



New South Wales

Timber Plantations (Harvest Guarantee) Amendment Act 1997 No 150

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Timber Plantations (Harvest Guarantee) Amendment Act 1997 No 150

Act No 150, 1997

An Act to amend the *Timber Plantations (Harvest Guarantee) Act 1995* as a consequence of the enactment of certain environmental legislation, to provide for the provisional accreditation of timber plantations that are proposed to be established and for the cancellation of accreditation in certain circumstances; and for other purposes. [Assented to 17 December 1997]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Timber Plantations (Harvest Guarantee) Amendment Act 1997*.

2 Commencement

- (1) This Act commences on the date of assent, except as provided by subsection (2).
- (2) Schedule 1 [3], [8] and [20] commence on a day to be appointed by proclamation.

3 Amendment of Timber Plantations (Harvest Guarantee) Act 1995 No 92

The *Timber Plantations (Harvest Guarantee) Act 1995* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 3 Object of Act

Insert “and proposed timber plantations” after “plantations” in section 3 (2) (a).

[2] Section 3 (2) (b)

Insert “or the *Threatened Species Conservation Act 1995*” after “NPW Act”.

[3] Section 3 (2) (b)

Insert “, and liability for offences under Part 7A (Threatened species conservation) of the *Fisheries Management Act 1994*,” before “in connection with”.

[4] Section 5, definitions of “accredited timber plantation”, “manager” and “owner” and sections 12 (2) (b) and (c), 13, 14 (1), 15 (1) and (2), 16 (2), 17 and 18 (1)

Insert “or proposed timber plantation” after “plantation” wherever occurring (except where firstly occurring in the definition of *accredited timber plantation* in section 5.

[5] Section 9 Harvesting operations not subject to certain provisions of the NPW Act, Threatened Species Conservation Act 1995 and Heritage Act 1977

Omit section 9 (1). Insert instead:

(1) A person carrying out harvesting operations on an accredited timber plantation is exempt from the following provisions of the NPW Act:

(a) section 98 (2) (relating to protected fauna),

- (b) section 99 (1) (relating to threatened interstate fauna),
- (c) section 117 (relating to native plants),
- (d) section 118A (relating to threatened species, populations and ecological communities),
- (e) section 118C (relating to critical habitats),
- (f) section 118D (relating to the habitat of a threatened species, population or ecological community).

[6] Section 9 (3)

Insert “or the *Threatened Species Conservation Act 1995*” after “NPW Act”.

[7] Section 9 (4)

Omit “section 92E (stop work order) of the NPW Act”.

Insert instead “Division 1 (stop work orders) of Part 6A of the NPW Act or Division 1 (stop work orders) of Part 7 of the *Threatened Species Conservation Act 1995*”.

[8] Section 9A

Insert after section 9:

9A Harvesting operations not subject to certain provisions of Part 7A (Threatened species conservation) of the Fisheries Management Act 1994

- (1) A person carrying out harvesting operations on an accredited timber plantation is exempt from the following provisions of the *Fisheries Management Act 1994*:
 - (a) section 220ZA (relating to threatened species, populations or ecological communities),
 - (b) section 220ZC (relating to critical habitats),
 - (c) section 220ZD (relating to the habitat of a threatened species, population or ecological community).

- (2) Subsection (1) exempts the person only:
 - (a) if the harvesting operations are carried out in accordance with the Code (or Codes) applying to the timber plantation, and
 - (b) in relation to things that are reasonably connected with the carrying out of the harvesting operations.
- (3) An order under Division 7 (stop work orders) of Part 7A of the *Fisheries Management Act 1994* may not be made so as to prevent or interfere with the carrying out of harvesting operations on an accredited timber plantation.

[9] Section 12 Application for accreditation of timber plantation or proposed timber plantation

Omit section 12 (1). Insert instead:

- (1) The owner or manager of a timber plantation, or of any area or areas of land on which it is proposed to establish a timber plantation, may apply to the Director-General for the accreditation of the timber plantation or proposed timber plantation under this Part, whether or not the timber plantation has been established at the time of application.

[10] Section 12 (2) (d)

Insert after section 12 (2) (c):

- , and
- (d) in the case of an application for the accreditation of a timber plantation that has not been established, be accompanied by proof of any consent granted under the EPA Act, any law dealing with native vegetation management and control, or any other relevant law, in relation to the establishment of the timber plantation.

[11] Section 13 Determination of applications for accreditation

Insert after section 13 (1):

- (1A) The accreditation of a proposed timber plantation may be granted subject to conditions relating to the manner in which the proposed timber plantation is to be established.

[12] Section 13 (3) (a)

Insert “, or is not being established,” after “established”.

[13] Section 13 (3) (b)

Omit the paragraph. Insert instead:

- (b) it has been, or is being, established in contravention of any law dealing with native vegetation management and control that applies to the timber plantation.

[14] Section 13 (3A)

Insert after section 13 (3):

- (3A) Without limiting subsection (1), the Director-General must not accredit a timber plantation that has not been established unless any consent required under the EPA Act, any law dealing with native vegetation management and control, or any other relevant law, in relation to the establishment of the proposed timber plantation has been obtained.

[15] Section 16 Cancellation of accreditation

Insert after section 16 (1) (b):

- (b1) that the cancellation of accreditation is necessary to protect unique or special wildlife values and that compensation has been paid to the owner of the timber plantation in accordance with the Code in order to protect those wildlife values, or

[16] Section 16 (1A) and (1B)

Insert after section 16 (1):

(1A) In addition, the accreditation of a timber plantation (or any part of a timber plantation) that was not established at the time of its accreditation may be cancelled by the Director-General if the Director-General is satisfied:

- (a) that the timber plantation has not been established, or is not being established, in accordance with the requirements of the EPA Act or any other relevant law, or
- (b) that the timber plantation has been, or is being, established in contravention of any law dealing with native vegetation management and control that applies to the timber plantation.

(1B) In addition, the accreditation of a timber plantation (or any part of a timber plantation) that was not established at the time of its accreditation must be cancelled by the Director-General on a date that is 3 years after the date of the grant of accreditation unless, before that date:

- (a) the Director-General has been notified by the owner or manager of the timber plantation that the planting of trees forming the timber plantation has been completed, and
- (b) the Director-General is satisfied, either by the evidence provided by the owner or manager or by his or her own investigations, that the planting of trees forming the timber plantation has been completed in accordance with any conditions of the accreditation imposed under section 13 (1A).

[17] Section 16 (3)

Insert “(subsection (1) (b1) excepted)” after “section”.

[18] Section 16 (3)

Insert “or the accreditation of any proposed timber plantation to be established on the land” after “land”.

[19] Section 20 Matters to be regulated by Codes

Insert after section 20 (2) (d):

- (d1) threatened species, populations and ecological communities, and their habitats, within the meaning of the *Threatened Species Conservation Act 1995* and critical habitats within the meaning of that Act,

[20] Section 20 (2) (d2)

Insert before section 20 (2) (e):

- (d2) threatened species, populations and ecological communities of fish and marine vegetation and their habitats, within the meaning of the *Fisheries Management Act 1994* and critical habitats within the meaning of that Act,

[Minister's second reading speech made in—
Legislative Assembly on 12 November 1997
Legislative Council on 27 November 1997]

BY AUTHORITY