



# **Brisbane Forest Park Act 1977**

**Reprinted as in force on 18 December 2009**

**Reprint No. 2D**

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

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

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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## Queensland

# Brisbane Forest Park Act 1977

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# **Brisbane Forest Park Act 1977**

[as amended by all amendments that commenced on or before 18 December 2009]

**An Act to establish the Brisbane Forest Park and to provide for the administration, management and control of the park and for related purposes**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Brisbane Forest Park Act 1977*.

### **4 Definitions**

The dictionary in the schedule defines particular words used in this Act.

## **Part 2 Brisbane Forest Park**

### **5 Brisbane Forest Park**

- (1) Brisbane Forest Park comprises the lands prescribed by regulation to be the park.
- (2) Subject to section 7, the Governor in Council may, by regulation, include land in, or exclude land from, the park.
- (3) A map showing the area of the park may be inspected, and purchased, at the Brisbane office of the department.

## **6 Land that may form park**

Only land of the following types may be included in, and form part of, the park—

- (a) unallocated State land under the *Land Act 1994*;
- (b) land reserved for a public purpose under the *Land Act 1994*;
- (c) land granted, under the *Land Act 1994*, in fee simple by the State to a local government;
- (d) land granted, under the *Land Act 1994*, in fee simple in trust by the State to a local government;
- (e) land, other than land mentioned in paragraphs (a) to (d), that is, under an Act, under the control of a person for a public purpose;
- (f) land, other than land mentioned in paragraphs (a) to (e), that is, under an Act, under the control of a department.

## **7 Manner of altering area of park**

- (1) Land may be included in or excluded from the park upon the recommendation of the administration authority made to the Governor in Council.
- (1A) In the case of a proposal to include any land in the park or to exclude from the park land that is alienated by the Crown in fee simple such a recommendation shall not be made save with the consent of the proprietor of the land first had and obtained.
- (2) If the Governor in Council approves of the proposal in question to include land in or exclude land from the park, the Minister shall cause to be laid before the Legislative Assembly notice of the proposal.
- (2A) Such notice—
  - (a) shall particularise as well as may be the land, the subject of the proposal; and
  - (b) shall indicate as well as may be the location of such land in relation to the nearest boundary of the park; and

- (c) in the case of a proposal to exclude land from the park—shall specify the reason or reasons for the exclusion.
- (3) If the Legislative Assembly approves of the proposal by resolution on a motion of which at least 14 days notice has been given, the Governor in Council may, by regulation, give effect to the proposal by including in the park, or excluding from the park, the land the subject of the proposal.
- (4) Except in the cases provided for in section 8, any instrument or procedure that purports to include land in or exclude land from the park or that would, but for this subsection, have such effect and that is not made or carried out in accordance with this section shall have no force or effect.

## **8 Exclusion of public roads and inclusion of closed roads**

- (1) No road dedicated to public use, whether it is comprised of land which prior to the dedication formed part of the park or is comprised of land excised from land which after the dedication becomes part of the park, shall be taken to form part of the park.
- (2) Where a road dedicated to public use and located within the external boundaries of the park is permanently closed the Governor in Council may, by regulation, include in the park the land that comprised the road.
- (3) Where land is excluded from the park by reason of the dedication of a road to public use or is included in the park consequent upon the closure of a road referred to in subsection (2)—
  - (a) the exclusion shall be deemed not to be an exclusion of land from the park to which section 7 would apply; and
  - (b) the inclusion shall be deemed not to be an inclusion of land in the park to which section 7 would apply.

## **9 Park deemed reserve for mining purposes**

Land forming part of the park, which is not for any other reason a reserve within the meaning of the *Mineral Resources*

*Act 1989*, shall be deemed to be a reserve for the purposes of the application of that Act.

## **10 Endorsement of instruments of title**

- (1) Where the estate or interest in land forming part of the park is recorded in the registers kept by the registrar of titles or in any other register or any other record is kept concerning such land the registrar or other person charged with keeping such register or record is hereby authorised, subject to subsection (2), to cause all necessary entries to be made in the appropriate registers or record to record the fact that such land forms part of the park and if such land or part thereof is excluded from the park is hereby authorised, subject as aforesaid, to cause all necessary entries to be made in the appropriate registers or record to record the fact that such land or part has been excluded from the park.
- (2) A registrar or other person shall exercise an authority conferred on him or her by subsection (1)—
  - (a) upon the request of the administration authority; and
  - (b) upon being satisfied by the production of evidence satisfactory to the registrar or other person that the land in question forms part of the park or, as the case may be, has been duly excluded from the park; and
  - (c) without payment of any fee.

## **11 Effect on proprietors' rights etc. of land's inclusion in park**

The rights and obligations had by the proprietor of land forming part of the park are not affected save to the extent and in the manner expressly prescribed in this Act.

## **Part 3                      Advisory planning board**

### **12            Constitution of board**

There shall be constituted from time to time as prescribed a board under the name and style Brisbane Forest Park Advisory Planning Board.

### **13            Members of board**

- (1) The board shall consist of the following members—
- (a) 1 person, nominated by the Minister, who shall be chairperson;
  - (b) 2 officers of the department dealing with matters relating to State forests who are nominated by the chief executive of that department;
  - (ba) 1 officer of the department dealing with matters relating to the registration of interests in freehold and leasehold land who is nominated by the chief executive of that department;
  - (bb) 1 officer of the department dealing with matters relating to the environment who is nominated by the chief executive of that department;
  - (bc) 1 officer of each of 3 departments prescribed by regulation for the purposes of this paragraph who are nominated by the chief executives of their respective departments;
  - (c) 2 officers of Brisbane City Council, nominated by that council;
  - (d) 1 officer of the local government of each of the following areas, nominated in each case by the local government whose officer the person is—
    - (i) City of Ipswich;
    - (ii) Shire of Moreton;
    - (iii) Shire of Esk;
    - (iv) Shire of Pine Rivers;

- (e) 1 person, nominated by the Minister, who is normally resident in an area referred to in paragraph (d) or in the area of the City of Brisbane.
- (2) The person nominated to be a member of the board pursuant to subsection (1)(a) or (e) shall not be an officer of any department of government or local government referred to in subsection (1).
- (2A) The officer mentioned in subsection (1)(bb) must be a conservation officer under the *Nature Conservation Act 1992*.

#### **14 Panels of nominees**

- (1) At least 2 months before the members of the board first constituted are to be appointed and thereafter at least 2 months before the expiration of the third year of the term of appointment of members for the time being of the board the Minister shall, in writing, request Brisbane City Council to furnish to the Minister a panel of names of 4 of its officers and each of the other local governments referred to in section 13(1) to furnish to the Minister a panel of names of 2 of its officers within the time limited in the request.
- (2) If at any time the Minister fails to comply with subsection (1) within the time limited therein the Minister may at any later time issue the Minister's request in writing therein prescribed and such issue and all action taken thereon as prescribed shall be deemed to be sufficient compliance with this Act.
- (3) If at any time default is made in furnishing as requested by the Minister a panel of names or the panel or panels of names furnished is or are, in the Minister's opinion, inadequate as to the number, description or fitness of persons named therein and if such default or inadequacy continues for 14 days after notice is given by the Minister to the body requested to furnish the panel of names the Minister may at the Minister's discretion nominate a person or persons sufficient as to number, description or fitness to comprise the panel in respect of which default is made or, as the case may be, to make adequate the panel or panels furnished.

**15 Selection of nominees by Minister**

The Minister shall select 2 persons from the panel furnished to the Minister by Brisbane City Council and 1 person from each panel furnished to him or her by the other local governments referred to in section 13(1) who the Minister considers to be fit to be recommended by him or her for appointment as members of the board.

**16 Appointment of board members**

The members of the board shall be appointed by the Governor in Council on the recommendation of the Minister, by notification published in the gazette.

**17 Term of appointment**

Every member of the board shall be appointed for a term of 3 years and, if the member is duly nominated for a second or subsequent appointment, shall be eligible for further appointment to membership of the board but in every case, unless the member's office is sooner vacated as prescribed, the member's appointment shall be deemed to continue until the member's successor, duly appointed as prescribed, assumes office as a member.

