

Nature Conservation and Other Legislation (COVID-19: Fee Waiver) Amendment Regulation 2020

Explanatory notes for SL 2020 No. 71

made under the
Forestry Act 1959
Nature Conservation Act 1992
Recreation Areas Management Act 2006

General Outline

Short title

Nature Conservation and Other Legislation (COVID-19: Fee Waiver) Amendment
Regulation 2020

Authorising law

Section 97 and Schedule 2 of the *Forestry Act 1959*
Section 175 of the *Nature Conservation Act 1992*
Section 232 of the *Recreation Areas Management Act 2006*

Policy objectives and the reasons for them

On 18 February 2020, the Queensland Government announced a business support package, following the impacts on Queensland businesses due to the outbreak of COVID-19. This package included a fee waiver for daily activity/passenger fees levied by the Department of Environment and Science on commercial tour operators using protected areas, recreation areas and State forests.

As these are regulatory fees, amendments to the *Forestry Regulation 2015*, the *Nature Conservation (Administration) Regulation 2017*, and the *Recreation Areas Management Regulation 2017* are required to provide for the fee relief to be implemented.

The *Nature Conservation and Other Legislation (COVID-19: Fee Waiver) Amendment Regulation 2020* (Amendment Regulation) will provide a mechanism for the daily fees not to

be charged during the period 1 February 2020 to 31 July 2020 which aligns with the initial duration of the Immediate Industry Recovery Package (COVID-19).

Because implementation of the fee relief has already commenced, the Amendment Regulation will apply retrospectively to ensure all operators are able to take advantage of the fee relief program during the period of concern.

Provision has also been made for the Minister to fix, by Gazette Notice, a date beyond 31 July 2020 for the cessation of the fee waiver, if required.

Achievement of policy objectives

The objective of the policy will be achieved through amendment of the *Forestry Regulation 2015*, the *Nature Conservation (Administration) Regulation 2017*, and the *Recreation Areas Management Regulation 2017*.

The Amendment Regulation provides a fee waiver in each of these regulations. The fee waiver applies to the daily activity fee, payable by the holder of a commercial activity permit, other than for filming or photography, which is applicable for the period 1 February 2020 to 31 July 2020.

This waiver will ensure that commercial tour operators who are affected by the reduction in tourist numbers as a result of the COVID-19 travel bans are assisted financially by the removal of this fee type.

Should the Minister require an extension of the period to which the fee waiver applies, the Minister may fix a later date, by Gazette Notice, to which the fee waiver may continue. This will allow an extension of the date without the delay of a further legislative amendment process.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the objectives of the authorising laws.

The objective of the *Forestry Act 1959* is 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. Section 97 of the *Forestry Act 1959* provides a regulation making power and Schedule 2 outlines the subject matters for regulations under that Act, including in respect of fees.

The objective of the *Nature Conservation Act 1992* is the conservation of nature while allowing for the involvement of Indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or Island custom. Under section 175 of the *Nature Conservation Act 1992*, regulations may be made in respect of a range of matters, including matters relating to fees and charges payable under that Act.

The objective of the *Recreation Areas Management Act 2006* is the establishment, maintenance and use of recreation areas; and to provide, coordinate, integrate and improve recreational planning, recreational facilities and recreational management for recreation areas, having regard to—

- (i) the conservation, cultural, educational, production and recreational values of the areas; and
- (ii) the interests of area land-holders.

Section 232 of the *Recreation Areas Management Act 2006* provides a regulation making power with respect to the fees and charges payable under that Act, including the waiver of fees.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is consistent with the policy objectives of other legislation.

Benefits and costs of implementation

The Amendment Regulation relates to the implementation of a component of the Queensland Government's initial \$27.25 million Immediate Industry Assistance Package. This package was designed to provide a suite of initiatives to support businesses and to minimise economic impacts from the COVID-19 outbreak.

The Amendment Regulation seeks to provide an initial support to commercial tour operators whose businesses may be affected by the travel restrictions imposed as a result of COVID-19. Specifically, the waiving of daily activity/passenger fees levied by the Department of Environment and Science on commercial tour operators using protected areas, recreation areas and State forests seeks to provide immediate cash flow support to these businesses to alleviate the impacts of reduced passenger numbers.

The financial cost of providing the daily activity fee relief to commercial tour operators is expected to be approximately \$2.6 million.

Consistency with fundamental legislative principles

The Amendment Regulation raises an issue regarding fundamental legislative principles, namely that it applies retrospectively.

The regulation applies retrospectively to 1 February 2020 as from this date commercial tourism operators in Queensland faced significant reductions in passenger numbers as a result of COVID-19 travel restrictions commencing.

However, there are no concerns regarding the impacts of this breach of fundamental legislative principles, as they apply to the retrospective nature of the legislation, as these clauses create a beneficial policy outcome for the industry involved.

Consultation

No specific external consultation was undertaken on this Amendment Regulation; however, notification has been provided to tourism operators regarding the Immediate Industry Assistance Package and the waiving of fees for the specified period. No issues were raised by tourism operators.

In accordance with *The Queensland Government Guide to Better Regulation*, the Office of Best Practice Regulation (OBPR) was consulted in relation to the regulatory proposal. On 12 March 2020, OBPR advised that as the proposal is designed to reduce the burden of regulation and there are no significant adverse impacts, no further regulatory impact analysis is required.