced 1 August 1960 (proc pubd gaz 16 July 1960 p 1613)

as amended by—

Forestry Act Amendment Act 1964 No. 15

date of assent 6 April 1964

commenced on date of assent

Acquisition of Land Act 1967 No. 48 s 3(2) sch 1

date of assent 22 December 1967

commenced 23 March 1968 (proc pubd gaz 23 March 1968 p 1206)

Forestry Act Amendment Act 1968 No. 33

date of assent 19 November 1968

commenced on date of assent

Forestry Act Amendment Act 1971 No. 25

date of assent 22 April 1971

commenced on date of assent

Metric Conversion Act 1972 No. 31 pt 2 sch 1

date of assent 21 December 1972

commenced 1 February 1974 (proc pubd gaz 19 January 1974 p 228)

Land Act and Other Acts Amendment Act 1973 No. 41 pt 3

date of assent 26 April 1973

commenced on date of assent

Forestry Act and Another Act Amendment Act 1974 No. 33

date of assent 2 May 1974

commenced on date of assent

Land Act and Another Act Amendment Act 1975 No. 12 s 12

date of assent 15 May 1975

commenced on date of assent

Forestry Act Amendment Act 1976 No. 9

date of assent 2 April 1976
commenced on date of assent

Fisheries Act 1976 No. 80 s 93

date of assent 16 December 1976
commenced 1 January 1978 (proc pubd gaz 10 December 1977 p 1305)

Forestry Act Amendment Act 1979 No. 10

date of assent 30 April 1979
commenced 1 June 1979 (proc pubd gaz 2 June 1979 p 851)

Land Act and Another Act Amendment Act 1981 No. 21 s 87

date of assent 14 May 1981
commenced on date of assent

Land Act (Aboriginal and Islander Land Grants) Amendment Act 1982 No. 17 pt 3

date of assent 23 April 1982
commenced 15 June 1985 (proc pubd gaz 15 June 1985 p 1247)

Mining Act and Other Acts Amendment Act 1982 No. 23 pt 3

date of assent 29 April 1982
commenced 1 August 1982 (proc pubd gaz 24 July 1982 p 2422)

National Parks and Wildlife Act and Another Act Amendment Act 1982 No. 73 pt 3

date of assent 14 December 1982
commenced 12 March 1983 (proc pubd gaz 12 March 1983 p 1007)

Forestry Act Amendment Act 1984 No. 86

date of assent 2 November 1984
ss 1–2 commenced on date of assent
ss 8–16 commenced 1 July 1985 (proc pubd gaz 1 June 1985 p 1001)
remaining provisions commenced 1 February 1985 (proc pubd gaz 26 January 1985 p 308)

Forestry Act Amendment Act 1987 No. 44

date of assent 21 August 1987
ss 1–2 commenced on date of assent
remaining provisions commenced 1 January 1988 (proc pubd gaz 19 December 1987 p 1657)

Fire Service Act 1990 No. 10 s 4 sch 2

date of assent 25 May 1990
commenced 1 July 1990 (proc pubd gaz 16 June 1990 p 964)

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

date of assent 14 November 1990
commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1990 No. 88 s 3 sch

date of assent 6 December 1990
commenced on date of assent

Forestry Act Amendment Act 1991 No. 13

date of assent 1 May 1991

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1991 (proc pubd gaz 22 June 1991 p 975)

Lands Legislation Amendment Act 1991 No. 83 pts 1, 6 sch 5

date of assent 9 December 1991

ss 1–2 commenced on date of assent

remaining provisions commenced 31 December 1991 (1991 SL No. 227)

Statute Law (Miscellaneous Provisions) Act 1991 No. 97 ss 1–3 sch 2

date of assent 17 December 1991

commenced on date of assent

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

date of assent 13 May 1992

ss 1–2 commenced on date of assent

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

Nature Conservation Act 1992 No. 20 ss 1–2, 159 sch 2 (as amd 1994 No. 42 s 2 sch (as from 14 September 1994))

date of assent 22 May 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 19 December 1994 (1994 SL No. 472)

Lands Legislation Amendment Act 1992 No. 64 ss 1–2, ch 4 pt 1, s 3 sch 1

date of assent 7 December 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 31 January 1993 (1992 SL No. 448)

Statute Law (Miscellaneous Provisions) Act (No. 2) 1992 No. 68 ss 1–2, 3 sch 1

date of assent 7 December 1992

commenced on date of assent

Local Government Act 1993 No. 70 ss 1–2, 804 sch

date of assent 7 December 1993

ss 1–2 commenced on date of assent

remaining provisions commenced 19 December 1994 (see s 2(3), 1994 SL No. 472)

Fisheries Act 1994 No. 37 ss 1–2, 244 sch 2

date of assent 8 September 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 27 January 1995 (1995 SL No. 9)

Fossicking Act 1994 No. 63 ss 1–2, 110(2) sch

date of assent 1 December 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 1 February 1995 (1994 SL No. 465)

Land Act 1994 No. 81 ss 1–2, 527 sch 5

date of assent 1 December 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1995 (1995 SL No. 185)

Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 2

date of assent 28 November 1995

commenced on date of assent

Public Service Act 1996 No. 37 ss 1–2, 147 sch 2

date of assent 22 October 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1996 (1996 SL No. 361)

Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 ss 1–2, 9 sch

date of assent 20 November 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 June 1997 (1997 SL No. 128)

Miscellaneous Acts (Non-bank Financial Institutions) Amendment Act 1997 No. 17 ss 1–2, 74 sch

date of assent 15 May 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1997 (1997 SL No. 163)

Primary Industries Legislation Amendment Act 1997 No. 20 pts 1–2

date of assent 15 May 1997

commenced on date of assent

Natural Resources and Other Legislation Amendment Act 1997 No. 78 pts 1, 5

date of assent 5 December 1997

commenced on date of assent

Primary Industries Legislation Amendment Act 1998 No. 50 pts 1, 5

date of assent 27 November 1998

commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1999 No. 19 ss 1–3 sch

date of assent 30 April 1999

commenced on date of assent

Coal Mining Safety and Health Act 1999 No. 39 ss 1–2, 299 sch 1

date of assent 2 September 1999

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force**Road Transport Reform Act 1999 No. 42 ss 1–2(1), 54(3) sch pt 3**

date of assent 2 September 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1999 (see s 2(1))