**18 How member's office is vacated**

- (1) The chairperson of the board may, by writing addressed to the Minister, resign office at any time.
- (1A) The chairperson's resignation shall be effective upon its receipt by the Minister.
- (2) A member of the board may be removed from office by the Governor in Council if in the opinion of the Governor in Council the member is incompetent or unfit to hold office.
- (2A) A member's removal shall be effective upon the issue by the Minister of notice of the member's removal.
- (3) A member of the board shall be taken to have vacated office if—
  - (a) the member dies; or

- (b) without the board's leave first obtained, the member is absent from 3 consecutive meetings of the board of which notice has been duly given to the member; or
  - (c) being a person nominated for office pursuant to section 13(b), (c) or (d) the member ceases to be qualified as prescribed by that section to be such a member.
- (4) For the purposes of subsection (3)(b)—
- (a) the nonattendance of a member at the time and place appointed for an ordinary meeting shall not constitute absence from such meeting unless a meeting of the board at which a quorum is present is actually held on that day; and
  - (b) the attendance of a member at the time and place appointed for an ordinary meeting shall be deemed to constitute presence at an ordinary meeting notwithstanding that by reason of the lack of a quorum a meeting is not actually held on that day; and
  - (c) the names of the members who attend at the time and place appointed for an ordinary meeting shall be entered in the minute book which shall be provided for the purpose.

## **19 Casual vacancy in member's office**

- (1) A casual vacancy arises in the office of a member of the board if the member resigns, is removed or vacates office in any manner prescribed by section 18.
- (2) If a casual vacancy occurs in the office of a member of the board during the currency of the member's term of appointment another person shall be appointed as a member in accordance with section 16 to fill that vacancy.
- (2A) The appointment of a person appointed to fill a casual vacancy shall continue and be deemed to continue for as long as the appointment of the person's predecessor had the casual vacancy not occurred.
- (3) For the purpose of such appointment the Minister shall select a person who, in the Minister's opinion, is a fit person

qualified as prescribed (if the case requires it) to be recommended by the Minister for appointment as a member.

- (4) A person appointed to a casual vacancy in the office of chairperson of the board shall, by such appointment, be chairperson of the board.

## **20 Meetings of the board**

The board shall hold its first meeting after its first constitution at a time and place appointed by the chairperson of the board and thereafter shall hold its meetings at such times and places as the board by its resolution appoints and at such other times and places as the administration authority directs.

## **21 Presiding at meetings**

- (1) The chairperson of the board shall preside at every meeting of the board at which the chairperson is present and in his or her absence, another member of the board chosen by the members present at the meeting shall preside.
- (2) The member of the board who presides at a meeting of the board in the absence of the chairperson shall, while the member is so acting, have all the powers and authorities of the chairperson.

## **22 Quorum and voting**

- (1) The quorum of the board shall consist of 9 members of the board.
- (1A) No business shall be transacted at a meeting of the board unless a quorum is present.
- (2) Save as is otherwise prescribed by this Act, every decision of the board and of its members shall be taken by majority vote of the members present at a meeting of the board at which a quorum is present.
- (3) The chairperson of the board shall have a deliberative vote and in the event of an equality of votes shall have a second or casting vote.

- (4) A member of the board who, being present at a meeting of the board, abstains from voting shall be taken to have voted in the negative.

**23 Restrictive employment provisions inapplicable to membership of board**

A provision of an Act that requires an employee to devote the whole of the employee's time to his or her employment or that prohibits the employee from engaging in other employment shall not apply so as to prejudice the employee holding office as a member of the board.

**24 Validity of board's proceedings**

A decision of the board shall not be avoided or prejudiced by reason of the fact that at the time such decision was taken—

- (a) there were vacancies in the membership of the board not exceeding 5; or
- (b) there is a defect in the appointment or qualification of any member of the board.

**Part 4 Administration authority**

**25 Minister to be corporation sole**

For the purposes of this Act, the Minister and the Minister's successors in office shall be a corporation sole by the name the Brisbane Forest Park Administration Authority and by that name shall have perpetual succession and an official seal and shall be capable in law of suing and being sued and shall have power to acquire, hold, sell, exchange, hire, lease and let property other than land and, subject hereto, of doing and suffering all such acts, matters and things as bodies corporate may in law do and suffer.

**26 Judicial notice of identity etc. of corporation sole**

All courts, tribunals and persons acting judicially shall take judicial notice of the Minister for the time being and of the appointment as Minister and of the Minister's signature and shall take judicial notice of the official seal of the administration authority affixed to any document or writing and, until the contrary is proved, shall presume that such signature or seal was duly affixed to such document or writing.

**Part 5 Administration of the park****Division 1 Function and powers of the board****27 Functions of the board**

The functions of the board are—

- (a) to prepare within the period of 1 year next following its first constitution a comprehensive statement of specific objectives for the planning, development and management of the park for the purpose of recreational use thereof by the public; and
- (b) to make from time to time such amendments to the statement of objectives prepared pursuant to paragraph (a) as appear to the board to be desirable; and
- (c) to furnish to the administration authority the statement of objectives prepared pursuant to paragraph (a) and a statement of such amendments as are made by the board to that statement pursuant to paragraph (b); and
- (d) to keep under continuous review the planning, development and management of the park and, with respect thereto, to make to the administration authority such recommendations as the board thinks fit; and

- (e) to perform such other activities of an investigative or advisory nature as are committed to it by the administration authority.

## **28 Regulation of board's activities**

- (1) The discharge by the board of its functions shall be subject to and in accordance with this section.
- (2) Every statement of objectives or amendments and recommendation or report of the board shall be of an advisory nature for the information and advice of the administration authority and shall not bind that authority in any way.
- (3) No statement of objectives or amendments or recommendation shall be furnished by the board to the administration authority unless the same has first been submitted to each proprietor of land, which would be affected by implementation of such statement or recommendation, and that proprietor has approved thereof.
- (3A) Where a proprietor has approved of a statement or recommendation so far as it concerns his or her land the proprietor's approval shall be endorsed on or attached to the statement or recommendation when the same is furnished to the administration authority.
- (4) A resolution of the board adopting a statement of objectives or amendments or a recommendation or report to be furnished to the administration authority, if it is to be effectual, shall be supported by the affirmative vote of a majority of the members of the board who are present at the board's meeting at which the resolution is taken and such majority shall include all the members who represent proprietors of land comprised in the park.
- (5) Where a statement, recommendation or report is furnished by the board to the administration authority it shall be presumed, until the contrary is shown, that this subsection has been complied with in respect of that statement, recommendation or report.

## **Division 2                      Functions and powers of the administration authority**

### **29            Functions of administration authority**

The function of the administration authority is to plan, develop and manage the lands forming the park with a view to the recreational use of parts thereof and of the improvements on such parts by the public in a manner and to an extent consistent with the preservation of the lands forming the park and such improvements for their permanent appropriation to such use and for the use by the proprietors of lands forming the park for the purposes for which they hold the same.

### **30            Allocation of land for public use**

- (1) With the concurrence of the proprietor of the land in question first had and obtained the administration authority may allocate for use by the public land forming part of the park.
- (1A) Land may be allocated under this section—
  - (a) for general recreational use by the public; or
  - (b) for a specific recreational use by the public; or
  - (c) for general recreational use or a specific recreational use in which the public may be permitted to join as participants or as spectators upon payment of a charge or otherwise.
- (2) An allocation of land under this section shall be evidenced by a notice in writing given by the administration authority to the proprietor of the land.
- (2A) A notice given under subsection (2) must—
  - (a) identify the land that has been allocated under this section; and
  - (b) state the use for which the land is allocated.
- (3) The administration authority may at any time terminate an allocation of land under this section by notice in writing, given to the proprietor of the land, revoking the notice whereby the allocation was evidenced.

**31 Consequences of allocation of land**

- (1) Upon the allocation of land to public use and while the land continues to be so allocated—
  - (a) members of the public shall be entitled to enter upon and use the land for the recreational use for which it is allocated, and to make use of improvements that are on the land for use in association with that recreational use, subject always to and in accordance with the by-laws of the administration authority; and
  - (b) the administration authority shall cause to be erected and maintained in legible condition sufficient signs to inform the public that the land is so allocated and of the use for which it is allocated; and
  - (c) subject to paragraph (e), the administration authority shall, to the exclusion of the proprietor, be deemed to be the occupier of the land and of improvements that are on the land for use in association with recreational use of the land for the purpose of any claim for damages arising from injury suffered by any person on that land while using the land or such improvements for the use for which the land is allocated; and
  - (d) the administration authority may, on such terms and conditions and for such period as it thinks fit, place the land or any part or parts of it under the control of such person or persons or association of persons as it thinks fit, having regard to the use for which the land is allocated and may withdraw such land or any part from such control at any time; and
  - (e) if land allocated to public use is placed under the control of any person or persons or association of persons—such person or persons or, as the case may be, the appropriate officers of such association shall, to the exclusion of the proprietor, be deemed to be the occupier or occupiers of the land and of improvements that are on the land for use in association with recreational use of the land for the purpose of any claim for damages arising from injury suffered by any person on that land while using the land or such improvements for the use for which the land is allocated.

