

Western Australia

## **Forest Products Amendment Act 2004**

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As at 12 Nov 2004

No. 50 of 2004

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## Forest Products Amendment Act 2004

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No. 50 of 2004

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**An Act to amend the *Forest Products Act 2000*.**

*[Assented to 12 November 2004]*

The Parliament of Western Australia enacts as follows:

**1. Short title**

This Act may be cited as the *Forest Products Amendment Act 2004*.

**2. Commencement**

This Act comes into operation on the day on which it receives the Royal Assent.

**3. The Act amended**

The amendments in this Act are to the *Forest Products Act 2000*\*.

[\* *Act No. 34 of 2000.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2003, Table 1, p. 151.]*

**4. Section 10 amended**

Section 10(1) is amended as follows:

- (a) after paragraph (s) by deleting “and”;
- (b) at the end of paragraph (t) by deleting the full stop and inserting a semicolon instead;
- (c) after paragraph (t) by inserting the following paragraphs —

“

- (u) to provide services relating to the establishment, maintenance, management, harvesting and marketing of tree plantings, and products from tree plantings, on land that is not public land, and to charge fees for the provision of those services;
- (v) to provide equipment, facilities and systems associated with the performance of a function referred to in paragraph (u), and to charge for that provision; and
- (w) to promote and market the Commission and its activities.

”.

**5. Section 55 amended**

Section 55 is amended by inserting before the definition of “production contract” the following definitions —

“

**“plantation product”** means a forest product from or comprising a plantation tree and includes —

- (a) the whole tree; or
- (b) a part of the tree or a thing produced by the tree, whether or not the part of the tree or the thing produced by the tree is above or below the ground or has become separated from the tree before being harvested;

**“plantation product contract”** means a production contract for the management, harvesting or sale of plantation products, and no other forest products, to which the Commission is a party but does not include such a contract entered into or to be entered into under a Government agreement within the meaning of the *Government Agreements Act 1979*;

**“plantation tree”** means a tree that —

- (a) is not indigenous to the State; and
- (b) is from a plantation maintained by the Commission on departmental land;

”.

**6. Section 58 amended**

After section 58(2) the following subsection is inserted —

“

- (3) This section does not apply to a plantation product contract.

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”.

7. **Section 58A inserted**

After section 58 the following section is inserted —

“

**58A. Plantation product contracts**

- (1) Before entering into a plantation product contract, or a renewal or extension of a plantation product contract, the Commission is to ensure that —

(a) the quantities and kinds of plantation products;  
and

(b) the location of the plantation products,

proposed to be managed, harvested or sold under the plantation product contract entered into, renewed or extended, as the case may be, are in accordance with the provisions of the management plan as if the management plan were of effect for all of the term of the plantation product contract, or the renewed or extended term, as the case may be.

- (2) In subsection (1) —

**“management plan”** means —

- (a) in relation to a plantation product contract proposed to be entered into or renewed, the management plan —

(i) relating to departmental land on which the plantation products are located; and

(ii) of effect at the date on which the original plantation product contract is entered into;

and

- (b) in relation to a plantation product contract proposed to be extended, the management plan —
    - (i) relating to departmental land on which the plantation products are located; and
    - (ii) of effect at the date on which the plantation product contract is extended.
- (3) Except with the concurrence of the CALM Act Minister, the Commission cannot —
  - (a) enter into a plantation product contract for a term exceeding 10 years; or
  - (b) grant a right to renew or extend, or renew or extend, the term of a plantation product contract beyond 10 years from the date of commencement of the original term.
- (4) The Commission cannot —
  - (a) enter into a plantation product contract for a term exceeding 25 years; or
  - (b) grant a right to renew or extend, or renew or extend, the term of a plantation product contract beyond 25 years from the date of commencement of the original term.
- (5) The Minister, within 28 days of —
  - (a) entering into a plantation contract for a term exceeding 10 years; or
  - (b) granting a right to renew or extend, or renewing or extending, the term of a plantation contract beyond 10 years from the date of commencement of the original term,

is to cause a copy of the contract, grant, renewal or extension to be laid before each House of Parliament or dealt with in accordance with section 69.

”.

**8. Section 61 amended**

- (1) Section 61 is amended as follows:
- (a) by inserting before “A provision” the subsection designation “(1)”;
  - (b) in paragraph (b) by inserting after “forest products” —  
“ , other than a plantation product contract, ”.

- (2) At the end of section 61 the following subsections are inserted —

“

- (2) A provision in, or condition of, a plantation product contract that is inconsistent with —

- (a) this Act;
- (b) the CALM Act; or
- (c) the management plan,

is of no effect, but without prejudice to other provisions or conditions of the contract.

- (3) In subsection (2) —

**“management plan”** means —

- (a) in relation to a plantation product contract other than a plantation product contract referred to in paragraph (b), the management plan —
  - (i) relating to departmental land on which plantation products that are to be managed, harvested or sold under the plantation product contract are located; and



- (ii) of effect at the date on which the original plantation product contract was entered into;
- and
- (b) in relation to a plantation product contract that has been extended, on and from the time the contract is extended, the management plan —
  - (i) relating to departmental land on which plantation products that are to be managed, harvested or sold under the plantation product contract are located; and
  - (ii) of effect at the date on which the plantation product contract was extended.

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**9. Section 69 amended**

Section 69(1) is amended by deleting “or 36(4)” and inserting instead —

“ 36(4) or 58A(5) ”.

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