Forestry Amendment Act 1999 No. 79

date of assent 14 December 1999
 commenced on date of assent

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

date of assent 23 March 2000
 commenced on date of assent (see s 2(1)–(2))

Mental Health Act 2000 No. 16 ss 1–2, 590 sch 1 pt 2

date of assent 8 June 2000
 ss 1–2, 590 commenced on date of assent (see s 2(1))
 remaining provisions not yet proclaimed into force

Primary Industries and Natural Resources Legislation Amendment Act 2000 No. 26 ss 1, 2(2), pt 3, s 12 sch 1

date of assent 27 June 2000
 ss 7, 8 (to the extent it ins pt 9 div 3) commenced 30 June 2000 (2000 SL No. 181)
 remaining provisions commenced on date of assent

Water Act 2000 No. 34 ss 1–2, 1145 sch 3

date of assent 13 September 2000
 commenced on date of assent (see s 2(2))

7 List of annotations

Title amd 1968 No. 33 s 2; 1982 No. 73 s 36

Short title

s 1 amd R2 (see RA s 37)

Construction of this Act

s 2 om 1991 No. 97 s 3 sch 2

Parts of this Act

s 3 amd 1968 No. 33 s 3; 1974 No. 33 s 2; 1982 No. 73 s 37; 1987 No. 44 s 4
 om 1991 No. 97 s 3 sch 2

Repeals and savings: First Sch

s 4 om 1991 No. 97 s 3 sch 2

Definitions

prov hdg sub 1997 No. 20 s 4(1)

s 5 amd 1997 No. 20 s 4(4)

def “**animal life**” ins 1968 No. 33 s 4(a)

amd 1971 No. 25 s 2(a); 1982 No. 73 s 38(a)

def “**beds and banks**” amd 2000 No. 34 s 1145 sch 3

def “**camp**” ins 1991 No. 13 s 3(a)

def “**camping form**” ins 1991 No. 13 s 3(a)

amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

def “**chief executive**” ins 1992 No. 15 s 13 sch

om R1 (see RA s 39)

- def **“chief executive (lands)”** ins 1992 No. 64 s 21(2)
- def **“Conservator of Forests”** amd 1990 No. 80 s 3 sch 7
om 1992 No. 15 s 13 sch
- def **“contiguous”** ins 1964 No. 15 s 2(a)
amd 1968 No. 33 s 4(b)
sub 1971 No. 25 s 2(b)
amd 1982 No. 73 s 38(b)
- def **“conviction”** ins 1997 No. 20 s 4(2)
- def **“corporation”** ins 1992 No. 15 s 13 sch
om 2000 No. 26 s 12 sch 1
- def **“Crown holding”** sub 1964 No. 15 s 2(b)
amd 1975 No. 12 s 12(1)
sub 1991 No. 83 s 90; 1992 No. 64 s 21
amd 1994 No. 81 s 527 sch 5
- def **“Crown land”** amd 1964 No. 15 s 2(c); 1968 No. 33 s 4(c); 1992
No. 20 s 159 sch 2 (as amd 1994 No. 42 s 2 sch)
- def **“deed of grant”** ins 1991 No. 83 s 90(2)
sub 1994 No. 81 s 527 sch 5
- def **“Department”** ins 1990 No. 80 s 3 sch 7
om 1991 No. 97 s 3 sch 2
- def **“Department of Forestry”** or **“Department”** om 1990 No. 80 s 3
sch 7
- def **“Deputy Conservator of Forests”** om 1992 No. 15 s 13 sch
- def **“Director-General”** ins 1990 No. 80 s 3 sch 7
om 1992 No. 15 s 13 sch
- def **“entrance”** ins 1991 No. 13 s 3(b)
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1
- def **“Environmental Park”** ins 1973 No. 41 s 20(a)
om 1992 No. 20 s 159 sch 2 (as amd 1994 No. 42 s 2 sch)
- def **“feature protection area”** ins 1984 No. 86 s 4(a)
- def **“forest drive”** ins 1984 No. 86 s 4(a)
- def **“forest entitlement area”** ins 1974 No. 33 s 3(a)
sub 1994 No. 81 s 527 sch 5
- def **“forest infringement”** ins 1991 No. 13 s 3(c)
- def **“forest officer”** sub 1992 No. 15 s 13 sch
- def **“forest products”** amd 1964 No. 15 s 2(d)
sub 1968 No. 33 s 4(d); 1971 No. 25 s 2(c)
amd 1973 No. 41 s 20(b); 1974 No. 33 s 3(b); 1982 No. 73 s 38(c);
1991 No. 97 s 3 sch 2; 1997 No. 20 s 4(3)
- def **“freeholding lease”** ins 1992 No. 64 s 21(2)
sub 1994 No. 81 s 527 sch 5
amd 1995 No. 57 s 4 sch 2
- def **“Historic area”** ins 1968 No. 33 s 4(e)
om 1982 No. 73 s 38(d)
- def **“incidental thing”** ins 1997 No. 20 s 4(2)
- def **“Land”** ins 1971 No. 25 s 2(d)
om 1982 No. 73 s 38(d)
- def **“Land Administration Commission”** om 1992 No. 64 s 21(1)
- def **“Land Commissioner”** om 1992 No. 64 s 21(1)