- (2) For as long as there remains erected a sign erected pursuant to subsection (1) that indicates that land is allocated to public use it shall be deemed that the land to which the sign relates is allocated to the use indicated by the sign notwithstanding that the allocation has been duly terminated under this Act.

### **32 Effect of establishment of park and allocation on proprietor etc.**

- (1) Neither the proprietor of land forming part of the park nor anyone claiming under the proprietor nor a mortgagee or other person purporting to exercise any right in or over the land shall—
- (a) while the land continues to form part of the park, sell or dispose of the land; or
  - (b) while the land continues to be allocated to public use—
    - (i) obstruct or hinder entry upon the land by any member of the public for the purpose of using the land and improvements thereon for the use for which the land is so allocated subject to and in accordance with the by-laws of the administration authority; or
    - (ii) use or permit the use of the land in any way inconsistent with the right of the public to enter upon and use the land and improvements thereon for the use for which the land is so allocated.
- (2) Any sale or disposition of land in contravention of subsection (1) and any instrument made to give effect thereto shall be void and of no effect.
- (3) If the proprietor of land allocated to public use desires to use the land in a way referred to in subsection (1)(b)(ii) the proprietor may apply to the administration authority either to terminate the allocation of the land or, by by-law of the authority, to prohibit the public from entering upon the land for such period as is necessary to carry out the purpose of the proprietor and upon such an application the administration authority shall take all steps necessary to enable the proprietor to effectually use his or her land accordingly.

**33 Improvement of land**

- (1) Pursuant to arrangement between the administration authority and the proprietor of land allocated to public use the authority or proprietor may cause to be erected or made on such land such improvements as are agreed upon by them.
- (2) Such improvements shall be erected or made at the expense and shall be and remain the property of the authority or the proprietor, as the case may be, that causes the work to be done.

**33A Erection of improvements generally**

- (1) Subject to subsection (2), the administration authority may cause to be erected or made on any land forming part of the park which has not been allocated to public use such improvements as are necessary or incidental for the administrative purposes of the administration authority.
- (1A) Such improvements shall be erected or made at the expense and shall be and remain the property of the administration authority.
- (2) The administration authority shall before causing to be erected or made on land referred to in subsection (1) any improvements, obtain the consent of the proprietor of the land to the erection or making of the proposed improvements thereon.

**34 Restrictions on administration authority**

- (1) The administration authority shall not cause or permit to be removed from land forming part of the park any soil, growing or fallen timber, material or thing or any substance affixed to the soil or being part of the terrain, other than excess vegetation, except with the approval of the proprietor of the land first had and obtained.
- (2) The administration authority shall not cause or permit the removal from or destruction on land forming part of the park any fauna of a species native to the park unless such removal or destruction is—

- (a) necessary to cull an excess population of such species; and
- (b) carried out by or under the supervision of officers of the National Parks and Wildlife Service or other body concerned with the protection of wildlife.

### **35 By-laws of administration authority**

- (1) The administration authority may from time to time make by-laws not inconsistent with this Act in relation to all or any of the following purposes—
  - (a) providing for all matters pertaining to the planning, development and management of the park;
  - (b) providing for the management and control of land and property occupied or in the control of the authority;
  - (c) protecting land occupied by the authority or allocated to public use and property owned or in the control of the authority from trespass, damage or misuse;
  - (d) regulating entry upon, camping, parking or residing in land allocated to public use and providing for ejection therefrom of trespassers and of other persons thereon in circumstances other than in compliance with the by-laws of the authority;
  - (da) regulating the activities including fishing, swimming, diving and boating which may be carried out on or in any lake, reservoir, dam or other body of water whether occurring naturally or artificially constructed on any lands forming the park;
  - (e) providing for standards of behaviour to be met by persons on lands forming the park and the ejection or punishment of persons who do not meet those standards;
  - (f) regulating the introduction into the park of drugs, intoxicants, inflammable substances or deleterious substances or dogs, cats or other animals;
  - (g) regulating the consumption of food or drink in the park;
  - (h) regulating the introduction into or the growing or carrying on land allocated to public use of vegetable

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- matter and providing for the protection and preservation of vegetation growing on such land;
- (i) prohibiting the introduction into, the carrying or using on land forming part of the park any gun, bow, catapult, sling, trap, snare or explosive;
  - (j) regulating the dumping or disposal of refuse or litter or abandoned property on lands forming the park;
  - (k) providing for protection of fauna within the park whether native or lawfully introduced into the park;
  - (l) regulating the entry of members of the public on land forming part of the park and not allocated to public use;
  - (m) regulating the carrying on of trading and other activities on lands forming the park;
  - (n) providing for the engagement and suspension or dismissal of employees of the authority and the powers, authorities and duties of such employees;
  - (na) providing for the authorisation of persons, other than employees of the authority to enforce by-laws of the authority and the powers, authorities and duties of such authorised persons;
  - (o) providing for the business practices and accounting procedures to be followed in the conduct of the authority's affairs;
  - (p) providing for the payment by members of the public of charges for entry into or being upon any part of the park;
  - (q) providing for penalties not exceeding 20 penalty units for breaches of the by-laws and providing increased penalties (including daily penalties) for successive breaches of the by-laws;
  - (r) providing for all matters for which it is necessary or desirable to provide to achieve the objects and purposes of the declaration of the park.
- (1A) For the purposes of this Act the power to regulate by way of by-law includes the power to prohibit.
- (2) A by-law shall not have any force or effect unless it is—
- (a) sealed with the seal of the administration authority; and

- (b) approved by the Governor in Council; and
  - (c) published in the gazette.
- (2A) A copy of the gazette containing notification of the approval of a by-law by the Governor in Council shall, upon its production in any proceeding, be sufficient evidence until the contrary is shown that such by-law was duly made, sealed and approved as is provided in subsection (2) and that such by-law is at the date of such production still in force.
- (3) Where a by-law of the administration authority provides for payment of a charge to be paid by members of the public for entry into any part of the park the amount of such charge shall be fixed from time to time by the authority and approved by the Governor in Council.

### **36 Publication of by-laws in park**

The administration authority shall cause notices containing such portions of its by-laws as are relevant to the purpose of the notice to be displayed in such locations in the park as in the authority's opinion will bring those portions of the by-laws to the knowledge of members of the public who use land allocated to public use.

## **Division 3 Affairs of administration authority**

### **36A Delegation by administering authority**

- (1) The administering authority may delegate its powers under this Act, other than sections 30 and 35, to an appropriately qualified authorised officer or public service officer.
- (2) In this section—

*appropriately qualified*, for a person to whom a power under this Act may be delegated, includes having the qualifications, experience or standing appropriate to exercise the power.

*Example of standing—*

a person's classification level in the public service

**37 Secretary of administration authority**

- (1) There shall be a secretary of the administration authority.
- (1A) A person may hold the office of secretary in conjunction with any other office the person holds within the public service.
- (2) All writs, processes and documents to be served on the administration authority shall be so served by leaving the same or a copy thereof with the secretary.
- (3) Any document or writing to be made or given by the administration authority shall be sufficiently made or given if it is under the hand of the secretary.

**38 Authorisation of post**

All documents and writings to be given to the administration authority may be given by post addressed to the secretary at the department through which the Minister administers this Act.

**39 Engagement of employees**

- (1) The administration authority may engage such officers, rangers and other employees as in its opinion are required for the proper planning, development and management of the park.
- (2) Subject to all applicable industrial awards and agreements the engagement of employees by the authority shall be on such terms and conditions as the Governor in Council approves.

**40 Funds of administration authority**

- (1) The Brisbane Forest Park Fund is continued in existence subject to the *Financial Administration and Audit Act 1977*, part 8, division 2.
- (1A) Accounts for the fund must be kept as part of the departmental accounts of the department.
- (1B) Amounts received for the fund must be deposited in a departmental financial-institution account of the department

but may be deposited in an account used for depositing other amounts of the department.