- def **“Local Authority”** om 1992 No. 15 s 13 sch
def **“Magistrates Court”** ins 1974 No. 33 s 3(c)
om 1991 No. 97 s 3 sch 2
def **“Mining Acts”** sub 1992 No. 15 s 13 sch
amd 1999 No. 39 s 299 sch 1
def **“Minister”** sub 1964 No. 15 s 2(e); 1990 No. 80 s 3 sch 7
om 1991 No. 97 s 3 sch 2
def **“motor vehicle”** ins 1991 No. 13 s 3(d)
amd 1999 No. 42 s 54(3) sch pt 3
def **“National Park”** sub 1971 No. 25 s 2(e); 1982 No. 73 s 38(e)
om 1992 No. 20 s 159 sch 2 (as amd 1994 No. 42 s 2 sch)
def **“native forest hardwood sawlogs”** ins 1999 No. 79 s 3
def **“native forest sawlog allocation system”** ins 1999 No. 79 s 3
def **“notice”** ins 1991 No. 13 s 3(e)
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1
def **“officer”** sub 1992 No. 15 s 13 sch
def **“official traffic sign”** ins 1991 No. 13 s 3(f)
amd 1999 No. 42 s 54(3) sch pt 3
def **“Order in Council”** om 1991 No. 97 s 3 sch 2
def **“owner”** ins 1991 No. 13 s 3(g)
sub 1991 No. 83 s 90
amd 1992 No. 64 s 3 sch 1
def **“permit”** amd 1991 No. 13 s 3(h)
def **“Primitive area”** ins 1968 No. 33 s 4(f)
om 1982 No. 73 s 38(f)
def **“Primitive and recreation area”** ins 1968 No. 33 s 4(f)
om 1982 No. 73 s 38(f)
def **“Proclamation”** om 1991 No. 97 s 3 sch 2
def **“protected area”** ins 1992 No. 20 s 159 sch 2 (as amd 1994 No. 42
s 2 sch)
def **“quarry material”** sub 1964 No. 15 s 2(f); 1991 No. 83 s 90
amd 1992 No. 64 s 3 sch 1
def **“recreational purposes”** ins 1971 No. 25 s 2(f)
def **“Recreation area”** ins 1968 No. 33 s 4(g)
om 1982 No. 73 s 38(f)
def **“Regulations”** om 1991 No. 97 s 3 sch 2
def **“regulatory notice”** ins 1991 No. 13 s 3(i)
def **“requirement”** ins 1991 No. 13 s 3(i)
def **“sales permit”** ins 1999 No. 42 s 54(3) sch pt 3
def **“Scenic area”** om 1968 No. 33 s 4(h)
def **“scientific area”** ins 1968 No. 33 s 4(h)
om 1982 No. 73 s 38(f)
ins 1984 No. 86 s 4(c)
def **“Sea bed”** ins 1971 No. 25 s 2(g)
om 1982 No. 73 s 38(f)
def **“Secretary”** amd 1990 No. 80 s 3 sch 7
om 1992 No. 15 s 13 sch
def **“seized thing”** ins 1997 No. 20 s 4(2)
def **“self-registration camping area”** ins 1991 No. 13 s 3(j)

def “**self-registration camping notice**” ins 1991 No. 13 s 3(j)

def “**State forest information notice**” ins 1991 No. 13 s 3(k)

def “**State forest park**” ins 1984 No. 86 s 4(b)

def “**This Act**” om 1991 No. 97 s 3 sch 2

def “**topsoil**” ins 1991 No. 83 s 90(2)

def “**vehicle**” ins 1991 No. 13 s 3(l)

Administration of this Act

s 6 amd 1990 No. 80 s 3 sch 7
 om 1992 No. 15 s 13 sch

Conservator of Forests

s 7 om 1992 No. 14 s 13 sch

Conservator of Forests to be corporation sole

s 8 amd 1984 No. 86 s 5
 om 1992 No. 15 s 13 sch

Conservator of Forests to succeed Forestry Board

s 9 om 1992 No. 15 s 13 sch

Department of Forestry

s 10 om 1990 No. 80 s 3 sch 7

Functions etc. of the corporation

prov hdg amd 1990 No. 80 s 3 sch 7
 om 2000 No. 26 s 12 sch 1

s 11 amd 1968 No. 33 s 5; 1971 No. 25 s 3; 1974 No. 33 s 4; 1982 No. 73 s 39;
 1990 No. 80 s 3 sch 7; 1992 No. 15 s 13 sch; 1992 No. 64 s 3 sch 1
 om 2000 No. 26 s 12 sch 1

Powers of the corporation etc.

prov hdg amd 1991 No. 15 s 13 sch
 om 2000 No. 26 s 12 sch 1

s 12 amd 1990 No. 80 s 3 sch 7; 1992 No. 15 s 13 sch
 om 2000 No. 26 s 12 sch 1

Corporation is statutory body

s 13 prev s 13 sub 1967 No. 48 s 3(2) sch 1
 om 1992 No. 15 s 13 sch
 pres s 13 ins 1996 No. 54 s 9 sch
 om 2000 No. 26 s 12 sch 1

Powers of Conservator of Forests to enter into contracts

s 14 om 1992 No. 15 s 13 sch

Delegation of powers by the Conservator of Forests

s 15 amd 1984 No. 86 s 6; 1990 No. 80 s 3 sch 7
 om 1992 No. 15 s 13 sch

Defects in appointment not invalidate acts of Conservator of Forests

s 16 om 1992 No. 15 s 13 sch

Appointment of officers

s 17 amd 1990 No. 80 s 3 sch 7; 1991 No. 13 s 4
sub 1992 No. 15 s 13 sch

General powers of forest officers

s 18 amd 1968 No. 33 s 6; 1971 No. 25 s 4; 1974 No. 33 s 5; 1982 No. 73 s 40;
1984 No. 86 s 7; 1997 No. 20 s 5; 1997 No. 78 s 32; 2000 No. 5 s 373
sch 2

Retention of document produced to forest officer

s 19 prev s 19 amd 1990 No. 80 s 3 sch 7
om 1992 No. 15 s 13 sch
pres s 19 ins 1997 No. 78 s 33

Agencies

prov hdg sub 1990 No. 80 s 3 sch 7
s 20 amd 1990 No. 80 s 3 sch 7
om 1992 No. 15 s 13 sch

Officers not to trade in timber etc.

s 21 amd 1992 No. 15 s 13 sch

PART 2A—TIMBER RESEARCH AND DEVELOPMENT ADVISORY COUNCIL

pt hdg ins 1974 No. 33 s 6
amd 1987 No. 44 s 6
om 2000 No. 26 s 7

Division 1—Timber Research and Development Advisory Council of South and Central Queensland

div hdg ins 1974 No. 33 s 6
om 1987 No. 44 s 7

Constitution

s 22A ins 1974 No. 33 s 6
amd 1987 No. 44 s 8
om 2000 No. 26 s 7

Composition

s 22B ins 1974 No. 33 s 6
sub 1979 No. 10 s 3
amd 1987 No. 44 s 9; 1990 No. 80 s 3 sch 7; 1992 No. 15 s 13 sch
om 2000 No. 26 s 7

Functions

s 22C ins 1974 No. 33 s 6
amd 1987 No. 44 s 10
om 2000 No. 26 s 7

Savings and transitional

s 22D ins 1974 No. 33 s 6
sub 1987 No. 44 s 11
om 1992 No. 15 s 13 sch

Division 2—Timber Research and Development Advisory Council of North Queensland

div hdg ins 1974 No. 33 s 6
om 1987 No. 44 s 12

Tenure of office

s 22E prev s 22E ins 1974 No. 33 s 6
om 1987 No. 44 s 13
pres s 22E (prev s 22I) ins 1974 No. 33 s 6
sub 1979 No. 10 s 5
renum 1987 No. 44 s 15
amd 1987 No. 44 s 16
om 2000 No. 26 s 7

Non-application of Public Service Management and Employment Act

s 22F prev s 22F ins 1974 No. 33 s 6
sub 1979 No. 10 s 4
om 1987 No. 44 s 13
pres s 22F (prev s 22J) ins 1974 No. 33 s 6
renum 1987 No. 44 s 15
amd 1987 No. 44 s 17
om 1996 No. 37 s 147 sch 2

Casual vacancies

s 22G prev s 22G ins 1974 No. 33 s 6
om 1987 No. 44 s 13
pres s 22G (prev s 22K) ins 1974 No. 33 s 6
renum 1987 No. 44 s 15
amd 1987 No. 44 s 18
om 2000 No. 26 s 7

Failure to nominate

s 22H prev s 22H ins 1974 No. 33 s 6
om 1987 No. 44 s 13
pres s 22H (prev s 22L) ins 1974 No. 33 s 6
amd 1979 No. 10 s 6
renum 1987 No. 44 s 15
amd 1987 No. 44 s 19
om 2000 No. 26 s 7

Division 3—Miscellaneous Provisions

div hdg ins 1974 No. 33 s 6
om 1987 No. 44 s 14

Disqualification

s 22I (prev s 22M) ins 1974 No. 33 s 6
renum 1987 No. 44 s 15
amd 1987 No. 44 s 20; 2000 No. 16 s 590 sch 1 pt 2
om 2000 No. 26 s 7

Proceedings

s 22J (prev s 22N) ins 1974 No. 33 s 6
renum 1987 No. 44 s 15

amd 1987 No. 44 s 21
om 2000 No. 26 s 7

Appointment of employees

s 22K (prev s 22O) ins 1974 No. 33 s 6
renum 1987 No. 44 s 15
amd 1987 No. 44 s 22
om 2000 No. 26 s 7

Superannuation scheme

s 22L (prev s 22P) ins 1974 No. 33 s 6
sub 1984 No. 86 s 8
renum 1987 No. 44 s 15
amd 1987 No. 44 s 23; 1992 No. 15 s 13 sch
om 2000 No. 26 s 7

Funds

s 22M (prev s 22Q) ins 1974 No. 33 s 6
sub 1984 No. 86 s 9
renum 1987 No. 44 s 15
amd 1987 No. 44 s 24; 1997 No. 17 s 74 sch
om 2000 No. 26 s 7

Council is statutory body

s 22N ins 1987 No. 44 s 25
sub 1996 No. 54 s 9 sch
om 2000 No. 26 s 7

Budget of the council

prov hdg amd 1987 No. 44 s 28(a)
s 22O (prev s 22QE) ins 1984 No. 86 s 12
renum 1987 No. 44 s 27
amd 1987 No. 44 s 28(b)–(d)
om 2000 No. 26 s 7

Observance of budget

s 22P (prev s 22QF) ins 1984 No. 86 s 12
renum 1987 No. 44 s 27
amd 1987 No. 44 s 29
om 2000 No. 26 s 7

Treatment of ordinary expenditure, surplus and deficit

s 22Q (prev s 22QG) ins 1984 No. 86 s 13
renum 1987 No. 44 s 27
om 2000 No. 26 s 7

Financial records

s 22QA ins 1984 No. 86 s 10
om 1987 No. 44 s 25

Annual statements of account

s 22QB ins 1984 No. 86 s 10
om 1987 No. 44 s 25

Audit

s 22QC ins 1984 No. 86 s 11
om 1987 No. 44 s 25

Investment of Funds

s 22QD ins 1984 No. 86 s 11
om 1987 No. 44 s 25

Control of moneys and property of a Council

s 22QI ins 1984 No. 86 s 13
om 1987 No. 44 s 26

Budget statement to be presented to meeting

s 22R prev s 22R ins 1974 No. 33 s 6
amd 1984 No. 86 s 14
om 1987 No. 44 s 26
pres s 22R (prev s 22QH) ins 1984 No. 86 s 13
renum 1987 No. 44 s 27
amd 1987 No. 44 s 30
om 2000 No. 26 s 7

Additional stumpage

s 22S ins 1974 No. 33 s 6
amd 1979 No. 10 s 7; 1984 No. 86 s 15; 1987 No. 44 s 31; 1992 No. 15
s 13 sch
om 2000 No. 26 s 7

Estimate by chief executive

prov hdg sub 1984 No. 86 s 16(a)
s 22T ins 1974 No. 33 s 6
amd 1984 No. 86 s 16(b)–(c); 1987 No. 44 s 32; 1992 No. 15 s 13 sch
om 2000 No. 26 s 7

Interpretation

s 22U ins 1974 No. 33 s 6
om 1992 No. 15 s 13 sch

Saving

s 22V ins 1974 No. 33 s 6
amd 1990 No. 80 s 3 sch 7; 1992 No. 15 s 13 sch
om 2000 No. 26 s 7

**PART 3—CLASSIFICATION AND RESERVATION OF STATE FORESTS AND
TIMBER RESERVES**

pt hdg amd 1968 No. 33 s 7; 1991 No. 13 s 5

Classification of lands

s 23 amd 1971 No. 25 s 5; 1982 No. 73 s 41; 1992 No. 15 s 13 sch

Recommendation for reservation

s 24 amd 1971 No. 25 s 6; 1982 No. 73 s 42
om 1992 No. 15 s 13 sch

Power to set apart and declare State forests

s 25 amd 1992 No. 15 s 13 sch; 1992 No. 68 s 3 sch 1

Restriction on alienation etc.

s 26 amd 1992 No. 68 s 3 sch 1

Amalgamation etc. of State forests

prov hdg amd 1968 No. 33 s 8(a)

sub 1991 No. 13 s 6(a)

s 27 amd 1968 No. 33 s 8(b)–(c); 1976 No. 9 s 2; 1991 No. 13 s 6(b)–(c)

sub 1992 No. 68 s 3 sch 1

Power to set apart and declare timber reserves

s 28 amd 1964 No. 15 s 3; 1968 No. 33 s 9; 1976 No. 9 s 3; 1992 No. 15 s 13 sch; 1992 No. 68 s 3 sch 1