- (2) Amounts received for the fund include the following—
- (a) amounts paid to the department as part of the department's departmental vote under the *Financial Accountability Act 2009* and made available by the department for the fund;
  - (b) all moneys received by the administration authority by way of recoupment, contribution or donation for the purposes of the planning, development or management of the park;
  - (c) all moneys received by the administration authority by way of rentals, charges or penalties in connection with its management of the park or the enforcement of this Act or the by-laws of the authority;
  - (d) all other moneys received by the administration authority in connection with its management of the park and its property.
- (3) An amount is payable from the fund only for a liability properly incurred by the administration authority for the purposes of or in connection with the planning, development or management of the park, or the enforcement of this Act or the by-laws of the authority.

- (4) In this section—

***departmental accounts***, of a department, means the accounts of the department under the *Financial Accountability Act 2009*, section 69.

***departmental financial-institution account***, of a department, means an account of the department kept under the *Financial Accountability Act 2009*, section 83.

***other amounts***, of a department, means amounts received by the department other than amounts received for the fund.

#### 41 Application of Financial Accountability Act 2009

On and from the commencement of the *Financial Accountability Act 2009*—

- (a) that Act shall apply to and in respect of the administration authority, its employees and accounts; and
- (b) the appropriate provisions of that Act shall apply in respect of money and property vested in the administration authority, having regard to the nature and description of such money and property;

as if the authority were a statutory corporation representing the State.

## **Part 6                      Authorised officers**

### **Division 1                  Appointment**

#### **42            Appointment and qualifications**

- (1) The administration authority may appoint the following persons as an authorised officer—
  - (a) a public service employee; or
  - (b) a person, or a member of a class of persons, prescribed under a regulation.
- (2) However, the administration authority may appoint a person as an authorised officer only if the administration authority is satisfied the person is qualified for appointment because the person has the necessary expertise or experience.

#### **43            Appointment conditions and limit on powers**

- (1) An authorised officer holds office on any conditions stated in—
  - (a) the authorised officer's instrument of appointment; or
  - (b) a signed notice given to the authorised officer; or
  - (c) a regulation.

- (2) The instrument of appointment, a signed notice given to the authorised officer or a regulation may limit the officer's functions or powers under this Act.
- (3) In this section—  
*signed notice* means a notice signed by the administration authority.

#### **44 Issue of identity card to each authorised officer**

- (1) The administration authority must issue an identity card to each authorised officer.
- (2) The identity card must—
  - (a) contain a recent photo of the authorised officer; and
  - (b) contain a copy of the authorised officer's signature; and
  - (c) identify the person as an authorised officer under this Act; and
  - (d) state an expiry date for the card.
- (3) This section does not prevent the issuing of a single identity card to a person for this Act and other purposes.

#### **45 Production or display of identity card**

- (1) In exercising a power under this Act in relation to a person, an authorised officer must—
  - (a) produce the authorised officer's identity card for the person's inspection before exercising the power; or
  - (b) have the identity card displayed so that it is clearly visible to the person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the authorised officer must produce the identity card for the person's inspection at the first reasonable opportunity.
- (3) For subsection (1), an authorised officer does not exercise a power in relation to a person only because the authorised officer has entered a place as mentioned in section 53(1)(b) or (2).

**46 When authorised officer ceases to hold office**

- (1) An authorised officer ceases to hold office if any of the following happens—
  - (a) the term of office stated in a condition of office ends;
  - (b) under another condition of office, the authorised officer ceases to hold office;
  - (c) the authorised officer's resignation under section 47 takes effect.
- (2) Subsection (1) does not limit the ways an authorised officer may cease to hold office.
- (3) In this section—

*condition of office* means a condition on which the authorised officer holds office.

**47 Resignation**

- (1) An authorised officer may resign by signed notice given to the administration authority.
- (2) However, if holding office as an authorised officer is a condition of the authorised officer holding another office, the authorised officer may not resign as an authorised officer without resigning from the other office.

**48 Return of identity card**

A person who ceases to be an authorised officer must return the person's identity card to the administration authority within 21 days after ceasing to be an authorised officer, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

## **Division 2                    Powers of authorised officers**

### **Subdivision 1            Entry to vehicles**

#### **49            Application of sdiv 1**

- (1) This subdivision applies to a vehicle at or about the park or a public place or road in or adjoining the park.
- (2) However, this subdivision does not apply to a vehicle, or a part of a vehicle, designed to be, and being, used as a residence.

#### **50            Power of entry for vehicles**

An authorised officer may enter a vehicle if the authorised officer reasonably suspects—

- (a) the vehicle is being, or has been, used in relation to the commission of an offence against this Act; or
- (b) the vehicle, or a thing in the vehicle, may provide evidence of the commission of an offence against this Act.

#### **51            Procedure before entry to a vehicle**

- (1) This section applies if an authorised officer intends to enter a vehicle under section 50.
- (2) If a person is present at the vehicle, the authorised officer must, before entering the vehicle, do or make a reasonable attempt to do the following things—
  - (a) comply with section 45(1);
  - (b) tell the person the purpose of the entry;
  - (c) ask for the consent of the person to the entry;
  - (d) tell the person the authorised officer is permitted under this Act to enter the vehicle without consent;

- (e) if the person is not the owner of the vehicle—advise the owner of the vehicle of the authorised officer’s intention to enter the vehicle.
- (3) If a person is not present at the vehicle, the authorised officer must, before entering the vehicle—
  - (a) take reasonable steps to find the owner of the vehicle; and
  - (b) comply with subsection (2)(a) to (d) for the owner.
- (4) Subsections (2)(e) and (3) do not require the authorised officer to take a step the authorised officer reasonably believes may frustrate or otherwise hinder an investigation under this Act or the purpose of the intended entry.
- (5) In this section—
 

*owner*, of a vehicle, includes a person who appears to be in control of the vehicle.

## **Subdivision 2      Entry to other places**

### **52      Application of sdiv 2**

This subdivision applies to a place, other than a vehicle to which subdivision 1 applies.

### **53      Power of entry for particular places**

- (1) An authorised officer may enter a place if—
  - (a) its occupier consents to the entry; or
  - (b) it is a public place and the entry is made when it is open to the public; or
  - (c) the entry is authorised by a warrant.
- (2) For the purpose of asking the occupier of a place for consent to enter, an authorised officer may, without the occupier’s consent or a warrant—
  - (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or

- (b) enter part of the place the authorised officer reasonably believes members of the public ordinarily are allowed to enter when they wish to contact the occupier.

## **54 Procedure for entry with consent**

- (1) This section applies if an authorised officer intends to ask an occupier of a place to consent to the authorised officer or another authorised officer entering the place under section 53(1)(a).
- (2) Before asking for the consent, the authorised officer must tell the occupier—
  - (a) the purpose of the entry; and
  - (b) that the occupier is not required to consent.
- (3) If the consent is given, the authorised officer may ask the occupier to sign an acknowledgment of the consent.
- (4) The acknowledgment must state—
  - (a) the occupier has been told—
    - (i) the purpose of the entry; and
    - (ii) that the occupier is not required to consent; and
  - (b) the purpose of the entry; and
  - (c) the occupier gives the authorised officer consent to enter the place and exercise powers under this part; and
  - (d) the time and date the consent was given.
- (5) If the occupier signs the acknowledgment, the authorised officer must immediately give a copy to the occupier.
- (6) If—
  - (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
  - (b) an acknowledgment complying with subsection (4) for the entry is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

**55 Application for warrant**

- (1) An authorised officer may apply to a magistrate for a warrant for a place.
- (2) The application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the authorised officer gives the magistrate all of the information the magistrate requires about the application in the way the magistrate requires.

*Example for subsection (3)—*

The magistrate may require additional information supporting the application to be given by statutory declaration.

**56 Issue of warrant**

- (1) A magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—
  - (a) there is a particular thing or activity (the *evidence*) that may provide evidence of an offence against this Act; or
  - (b) the evidence is at the place, or, within the next 7 days, may be at the place.
- (2) The warrant must state—
  - (a) that a stated authorised officer may, with necessary and reasonable help and force—
    - (i) enter the place and any other place necessary for entry; and
    - (ii) exercise the authorised officer's powers under this division; and
  - (b) the offence for which the warrant is sought; and
  - (c) the evidence that may be seized under the warrant; and
  - (d) the hours of the day or night when the place may be entered; and
  - (e) the date, within 14 days after the warrant's issue, the warrant ends.

**57 Special warrants**

- (1) An authorised officer may apply for a warrant (a *special warrant*) by electronic communication, fax, phone, radio or another form of communication if the authorised officer considers it necessary because of—
  - (a) urgent circumstances; or
  - (b) other special circumstances, including, for example, the authorised officer's remote location.
- (2) Before applying for the special warrant, the authorised officer must prepare an application stating the grounds on which the warrant is sought.
- (3) The authorised officer may apply for the warrant before the application is sworn.
- (4) After issuing the special warrant, the magistrate must immediately electronically communicate or fax a copy (a *facsimile warrant*) to the authorised officer if it is reasonably practicable to do so.
- (5) If it is not reasonably practicable to electronically communicate or fax a copy to the authorised officer—
  - (a) the magistrate must tell the officer—
    - (i) what the terms of the special warrant are; and
    - (ii) the date and time the special warrant is issued; and
  - (b) the authorised officer must complete a form of warrant (a *warrant form*) and write on it—
    - (i) the magistrate's name; and
    - (ii) the date and time the magistrate issued the special warrant; and
    - (iii) the terms of the special warrant.
- (6) The facsimile warrant, or the warrant form properly completed by the authorised officer, authorises the entry and the exercise of the other powers stated in the special warrant issued.
- (7) The authorised officer must, at the first reasonable opportunity, send the magistrate—

- (a) the sworn application; and
  - (b) if the authorised officer completed a warrant form—the completed warrant form.
- (8) On receiving the documents, the magistrate must attach them to the special warrant.
- (9) If—
- (a) an issue arises in a proceeding about whether an exercise of a power was authorised by a special warrant; and
  - (b) the warrant is not produced in evidence;
- the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a special warrant authorised the exercise of the power.

## **58 Warrants—procedure before entry**

- (1) This section applies if—
- (a) an authorised officer named in a warrant issued under section 56 or 57 for a place is intending to enter the place under the warrant; and
  - (b) a person is present at the place.
- (2) Before entering the place, the authorised officer must do or make a reasonable attempt to do the following things—
- (a) comply with section 45(1);
  - (b) give the person a copy of—
    - (i) the warrant; or
    - (ii) if the entry is authorised by a facsimile warrant or warrant form mentioned in section 57(6)—the facsimile warrant or warrant form;
  - (c) tell the person the authorised officer is permitted by the warrant to enter the place;
  - (d) give the person an opportunity to allow the officer immediate entry to the place without using force.
- (3) However, the authorised officer need not comply with subsection (2) if the authorised officer reasonably believes

immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

### **Subdivision 3 Powers for entry to places**

#### **59 Application of sdiv 3**

This subdivision applies if an authorised officer may enter a vehicle or other place under section 50 or 53.

#### **60 Power to stop vehicle that may be entered**

- (1) If a vehicle is moving or about to move, the authorised officer may signal the person in control of the vehicle to stop, or not to move, the vehicle.
- (2) The person must not disobey the signal unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (3) It is a reasonable excuse for the person to disobey the signal if—
  - (a) to immediately obey the signal would endanger the person or someone else; and
  - (b) the person obeys the signal as soon as is practicable to obey it.

#### **61 Other powers relating to vehicles that may be entered**

- (1) The authorised officer may require the person in control of a vehicle—
  - (a) to give the authorised officer reasonable help to enter the vehicle; or
  - (b) to bring the vehicle to a stated place and remain in control of the vehicle for a reasonable period to allow the authorised officer to exercise a power under this division.
- (2) When making a requirement under subsection (1), the authorised officer must warn the person it is an offence to fail

to comply with the requirement unless the person has a reasonable excuse.

- (3) A person must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—50 penalty units.

## **62 Powers of authorised officer after entering places**

- (1) This section applies to an authorised officer who has entered a place under section 50 or 53.
- (2) However, if an authorised officer, under section 53(2) enters a place to ask the occupier's consent to enter premises, this section applies to the authorised officer only if the consent is given or the entry is otherwise authorised.
- (3) For investigating compliance with this Act, an authorised officer may do any of the following—
- (a) search any part of the place;
  - (b) inspect, film, photograph, videotape or otherwise record an image of a document or other thing at the place;
  - (c) take an extract from, or copy, a document at the place;
  - (d) take into the place the equipment, materials or persons the authorised officer reasonably requires for exercising a power under this division;
  - (e) require the occupier of the place, or a person at the place, to give the authorised officer—
    - (i) reasonable help to exercise a power under this division; or
    - (ii) information to help the authorised officer ascertain whether this Act is being complied with.
- (4) When making a requirement under subsection (3)(e), the authorised officer must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.
- (5) A person required to give reasonable help under subsection (3)(e)(i), or give information under subsection (3)(e)(ii), must

comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (6) It is a reasonable excuse for the person not to comply with the requirement if complying with the requirement might tend to incriminate the person.

## **Subdivision 4      Seizure**

### **63      Power to seize evidence—entry to place without consent or warrant**

An authorised officer who enters a place under section 50 or 53(1)(b) may seize a thing at the place only if the authorised officer reasonably believes—

- (a) the thing is evidence of an offence against this Act; and
- (b) the seizure is necessary to prevent the thing being—
  - (i) destroyed, hidden or lost; or
  - (ii) used to commit, continue or repeat, an offence against this Act.

### **64      Power to seize evidence—entry to place with consent or warrant**

- (1) This section applies if an authorised officer enters a place—
- (a) under section 53(1)(a) with the necessary consent of a person; or
  - (b) under section 53(1)(c) with a warrant.
- (2) If the authorised officer enters a place with the necessary consent, the authorised officer may seize a thing at the place if—
- (a) the authorised officer reasonably believes the thing is evidence of an offence against this Act; and
  - (b) seizure of the thing is consistent with the purpose of entry as told to the person when asking for the person's consent.

- (3) If the authorised officer enters the place with a warrant, the authorised officer may seize a thing that is the evidence for which the warrant was issued.
- (4) The authorised officer may seize anything else at the place if the authorised officer reasonably believes—
  - (a) the thing is evidence of an offence against this Act; and
  - (b) the seizure is necessary to prevent the thing being—
    - (i) destroyed, hidden or lost; or
    - (ii) used to commit, continue or repeat an offence against this Act.

## **65 Power to seize abandoned things**

- (1) An authorised officer may seize a thing in a public place in the park if the authorised officer reasonably believes the thing has been abandoned by its owner.
- (2) In this section—
 

*owner* includes the person in charge of the thing immediately before it was abandoned.

## **66 Securing seized things**

Having seized a thing, an authorised officer may—

- (a) move the thing from the place where it was seized (the *place of seizure*); or
- (b) leave the thing at the place of seizure but take reasonable action to restrict access to it; or

*Examples of restricting access to a thing—*

- 1 Marking, sealing, tagging or otherwise identifying the thing to show access to it is restricted.
  - 2 Sealing the entrance to a room where the thing is situated and marking the entrance to show access to the thing is restricted.
- (c) for equipment—make it inoperable.

*Example of making equipment inoperable—*

Dismantling equipment or removing a component of equipment without which the equipment is not capable of being used.

**67 Offence to tamper with seized thing**

- (1) If an authorised officer restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing, or something restricting access to the thing, without an authorised officer's approval.

Maximum penalty—100 penalty units.

- (2) If an authorised officer makes seized equipment inoperable, a person must not tamper, or attempt to tamper, with the equipment, without an authorised officer's approval.

Maximum penalty—100 penalty units.

**68 Powers to support seizure**

- (1) To enable a thing to be seized, an authorised officer may require the person in control of it—

- (a) to take it to a stated reasonable place by a stated reasonable time; and  
(b) if necessary, to remain in control of it at the stated place for a stated reasonable period.

- (2) The requirement—

- (a) must be made by notice given to the person; or  
(b) if for any reason it is not practicable to give a notice to the person—may be made orally and confirmed by notice given to the person as soon as is practicable.

- (3) A further requirement may be made under this section about the thing if it is necessary and reasonable to make the further requirement.

- (4) A person of whom a requirement is made under subsection (1) or (3) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (5) The notices mentioned in subsection (2) must be in the approved form.

## **69 Receipt for seized thing**

- (1) This section applies to a thing seized under section 63 or 64.
- (2) After an authorised officer seizes the thing, the authorised officer must give a receipt for it to the person from whom the thing was seized.
- (3) However, if for any reason it is not practicable to comply with subsection (2), the authorised officer must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.
- (4) The receipt must describe generally each thing seized and its condition.
- (5) This section does not apply to a thing if it would be impracticable or unreasonable to expect the authorised officer to account for the thing given its condition, nature and value.