National Parks

hdg prec s 29 amd 1968 No. 33 s 10

om 1982 No. 73 s 43

Power to set apart and declare National Parks

s 29 sub 1968 No. 33 s 11

amd 1971 No. 25 s 7; 1976 No. 9 s 4; 1976 No. 80 s 93

om 1982 No. 73 s 44

Existing National Parks

s 30 amd 1964 No. 15 s 4

sub 1968 No. 33 s 13

amd 1971 No. 25 s 8; 1976 No. 9 s 5

om 1982 No. 73 s 44

Restriction on alienation

s 31 amd 1968 No. 33 s 14; 1971 No. 25 s 9

om 1982 No. 73 s 44

Unlawful use of expression “National Park”

s 31A ins 1976 No. 9 s 6

om 1982 No. 73 s 44

Land for tourist purposes

s 32 amd 1964 No. 15 s 5; 1968 No. 33 s 15; 1982 No. 73 s 45; 1992 No. 15 s 13 sch; 1992 No. 68 s 3 sch 1

PART 4—MANAGEMENT OF STATE FORESTS, TIMBER RESERVES AND FOREST ENTITLEMENT AREAS

pt hdg sub 1974 No. 33 s 7

Cardinal principle of management of State forests

s 33 sub 1976 No. 9 s 7

amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Use of State forests

prov hdg sub 2000 No. 26 s 12 sch 1

s 34 amd 1976 No. 9 s 8; 1984 No. 86 s 17; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Regulation of use of State forests by notices

prov hdg amd 1992 No. 15 s 13 sch
sub 2000 No. 26 s 12 sch 1

s 34AA ins 1991 No. 13 s 7
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Display in State forests of information notices in conjunction with regulatory notices

s 34AB ins 1991 No. 13 s 7
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Specialised management within State forests

s 34A ins 1984 No. 86 s 18
sub 1992 No. 15 s 13 sch
amd 1992 No. 68 s 3 sch 1

Application of Motor Vehicles Control Act

s 34B ins 1984 No. 86 s 18

Feature protection area

s 34C ins 1984 No. 86 s 18
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

State forest park

s 34D ins 1984 No. 86 s 19
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Scientific area

s 34E ins 1984 No. 86 s 19
amd 1991 No. 13 s 8; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Forest drive

s 34F ins 1984 No. 86 s 20
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Regulating movement of vehicles on feature protection areas etc.

s 34G ins 1984 No. 86 s 20
amd 1991 No. 13 s 9; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Self-registration camping areas

s 34H ins 1991 No. 13 s 10
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Granting of permit for land within State forest

prov hdg sub 2000 No. 26 s 12 sch 1

s 35 amd 1964 No. 15 s 6; 1972 No. 31 s 6 sch 1; 1982 No. 23 s 70; 1984 No. 86 s 21; 1992 No. 15 s 13 sch; 1994 No. 81 s 527 sch 5; 2000 No. 26 s 12 sch 1

Permit to camp in State forest may be taken to have been granted by chief executive

prov hdg amd 1992 No. 15 s 13 sch

s 35A ins 1991 No. 13 s 11
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Dealings with respect to timber reserves

s 36 sub 1964 No. 15 s 7
amd 1992 No. 15 s 13 sch; 1994 No. 81 s 527 sch 5

Mining leases over State forest, timber reserve or forest entitlement area

s 37 amd 1974 No. 33 s 8; 1990 No. 80 s 3 sch 7; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Permits for destruction of trees on State forests and timber reserves

s 38 om 1992 No. 15 s 13 sch

Interfering with forest products on State forests etc.

s 39 amd 1974 No. 33 s 9; 1991 No. 13 s 12; 1992 No. 15 s 13 sch; 1997 No. 20 s 6

Forest entitlement areas

s 39A ins 1974 No. 33 s 10
amd 1990 No. 80 s 3 sch 7; 1991 No. 97 s 3 sch 2; 1992 No. 15 s 13 sch; 1994 No. 81 s 527 sch 5; 2000 No. 26 s 12 sch 1

Rights and liabilities of contracting party in respect of forest entitlement areas

s 39B ins 1974 No. 33 s 11
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Interpretation

s 39C ins 1974 No. 33 s 11
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

PART 5—MANAGEMENT OF NATIONAL PARKS

pt hdg amd 1968 No. 33 s 16
om 1982 No. 73 s 46(a)

Principle of management of National Park

s 40 sub 1968 No. 33 s 17
om 1982 No. 73 s 46(b)

Specialized management within National Park

s 40A ins 1968 No. 33 s 17
om 1982 No. 73 s 46(b)

Primitive area

s 40B ins 1968 No. 33 s 17
amd 1971 No. 25 s 10
om 1982 No. 73 s 46(b)

Primitive and Recreation Area

s 40C ins 1968 No. 33 s 17
amd 1974 No. 33 s 12
om 1982 No. 73 s 46(b)

Recreation Area

s 40D ins 1968 No. 33 s 17
amd 1971 No. 25 s 11; 1972 No. 31 s 6 sch 1
om 1982 No. 73 s 46(b)

Scientific Area

- s 40E** ins 1968 No. 33 s 17
 amd 1971 No. 25 s 12
 om 1982 No. 73 s 46(b)

Historic Area

- s 40F** ins 1968 No. 33 s 17
 om 1982 No. 73 s 46(b)

Power of the Conservator of Forests to carry out works

- s 41** amd 1968 No. 33 s 18
 om 1982 No. 73 s 46(b)

Power to grant special leases

- s 42** amd 1964 No. 15 s 8; 1968 No. 33 s 19; 1971 No. 25 s 13; 1976 No. 80
 s 93
 om 1982 No. 73 s 46(b)

Interfering with forest products on National Parks, etc.

- s 43** amd 1968 No. 33 s 20; 1971 No. 25 s 14; 1976 No. 80 s 93
 om 1982 No. 73 s 46(b)

Forest products etc. which are the property of the Crown

- s 45** amd 1964 No. 15 s 9; 1968 No. 33 s 21; 1974 No. 33 s 13; 1982 No. 17
 s 17; 1991 No. 83 s 91; 1992 No. 15 s 13 sch; 1992 No. 20 s 159 sch 2
 (as amd 1994 No. 42 s 2 sch); 1992 No. 64 s 3 sch 1; 1994 No. 81 s 527
 sch 5; R2 (see RA s 37); 2000 No. 26 s 12 sch 1

Owner of quarry material

- s 45A** ins 1991 No. 83 s 92

Sale of forest products or quarry material

- prov hdg** sub 2000 No. 26 s 12 sch 1
s 46 amd 1968 No. 33 s 22; 1973 No. 41 s 21; 1992 No. 15 s 13 sch; 1992
 No. 20 s 159 sch 2 (as amd 1994 No. 42 s 2 sch); 1999 No. 79 s 4; 2000
 No. 26 s 12 sch 1

Sale of fossils and quarry materials to fossicker

- s 46A** ins 1994 No. 63 s 110(2) sch
 amd 2000 No. 26 s 12 sch 1

Sale of forests products on Crown holdings or mining leases etc.

- s 47** amd 1964 No. 15 s 10; 1981 No. 21 s 87(3); 1984 No. 86 s 22; 1990 No. 80
 s 3 sch 7; 1991 No. 83 ss 93, 89 sch 5; 1992 No. 15 s 13 sch
 sub 1992 No. 15 s 13 sch
 amd 1992 No. 64 s 3 sch 1; 1994 No. 81 s 527 sch 5; 2000 No. 26 s 12
 sch 1

Getting or selling forest products

- prov hdg** sub 2000 No. 26 s 12 sch 1
s 48 amd 1964 No. 15 s 11; 1973 No. 41 s 22; 1990 No. 80 s 3 sch 7; 1992
 No. 15 s 13 sch; 1992 No. 20 s 159 sch 2; 2000 No. 26 s 12 sch 1

Power to purchase forest products

s 49 amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Contracts for the supply of forest products

s 50 amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Power to purchase etc. plant etc.

s 51 amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Power to subsidise road works

s 52 amd 1968 No. 33 s 23; 1982 No. 73 s 47; 1992 No. 15 s 13 sch; 2000
No. 26 s 12 sch 1

Interference with forest products on Crown holdings and mining leases

prov hdg ins 1992 No. 64 s 3 sch 1

s 53 amd 1964 No. 15 s 12; 1991 No. 83 ss 94, 89 sch 5; 1992 No. 64 s 3 sch 1;
1994 No. 81 s 527 sch 5; R2 (see RA s 37); 1997 No. 20 s 7

Interfering with forest products on Crown lands etc.

s 54 amd 1991 No. 83 s 95; 1992 No. 64 s 3 sch 1; 1997 No. 20 s 8

Interfering with quarry material in deeds of grant or freeholding leases

s 54A ins 1991 No. 83 s 96
 sub 1992 No. 64 s 3 sch 1
 amd 1994 No. 81 s 527 sch 5

Licences to get forest products etc.

s 55 amd 1964 No. 15 s 13; 1973 No. 41 s 23; 1991 No. 83 s 97; 1992 No. 15
s 13 sch; 1992 No. 20 s 159 sch 2; 1992 No. 64 s 3 sch 1; 1994 No. 81
s 527 sch 5; 2000 No. 26 s 12 sch 1

Permits etc.

s 56 amd 1964 No. 15 s 14; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Power of entry under licence or permit

s 57 amd 1981 No. 21 s 87(4); 1992 No. 15 s 13 sch; 1994 No. 81 s 527 sch 5

Power to cancel, suspend, permit, licence etc.

s 58 amd 1990 No. 10 s 4 sch 2; 1992 No. 15 s 13 sch; 1999 No. 79 s 5; 2000
No. 26 s 12 sch 1

Transfer of permits etc.

s 59 amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Removal of forest products

s 61 amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Prohibition on sale of Aboriginal artefacts etc.

s 61A ins 1968 No. 33 s 24
 amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

**PART 6A—QUARRY MATERIAL IN DEED OF GRANT OR FREEHOLDING
LEASE**

pt hdg ins 1991 No. 83 s 98
 sub 1992 No. 64 s 3 sch 1

Interpretation

s 61B ins 1991 No. 83 s 98
amd 1992 No. 64 s 3 sch 1

Entitlement under permit

s 61C ins 1991 No. 83 s 98
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Withdrawal of consent

s 61D ins 1991 No. 83 s 98
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Provision of security

s 61E ins 1991 No. 83 s 98
amd 1992 No. 15 s 13 sch; 1997 No. 17 s 74 sch; 2000 No. 26 s 12 sch 1

Compensation

s 61F ins 1991 No. 83 s 98

Prior notice of entry to be served

s 61G ins 1991 No. 83 s 98

Appeal to Land Court

s 61H ins 1991 No. 83 s 98

Appeal against Land Court's determination

s 61I ins 1991 No. 83 s 98
amd 1994 No. 81 s 527 sch 5

**PART 7—CONTROL AND PROHIBITION OF FIRES ON STATE FORESTS,
TIMBER RESERVES AND FOREST ENTITLEMENT AREAS**

pt hdg amd 1968 No. 33 s 25; 1973 No. 41 s 24(a); 1974 No. 33 s 14; 1982 No. 73
s 48

Control of fires on State forests etc.

s 62 amd 1968 No. 33 s 26; 1973 No. 41 s 24(b); 1974 No. 33 s 15; 1982 No. 73
s 49; 1990 No. 10 s 4 sch 2; 1991 No. 13 s 13; 1992 No. 15 s 13 sch;
2000 No. 26 s 12 sch 1

Duty of lessee of State forest etc.

s 63 amd 1968 No. 33 s 27; 1973 No. 41 s 24(b); 1974 No. 33 s 15; 1982 No. 73
s 49; 1990 No. 10 s 4 sch 2; 1992 No. 15 s 13 sch

Certain person to be incapable of holding permits etc.

s 64 amd 1968 No. 33 s 28; 1973 No. 41 s 24(b); 1974 No. 33 s 15; 1982 No. 73
s 49; 1990 No. 10 s 4 sch 2; 1992 No. 15 s 13 sch

Control of fires on lands adjoining State forest etc.

s 65 amd 1964 No. 15 s 15; 1968 No. 33 s 29; 1972 No. 31 s 6 sch 1; 1973
No. 41 s 24(b); 1974 No. 33 s 15; 1982 No. 73 s 49; 1990 No. 10 s 4
sch 2; 1990 No. 88 s 3 sch; 1992 No. 15 s 13 sch; 2000 No. 26 s 12
sch 1