## **70 Return of seized thing**

- (1) This section applies to a thing seized under section 63 or 64 if—
- (a) the thing has some intrinsic value; and
  - (b) the thing has not been forfeited under subdivision 5.
- (2) The authorised officer must return the thing to its owner—
- (a) at the end of 6 months after the seizure; or
  - (b) if a proceeding for an offence involving the thing is started within the 6 months—at the end of the proceeding and any appeal from the proceeding.
- (3) Despite subsection (2), the authorised officer must promptly return a thing seized as evidence if the authorised officer stops being satisfied—
- (a) its continued retention as evidence is necessary; and
  - (b) its continued retention is necessary to prevent the thing being used to continue, or repeat, an offence.

**71 Access to seized thing**

- (1) Until a seized thing is forfeited or returned, an authorised officer must allow its owner to inspect it and, if it is a document, to copy it.
- (2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

**Subdivision 5 Forfeiture****72 Forfeiture by authorised officer**

- (1) A thing seized under subdivision 4, is forfeited to the State if the authorised officer who seized the thing—
  - (a) after making reasonable efforts, can not return it to its owner; or
  - (b) after making reasonable inquiries, can not find its owner.
- (2) For subsection (1), the authorised officer is not required to—
  - (a) make efforts if it would be unreasonable to make efforts to return the thing to its owner; or
  - (b) make inquiries if it would be unreasonable to make inquiries to find the owner.

*Example for paragraph (b)—*

The owner of the thing has migrated to another country.

- (3) Regard must be had to the thing's condition, nature and value in deciding—
  - (a) whether it is reasonable to make efforts or inquiries; and
  - (b) if efforts or inquiries are made—what efforts or inquiries, including the period over which they are made, are reasonable.

**73 Forfeiture on conviction**

- (1) On conviction of a person for an offence against this Act, the court may order the forfeiture to the State of anything owned by the person and seized under subdivision 4.

- (2) The court may make any order to enforce the forfeiture it considers appropriate.
- (3) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

## **74 Dealing with forfeited thing**

- (1) On forfeiture of a thing to the State, the thing becomes the State's property and may be dealt with by the administration authority in a way the administration authority considers appropriate.
- (2) Without limiting subsection (1), the administration authority may destroy or dispose of the thing.
- (3) If the thing is sold, the proceeds of the sale, less any expenses relating to the sale, must be paid into the Brisbane Forest Park Fund.

## **Subdivision 6 Other powers**

### **75 Power to require name and address**

- (1) An authorised officer may require a person to state the person's name and residential or business address if the authorised officer—
  - (a) finds the person committing an offence against this Act;  
or
  - (b) finds the person in circumstances that lead, or has information that leads, the authorised officer to reasonably suspect the person has just committed an offence against this Act.
- (2) When making the requirement, the authorised officer must warn the person it is an offence to fail to state the person's name or address unless the person has a reasonable excuse.
- (3) The authorised officer may also require the person to give evidence of the correctness of the stated name or required address if the authorised officer suspects the stated name or address is false.

**76 Failure to give name or address**

- (1) A person of whom a requirement is made under section 75(1) or (3) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) A person does not commit an offence against subsection (1) if—
- (a) the requirement was given because the authorised officer suspected the person had committed an offence against this Act; and
  - (b) the person is not proved to have committed the offence.

**77 Power to require information about contravention**

- (1) This section applies if an authorised officer reasonably believes—
- (a) this Act has been contravened; and
  - (b) a person may be able to give information about the contravention.
- (2) The authorised officer may require the person to give information to the person's knowledge about the contravention in a stated reasonable time and in a stated reasonable way.
- (3) When making a requirement under subsection (2), the authorised officer must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.

**78 Failure to give information about contravention**

- (1) A person of whom a requirement is made under section 77 must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) It is a reasonable excuse for the person if complying with the requirement might tend to incriminate the person.

**79 Power to require production of documents**

- (1) An authorised officer may require a person to make available for inspection by an authorised officer, or produce to the authorised officer for inspection, at a stated reasonable time and place—
  - (a) a document given to the person under this Act; or
  - (b) a document required to be kept by the person under this Act.
- (2) The authorised officer may keep the document to copy it.
- (3) The authorised officer must return the document to the person after copying it.

**80 Failure to produce document**

A person required to make available, or produce, for inspection a document under section 79 must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

**Division 3 Offences relating to authorised officers****81 False or misleading statements**

- (1) A person must not state anything to an authorised officer that the person knows is false or misleading in a material particular.

Maximum penalty—200 penalty units.

- (2) In a proceeding for an offence against subsection (1), it is enough to state the statement made was ‘false or misleading’ to the person’s knowledge, without specifying which.

**82 False or misleading documents**

- (1) A person must not give an authorised officer a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—200 penalty units.

- (2) Subsection (1) does not apply to a person if the person when giving the document—
  - (a) tells the authorised officer to the best of the person's ability, how it is false or misleading; and
  - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.
- (3) In a proceeding for an offence against subsection (1), it is enough to state the document was 'false or misleading' to the person's knowledge, without specifying which.

### **83 Obstruction of authorised officer**

- (1) A person must not obstruct an authorised officer in the exercise of a power under division 2, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) If a person has obstructed an authorised officer and the authorised officer decides to proceed with the exercise of the power, the authorised officer must warn the person that—
  - (a) it is an offence to obstruct the authorised officer unless the person has a reasonable excuse; and
  - (b) the authorised officer believes the person's conduct is an obstruction.
- (3) In this section—

*obstruct* includes assault, hinder, resist and attempt or threaten to obstruct.

## **Division 4 Notice of damage and compensation**

### **84 Notice of damage**

- (1) This section applies if—

- (a) an authorised officer damages something when exercising, or purporting to exercise, a power under division 2; or
  - (b) a person acting under the direction or authority of an authorised officer damages something.
- (2) The authorised officer must give notice to the person who appears to the authorised officer to be the owner or person in possession of the thing.
- (3) If for any reason it is not practicable to comply with subsection (2), the authorised officer must leave the notice in a conspicuous position and in a reasonably secure way at the place where the damage happened.
- (4) The notice must state—
  - (a) the particulars of the damage; and
  - (b) that the person who suffered the damage may claim compensation under section 85.
- (5) If the authorised officer reasonably believes the damage was caused by a latent defect in the thing or other circumstances beyond the control of the authorised officer or person acting under the direction or authority of the authorised officer, the authorised officer may state the belief in the notice.
- (6) However, an authorised officer need not comply with this section if the authorised officer believes the damage is trivial.

## **85 Compensation**

- (1) This section applies if a person incurs loss or damage because of the exercise, or purported exercise, of a power under division 2, other than because of a forfeiture under section 72 or 73.
- (2) The person is entitled to be paid the reasonable compensation because of the loss or damage that is agreed between the administration authority and the person, or failing agreement, decided by a court.
- (3) Compensation may be claimed and ordered to be paid in a proceeding—

- (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or
  - (b) for an offence against this Act brought against the person claiming compensation.
- (4) A court may order compensation to be paid only if satisfied it is just to make the order in the circumstances of the particular case.

## **Part 7                      General provisions**

### **87            Liability for rates etc. excluded**

Rates, taxes and other like charges shall not be made, levied or assessed in respect of land that forms part of the park unless the land is at the material time leased or let to or is otherwise in the occupation of a person other than the administration authority or a proprietor for any purpose or, in the case of land allocated to public use, for any purpose other than a recreational use for which the land is so allocated.

### **88            Administration authority to be informed of leases etc.**

Where a proprietor of land that forms part of the park or any person claiming under the proprietor leases or lets the same or any part thereof, creates an encumbrance over the same or any part thereof or grants any right in or over the same or any part thereof the proprietor or other person shall forthwith inform the administration authority in writing of the fact.

### **89            Nature of occupier's duty to visitors in park—public use land**

- (1) This section applies to public use land.
- (2) The nature of the duty owed by the occupier of the land to a member of the public who is on the land is as follows—

- (a) if the member is on land that is, or the use of which is, not the subject of the authority's by-laws—the duty owed by a licensor to a licensee;
- (b) if the member is on land that is, or the use of which is, the subject of the authority's by-laws and the member is using the land in a way that is consistent with the by-laws—the duty owed by a licensor to a licensee;
- (c) if the member is on land that is, or the use of which is, the subject of the authority's by-laws and the member is using the land other than in a way that is consistent with the by-laws—the duty owed by an owner or occupier of land to a trespasser on the land.<sup>1</sup>

### **89A Nature of occupier's duty to visitors in park—other land**

- (1) This section applies to land within the park, other than public use land.
- (2) The nature of the duty owed by the occupier of the land to a visitor on the land is as follows—
  - (a) if the visitor is on the land under the approval or invitation of the proprietor, the administration authority or another lawful occupier of the land—the duty owed by a licensor to a licensee;
  - (b) if paragraph (a) does not apply—the duty owed by an owner or occupier of land to a trespasser on the land.