Lighted match etc. not to be dropped near flammable material

prov hdg amd 1991 No. 13 s 14(a)

s 66 amd 1968 No. 33 s 30; 1972 No. 31 s 6 sch 1; 1973 No. 41 s 24(b); 1974 No. 33 s 15; 1982 No. 73 s 49; 1991 No. 13 s 14(b)

Lighting of small fires on State forests etc.

s 67 amd 1968 No. 33 s 31; 1972 No. 31 s 6 sch 1; 1973 No. 41 s 24(b); 1974 No. 33 s 15; 1982 No. 73 s 49; 1991 No. 13 s 15

Cooperative burnings

s 68 amd 1968 No. 33 s 32; 1972 No. 31 s 6 sch 1; 1973 No. 41 s 24(b); 1974 No. 33 s 15; 1982 No. 73 s 49; 1990 No. 10 s 4 sch 2; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Forfeiture of leases and the like and cancellation of agreements

prov hdg sub 1974 No. 33 s 16(a)

s 69 amd 1968 No. 33 s 33; 1973 No. 41 s 24(b); 1974 No. 33 s 16(b)–(c); 1982 No. 73 s 50; 1990 No. 10 s 4 sch 2; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

PART 7A—COMPETITION POLICY REFORM EXEMPTIONS

pt hdg ins 1998 No. 50 s 22
exp 27 November 2009 (see s 69D)

Definitions for pt 7A

s 69A ins 1998 No. 50 s 22
def “**native forest sawlog allocation system**” amd 2000 No. 26 s 12 sch 1
exp 27 November 2009 (see s 69D)

Specific authorisation for allocation and sale of native forest sawlogs

s 69B ins 1998 No. 50 s 22
amd 2000 No. 26 s 12 sch 1
exp 27 November 2009 (see s 69D)

Specific authorisation for grant of permit to get native forest sawlogs

s 69C ins 1998 No. 50 s 22
amd 1999 No. 79 s 6; 2000 No. 26 s 12 sch 1
exp 27 November 2009 (see s 69D)

Expiry of pt 7A

s 69D ins 1998 No. 50 s 22
amd 1999 No. 79 s 7
exp 27 November 2009 (see s 69D)

Destruction of trees on roads

s 70 amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Impounding

s 71 sub 1964 No. 15 s 16
amd 1968 No. 33 s 34; 1982 No. 73 s 51; 1991 No. 13 s 16; 1992 No. 15 s 13 sch
sub 1992 No. 20 s 159 sch 2
om 1993 No. 70 s 804 sch

Wild stock

s 72 sub 1964 No. 15 s 17

amd 1968 No. 33 s 35; 1974 No. 33 s 17; 1982 No. 73 s 52; 1991 No. 13 s 17; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Unlawfully using State forests etc.

s 73 amd 1968 No. 33 s 36; 1971 No. 25 s 15; 1974 No. 33 s 18; 1982 No. 23 s 71; 1982 No. 73 s 53; 1984 No. 86 s 23; 1991 No. 13 s 18; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Display of camping forms

s 73A ins 1991 No. 13 s 19

Unauthorised building etc. within State forest etc.

s 74 amd 1968 No. 33 s 37; 1974 No. 33 s 18; 1982 No. 73 s 54; 1991 No. 13 s 20; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Removal of trespassers

s 75 amd 1968 No. 33 s 38; 1971 No. 25 s 16; 1974 No. 33 s 18; 1982 No. 73 s 55

Entry on to reserves may be prohibited

s 76 amd 1974 No. 33 s 19; 1991 No. 13 s 21; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Persons found in possession of forest products

s 77 amd 1968 No. 33 s 39; 1974 No. 33 s 20; 1982 No. 73 s 56

Receiving forest products

s 78 amd 1991 No. 13 s 22

Accounts of forest products

s 80 amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Power to enter land

s 81 amd 1971 No. 25 s 17; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Powers for seized timber etc.

prov hdg sub 1997 No. 20 s 9(1)

s 82 amd 1968 No. 33 s 40; 1971 No. 25 s 18; 1982 No. 73 s 57; 1991 No. 13 s 23; 1992 No. 15 s 13 sch; 1997 No. 20 s 9(2)–(16); 1997 No. 78 s 34; 2000 No. 26 s 12 sch 1

Seizure and forfeiture of vehicles

s 82A ins 1984 No. 86 s 24
amd 1991 No. 13 s 24; 1997 No. 20 s 10

Receipt to be given

s 82B ins 1997 No. 20 s 11

Forest officer to allow inspection etc.

s 82C ins 1997 No. 20 s 11

Chief executive may return seized thing

prov hdg sub 2000 No. 26 s 12 sch 1

s 82D ins 1997 No. 20 s 11
amd 2000 No. 26 s 12 sch 1

Chief executive's obligation to return seized things

- prov hdg** sub 2000 No. 26 s 12 sch 1
s 82E ins 1997 No. 20 s 11
 amd 2000 No. 26 s 12 sch 1

Chief executive may order forfeiture of unclaimed seized things

- prov hdg** sub 2000 No. 26 s 12 sch 1
s 82F ins 1997 No. 20 s 11
 amd 2000 No. 26 s 12 sch 1

Forfeiture of seized things on conviction

- s 82G** ins 1997 No. 20 s 11

Where and how to start appeal

- s 82H** ins 1997 No. 20 s 11
 amd 2000 No. 26 s 12 sch 1

Hearing procedures

- s 82I** ins 1997 No. 20 s 11
 amd 2000 No. 26 s 12 sch 1

Powers of Magistrates Court on appeal

- s 82J** ins 1997 No. 20 s 11

Appeal to District Court on questions of law only

- s 82K** ins 1997 No. 20 s 11
 amd 1999 No. 19 s 3 sch

Seized forest products and quarry material become State's property

- s 82L** ins 1997 No. 20 s 11
 amd 2000 No. 26 s 12 sch 1

Forfeited things seized become State's property

- s 82M** ins 1997 No. 20 s 11

Dealing with forfeited forest products etc.

- prov hdg** amd 1984 No. 86 s 25(a); 1992 No. 15 s 13 sch
 sub 2000 No. 26 s 12 sch 1
s 83 amd 1984 No. 86 s 25(b); 1992 No. 15 s 13 sch; 1997 No. 20 s 12; 2000
 No. 26 s 12 sch 1

Matters may be completed by different officers

- s 84** amd 1992 No. 15 s 13 sch

Officer may direct person to leave State forest or timber reserve

- s 84A** ins 1984 No. 86 s 26

Obstruction of officer etc.

- s 86** amd 1968 No. 33 s 41; 1971 No. 25 s 19; 1982 No. 73 s 58; 1984 No. 86
 s 27; 1991 No. 13 s 25; 1992 No. 15 s 13 sch; 1997 No. 20 s 13; 2000
 No. 26 s 12 sch 1

Forgery of licence etc. and other offences

- s 87** amd 1976 No. 9 s 9; 1991 No. 13 s 26; 1997 No. 20 s 14

Interference with infringement notices or camping forms

s 87A ins 1991 No. 12 s 27

Offences generally

s 88 amd 1968 No. 33 s 42; 1971 No. 25 s 20; 1974 No. 33 s 21; 1976 No. 9 s 10; 1982 No. 73 s 59; 1991 No. 13 s 28; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Infringement notices

s 88A ins 1991 No. 13 s 29
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Service of infringement notices

s 88B ins 1991 No. 13 s 29

Effect of service of infringement notice

s 88C ins 1991 No. 13 s 29
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Liability for forest infringements

s 88D ins 1991 No. 13 s 30
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Evidentiary provisions

s 88E ins 1991 No. 13 s 30
amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Service of copies of statutory declaration

s 88F ins 1991 No. 13 s 30

Recovery of moneys due

s 89 amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Conservator of Forests may appear by Secretary or other officer

s 90 amd 1964 No. 15 s 18
om 1992 No. 15 s 13 sch

Power to waive proceedings

prov hdg sub 2000 No. 26 s 12 sch 1

s 91 amd 1964 No. 15 s 19; 1979 No. 10 s 8; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

All moneys to be property of Crown

s 92 amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Judicial notice

s 93 amd 1968 No. 33 s 43; 1982 No. 73 s 60; 1992 No. 15 s 13 sch

Mistaken belief as to boundaries

s 94 amd 1968 No. 33 s 44; 1971 No. 25 s 21; 1982 No. 73 s 61

Facilitation of proof

s 95 amd 1968 No. 33 s 45; 1982 No. 73 s 62; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

Acknowledgment of service

prov hdg sub 1992 No. 15 s 13 sch
s 96 amd 1992 No. 15 s 13 sch

Delegation by chief executive

s 96A ins 2000 No. 26 s 12 sch 1

Regulations—sch 2

s 97 amd 1968 No. 33 s 46; 1971 No. 25 s 22; 1976 No. 80 s 93; 1982 No. 73 s 63; 1992 No. 15 s 13 sch

Publication of proclamations and orders in council etc.

s 99 sub 1991 No. 97 s 3 sch 2
om 1992 No. 68 s 3 sch 1

Protection of the Minister, officers, etc.

s 100 amd 1990 No. 80 s 3 sch 7
om 1992 No. 15 s 13 sch

Annual report

s 101 om 1990 No. 80 s 3 sch 7

Saving of certain Acts

s 102 amd 1971 No. 25 s 23; 1990 No. 10 s 4 sch 2
sub 1991 No. 97 s 3 sch 2
amd 1992 No. 20 s 159 sch 2; 1994 No. 37 s 244 sch 2

Existing orders in council

s 103 ins 1992 No. 68 s 3 sch 1

Delegations to continue until revoked

s 104 ins 2000 No. 26 s 12 sch 1

**PART 9—SAVINGS AND TRANSITIONAL PROVISIONS FOR PRIMARY
INDUSTRIES AND NATURAL RESOURCES LEGISLATION
AMENDMENT ACT 2000**

pt 9 (ss 104–116) ins 2000 No. 26 s 8

SCHEDULES

hdg om 1991 No. 97 s 3 sch 2

SCHEDULE 1—REPEALS

om 1991 No. 97 s 3 sch 2

SCHEDULE 2—SUBJECT MATTERS FOR REGULATIONS**Officers**

s 1 amd 1992 No. 15 s 13 sch

State forests

s 4 amd 1968 No. 33 s 47(a); 1982 No. 73 s 64(a)
sub 1984 No. 86 s 28
amd 1991 No. 13 s 31(a)

State forest parks, feature protection areas and forest drives

s 4A ins 1984 No. 86 s 28

Use etc. of buildings

s 5 amd 2000 No. 26 s 12 sch 1

Fire prevention etc

s 18 amd 1968 No. 33 s 47(b); 1982 No. 73 s 64(b)

Felling trees

s 19 amd 1968 No. 33 s 47(c); 1982 No. 73 s 64(c)

Prevention of pollution

s 20 amd 1968 No. 33 s 47(d)
sub 1971 No. 25 s 24(a)
amd 1982 No. 73 s 64(d)

National Parks

prov hdg sub 1968 No. 33 s 47(e)
s 21 amd 1968 No. 33 s 47(f)
sub 1971 No. 25 s 24(b)
amd 1976 No. 9 s 11(a)
om 1982 No. 73 s 64(e)

Stock

s 26 amd 1968 No. 33 s 47(g); 1974 No. 33 s 22(a); 1982 No. 73 s 64(f); 2000
No. 26 s 12 sch 1

Penalties

s 27 amd 1976 No. 9 s 11(b)
sub 1991 No. 13 s 31(b)

Advisory Council

prov hdg amd 1987 No. 44 s 33(a)
s 28 ins 1974 No. 33 s 22(b)
amd 1984 No. 86 s 28(b); 1987 No. 44 s 33(b)–(d)
om 2000 No. 26 s 12 sch 1

8 Provisions that have not commenced and are not incorporated into reprint

The following provisions are not incorporated in this reprint because they had not commenced before the reprint date (see Reprints Act 1992, s 5(c)).

Coal Mining Safety and Health Act 1999 No. 39 sch 1 reads as follows—

1. Section 5, definition “Mining Acts”, ‘Coal Mining Act 1925’—

omit, insert—

‘Coal Mining Safety and Health Act 1999’.

Mental Health Act 2000 No. 16 sch 1 pt 2 reads as follows—

FORESTRY ACT 1959

1. Section 22I(a)—

omit.