### **90 Certain land in park to be public place**

Land that forms part of the park and that is allocated to public use shall, while it continues to be so allocated, be taken to be a public place for the purpose of the operation therein of any law that applies in relation to a public place or anything in a public place or to the doing of any act in a public place.

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<sup>1</sup> See also section 31 (Consequences of allocation of land).

**91 Protection from liability**

- (1) This section applies to each of the following persons (a *relevant person*)—
  - (a) the Minister;
  - (b) the chief executive;
  - (c) the administration authority or secretary of the administration authority;
  - (d) an authorised officer;
  - (e) a person acting under the direction or authority of an authorised officer.
- (2) A relevant person is not civilly liable to someone for an act done, or omission made, honestly and without negligence under this Act.
- (3) If subsection (2) prevents civil liability attaching to a relevant person, the liability attaches instead to the State.
- (4) In this section—

*civil liability* includes liability for the payment of costs ordered to be paid in a proceeding for an offence against this Act.

## Schedule                      Dictionary

### section 4

**administration authority** means the corporation sole constituted by this Act by the name the Brisbane Forest Park Administration Authority.

**at**, a place, includes in and on the place.

**authorised officer** means a person appointed as an authorised officer under section 42.

**board** means the Brisbane Forest Park Advisory Planning Board as duly constituted under this Act at the material time.

**facsimile warrant** see section 57(4).

**lawful occupier**, of land, means an entity authorised to occupy the land under this or another Act.

**occupier**, of a place, includes the owner or person apparently in charge of the place.

**owner**, for a thing seized under this Act, includes a person who would be entitled to possession of the thing had it not been seized.

**place** includes the following—

- (a) land;
- (b) premises;
- (c) a vehicle.

**place of seizure** see section 66(a).

**premises** means—

- (a) a building or structure, or part of a building or structure, of any type; or
- (b) a group of buildings or structures, or part of a group of buildings or structures, of any type; or
- (c) a tent.

**proprietor**, of land within the park, means—

## Schedule (continued)

- (a) for unallocated State land under the *Land Act 1994*—the Minister for the department in which the *Land Act 1994* is administered; or
- (b) for land reserved for a public purpose under the *Land Act 1994*—
  - (i) if the land is granted in trust—the trustee of the trust; or
  - (ii) if subparagraph (i) does not apply—the Minister for the department in which the *Land Act 1994* is administered; or
- (c) for land granted, under the *Land Act 1994*, in fee simple by the State to a local government—the local government; or
- (d) for land granted, under the *Land Act 1994*, in fee simple in trust by the State to a local government—the local government; or
- (e) for land, other than land mentioned in paragraphs (a) to (d), that is, under an Act, under the control of a person for a public purpose—the person; or
- (f) for land, other than land mentioned in paragraphs (a) to (e), that is, under an Act, under the control of a department—the Minister for the department.

***public place*** means a place, or part of a place—

- (a) that the public is entitled to use, is open to members of the public or is used by the public, whether or not on payment of money; or
- (b) the occupier of which allows, whether or not on payment of money, members of the public to enter.

***public use land*** means land within the park that has been allocated under section 30.

***reasonably believes*** means to believe on grounds that are reasonable in the circumstances.

***reasonably suspects*** means to suspect on grounds that are reasonable in the circumstances.

## Schedule (continued)

*recreational use* includes any sporting, educational or tourism use.

*the park* means the Brisbane Forest Park declared by this Act as it is constituted at the material time.

*vehicle* means anything used for carrying any animal, person or thing by land or water.

*warrant form* see section 57(5)(b).

## Endnotes

### 1 Index to endnotes

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### 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 18 December 2009. Future amendments of the Brisbane Forest Park Act 1977 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

Key	Explanation	Key	Explanation
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	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	1995 Act No. 50	22 November 1995	14 February 1996
1A	1995 Act No. 50	21 December 1998	29 January 1999
1B	1999 Act No. 29	1 July 1999	2 July 1999
1C	2000 Act No. 5	1 July 2000	4 July 2000
1D	2001 Act No. 71	1 March 2002	1 March 2002

  

Reprint No.	Amendments included	Effective	Notes
1E	2002 Act No. 72	13 December 2002	
1F	2003 Act No. 19	9 May 2003	R1F withdrawn, see R2
2	—	9 May 2003	
2A	2004 Act No. 53	29 November 2004	
2B	2005 Act No. 53	18 November 2005	
2C	2009 Act No. 9	1 July 2009	
2D	2009 Act No. 36	18 December 2009	

## 5 Tables in earlier reprints

Name of table	Reprint No.
Changed citations and remade laws	1
Changed names and titles	1
Obsolete and redundant provisions	1
Renumbered provisions	1

## 6 List of legislation

### **Brisbane Forest Park Act 1977 No. 56**

date of assent 7 October 1977

pt 1 and s 5 of pt 2 commenced on date of assent

ss 6–11 of pt 2, pt 3, pt 4, div 1 of pt 5, ss 29, 34–36 of div 2 of pt 5, div 3 of pt 5 and pt 6 commenced 10 November 1977

ss 30–33 of div 2 of pt 5 commenced 16 June 1979

Note—This Act was to have been repealed by the Recreation Areas Management Act 1988 No. 110 s 70 sch 2, but the repealing provision was never proclaimed into force and was repealed by 1995 No. 57 s 4 sch 3 pt 1

amending legislation—

**Brisbane Forest Park Act Amendment Act 1981 No. 31**

date of assent 20 May 1981  
commenced on date of assent

**Brisbane Forest Park Act Amendment Act 1988 No. 61**

date of assent 6 October 1988  
commenced on date of assent

**Statute Law (Miscellaneous Provisions) Act 1994 No. 15 ss 1–3 sch 1 (this Act is amended, see amending legislation below)**

date of assent 10 May 1994  
ss 1–2 commenced on date of assent  
s 3 sch 1 amdts 5–8 commenced 15 December 1995 (1995 SL No. 322)  
remaining provisions commenced 21 December 1998 (1998 SL No. 366)  
amending legislation—

**Valuation of Land and Other Legislation Amendment Act 1998 No. 48 ss 1–2, 17 sch (amends 1994 No. 15 above)**

date of assent 27 November 1998  
ss 1–2 commenced on date of assent  
remaining provisions commenced 18 December 1998 (1998 SL No. 364)

**Statute Law (Minor Amendments) Act 1995 No. 50 ss 1, 3 sch**

date of assent 22 November 1995  
commenced on date of assent

**Financial Administration Legislation Amendment Act 1999 No. 29 ss 1–2, 50 sch**

date of assent 16 June 1999  
ss 1–2, 50 commenced on date of assent  
remaining provisions commenced 1 July 1999 (1999 SL No. 122 and see 1999 SL No. 119, 1999 SL No. 70 s 2(3))

**Police Powers and Responsibilities Act 2000 No. 5 ss 1–2, 373 sch 3**

date of assent 23 March 2000  
ss 1–2, 373 commenced on date of assent  
remaining provisions commenced 1 July 2000 (see s 2(1), (3) and 2000 SL No. 174)

**Duties Act 2001 No. 71 ss 1–2(1), 551 sch 1**

date of assent 13 November 2001  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 March 2002 (2002 SL No. 10)

**Environmental Legislation Amendment Act 2002 No. 72 s 1, pt 2**

date of assent 13 December 2002  
commenced on date of assent

**Statute Law (Miscellaneous Provisions) Act 2003 No. 19 ss 1, 3 sch**

date of assent 9 May 2003  
commenced on date of assent

**Statute Law (Miscellaneous Provisions) Act 2004 No. 53**

date of assent 29 November 2004  
commenced on date of assent

**Environmental Protection and Other Legislation Amendment Act 2005 No. 53 s 1, pt 2**

date of assent 18 November 2005  
commenced on date of assent

**Financial Accountability Act 2009 No. 9 ss 1, 2(2), 136 sch 1**

date of assent 28 May 2009  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 2009 (2009 SL No. 80)

**Sustainable Planning Act 2009 No. 36 ss 1–2, 872 sch 2**

date of assent 22 September 2009  
ss 1–2 commenced on date of assent  
remaining provisions commenced 18 December 2009 (2009 SL No. 281)

## **7 List of annotations**

**Commencement of Act**

**s 2** om R1 (see RA s 39)

**Arrangement of Act**

**s 3** om R1 (see RA s 36)

**Definitions**

**prov hdg** sub 2002 No. 72 s 4(1)

**s 4** amd 2002 No. 72 s 4(2)

Note—s 4 prev contained definitions for this Act. Definitions are now located in the schedule (Dictionary).

**Brisbane Forest Park**

**s 5** sub 1994 No. 15 s 3 sch 1  
amd 2004 No. 53 s 2 sch

**Land that may form park**

**s 6** sub 2004 No. 53 s 2 sch

**Manner of altering area of park**

**s 7** amd 1994 No. 15 s 3 sch 1 (as amd 1998 No. 48 s 17 sch)

**Exclusion of public roads and inclusion of closed roads**

**s 8** amd 1994 No. 15 s 3 sch 1 (as amd 1998 No. 48 s 17 sch)

**Endorsement of instruments of title**

**s 10** om 2001 No. 71 s 551 sch 1

**Members of board**

**s 13** amd 1981 No. 31 s 2; 1988 No. 61 s 4; 1994 No. 15 s 3 sch 1

**Appointment of board members**

**s 16** amd R1 (see s 38)

**How member's office is vacated**

**s 18** amd 2004 No. 53 s 2 sch

**Validity of board's proceedings**

s 24            amd 2004 No. 53 s 2 sch

**Functions of the board**

s 27            amd 2004 No. 53 s 2 sch

**Regulation of board's activities**

s 28            amd 1988 No. 61 s 5

**Allocation of land for public use**

s 30            amd 2004 No. 53 s 2 sch

**Effect of establishment of park and allocation on proprietor etc.**

32            amd 2004 No. 53 s 2 sch

**Erection of improvements generally**

s 33A          ins 1988 No. 61 s 6

**By-laws of administration authority**

s 35            amd 1988 No. 61 s 7; 2003 No. 19 s 3 sch

**Delegation by administering authority**

s 36A          ins 2005 No. 53 s 4

**Secretary of administration authority**

s 37            amd 1988 No. 61 s 8

**Authorisation of post**

s 38            amd 1988 No. 61 s 9

**Funds of administration authority**

s 40            amd 1999 No. 29 s 50 sch; 2009 No. 9 s 136 sch 1

**Application of Financial Accountability Act 2009**prov hdg      sub 1999 No. 29 s 50 sch  
amd 2009 No. 9 s 136 sch 1s 41            amd 1988 No. 61 s 10; 1994 No. 15 s 3 sch 1; R1 (see s 38); 1999 No. 29 s 50  
sch; amd 2004 No. 53 s 2 sch; 2009 No. 9 s 136 sch 1**PART 6—AUTHORISED OFFICERS**

pt hdg          ins 2002 No. 72 s 9

**Division 1—Appointment**

div hdg          ins 2002 No. 72 s 9

**Appointment and qualifications**s 42            prev s 42 renum 2002 No. 72 s 8  
pres s 42 ins 2002 No. 72 s 9**Appointment conditions and limit on powers**s 43            prev s 43 renum 2002 No. 72 s 8  
pres s 43 ins 2002 No. 72 s 9**Issue of identity card to each authorised officer**s 44            prev s 44 renum 2002 No. 72 s 8  
pres s 44 ins 2002 No. 72 s 9

**Production or display of identity card**

**s 45** prev s 45 renum 2002 No. 72 s 8  
pres s 45 ins 2002 No. 72 s 9

**When authorised officer ceases to hold office**

**s 46** prev s 46 amd 2000 No. 5 s 373 sch 3  
om 2002 No. 72 s 5  
pres s 46 ins 2002 No. 72 s 9

**Resignation**

**s 47** prev s 47 om 2002 No. 72 s 5  
pres s 47 ins 2002 No. 72 s 9

**Return of identity card**

**s 48** prev s 48 renum 2002 No. 72 s 8  
pres s 48 ins 2002 No. 72 s 9

**Division 2—Powers of authorised officers**

**div hdg** ins 2002 No. 72 s 9

**Subdivision 1—Entry to vehicles**

**sdiv hdg** ins 2002 No. 72 s 9

**Application of sdiv 1**

**s 49** prev s 49 renum 2002 No. 72 s 8  
pres s 49 ins 2002 No. 72 s 9

**Power of entry for vehicles**

**s 50** prev s 50 ins 1995 No. 50 s 3 sch  
exp 22 November 1995 (see s 50(5))  
AIA s 20A applies (see s 50(4))  
pres s 50 ins 2002 No. 72 s 9

**Procedure before entry to a vehicle**

**s 51** ins 2002 No. 72 s 9

**Subdivision 2—Entry to other places**

**(ss 52–58)** ins 2002 No. 72 s 9

**Subdivision 3—Powers for entry to places**

**(ss 59–62)** ins 2002 No. 72 s 9

**Subdivision 4—Seizure**

**(ss 63–71)** ins 2002 No. 72 s 9

**Subdivision 5—Forfeiture**

**(ss 72–74)** ins 2002 No. 72 s 9

**Subdivision 6—Other powers**

**(ss 75–80)** ins 2002 No. 72 s 9

**Division 3—Offences relating to authorised officers**

**(ss 81–83)** ins 2002 No. 72 s 9

**Division 4—Notice of damage and compensation**

**(ss 84–85)** ins 2002 No. 72 s 9

**PART 7—GENERAL PROVISIONS****pt hdg** (prev pt 6 hdg) renum 2002 No. 72 s 7**Effect on town planning powers****s 86** (prev s 42) renum 2002 No. 72 s 8  
amd 2004 No. 53 s 2 sch  
om 2009 No. 36 s 872 sch 2**Liability for rates etc. excluded****s 87** (prev s 43) renum 2002 No. 72 s 8**Administration authority to be informed of leases etc.****s 88** (prev s 44) renum 2002 No. 72 s 8**Nature of occupier’s duty to visitors in park—public use land****s 89** (prev s 45) amd 1988 No. 61 s 11  
renum 2002 No. 72 s 8  
sub 2004 No. 53 s 2 sch**Nature of occupier’s duty to visitors in park—other land****s 89A** ins 2004 No. 53 s 2 sch**Certain land in park to be public place****s 90** (prev s 48) renum 2002 No. 72 s 8**Protection from liability****s 91** (prev s 49) sub 2002 No. 72 s 6  
renum 2002 No. 72 s 8**SCHEDULE—DICTIONARY**

ins 2002 No. 72 s 10

**Note**—definitions for this Act were originally located in prev s 4.def “**administration authority**” reloc from s 4 2002 No. 72 s 4(3)def “**at**” ins 2002 No. 72 s 10def “**authorised officer**” ins 2002 No. 72 s 10def “**board**” reloc from s 4 2002 No. 72 s 4(3)def “**facsimile warrant**” ins 2002 No. 72 s 10def “**lawful occupier**” ins 2004 No. 53 s 2 schdef “**Minister**” sub 1988 No. 61 s 3

reloc from s 4 2002 No. 72 s 4(3)

def “**occupier**” ins 2002 No. 72 s 10def “**owner**” ins 2002 No. 72 s 10def “**place**” ins 2002 No. 72 s 10def “**place of seizure**” ins 2002 No. 72 s 10def “**premises**” ins 2002 No. 72 s 10def “**proprietor**” amd 1988 No. 61 s 3

reloc from s 4 2002 No. 72 s 4(3)

sub 2004 No. 53 s 2 sch

def “**public place**” ins 2002 No. 72 s 10def “**public use land**” ins 2004 No. 53 s 2 schdef “**reasonably believes**” ins 2002 No. 72 s 10def “**reasonably suspects**” ins 2002 No. 72 s 10

def **“recreational use”** amd 1988 No. 61 s 3  
reloc from s 4 2002 No. 72 s 4(3)  
def **“the park”** reloc from s 4 2002 No. 72 s 4(3)  
def **“vehicle”** ins 2002 No. 72 s 10  
def **“warrant form”** ins 2002 No. 72 s 10

**SCHEDULE 1**

om 1994 No. 15 s 3 sch 1

**SCHEDULE 2**

om 1994 No. 15 s 3 sch 1