

Information sheet

Nature Conservation (Plants) Regulation 2020

General exemptions for the take of protected plants

This document contains some of the general exemptions applicable to the take of protected plants without the need for a protected plant clearing permit, as set out in the Nature Conservation (Plants) Regulation 2020. A full list of exemptions is set out in Chapter 3 of the Regulation. The document is provided for information only. The reader should refer to the relevant legislative provisions when determining whether an exemption applies to their proposed clearing. This information sheet should not be used as a substitute for the relevant legislative provisions.

Category and relevant section of the regulation	Details
Avoiding or reducing risk of death or serious injury to a person Section 22	An exemption applies to a person who takes a protected plant that is in the wild if— <ul style="list-style-type: none">(a) the taking is necessary and reasonable to avoid or reduce an imminent risk of death or serious injury to a person; and(b) the taking can not reasonably be avoided or minimised.
Avoiding or reducing risk of serious damage to buildings or property Section 23	An exemption applies to a person who takes a protected plant that is in the wild if— <ul style="list-style-type: none">(a) the taking is necessary and reasonable to avoid or reduce an imminent risk of serious damage to a building or other structure on land, or to personal property; and(b) significant economic loss may be suffered by any person if the damage is not prevented or controlled; and(c) the taking can not reasonably be avoided or minimised.
Particular persons acting under <i>Fire and Emergency Services Act 1990</i> Section 24	An exemption applies to a person who takes a protected plant that is in the wild if— <ul style="list-style-type: none">(a) the taking is, or is a necessary part of, a measure that is—<ul style="list-style-type: none">(i) authorised under the <i>Fire and Emergency Services Act 1990</i>, section 53(1) or 68(1)(c); or(ii) required under section 53(2)(j) or 69(1) of that Act; or(b) the taking is by a person lighting a fire that is—<ul style="list-style-type: none">(i) authorised under a notification under the <i>Fire and Emergency Services Act 1990</i>, section 63 or a permit granted under section 65 of that Act; and(ii) necessary as a means of fire hazard reduction.

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<p>Conservation or revegetation program</p> <p>Section 36</p>	<p>(1) An exemption applies to a landholder who takes and uses, other than for trade, a relevant plant if—</p> <ul style="list-style-type: none"> (a) the landholder takes the plant from the landholder’s land; and (b) the landholder takes the plant primarily for using the plant in a conservation or revegetation program; and (c) the landholder uses the plant in a conservation or revegetation program; and (d) the landholder’s land, or land local to the landholder’s land, to be revegetated is in the natural range of the species of relevant plant taken. <p>(2) Without limiting subsection (1)(c), using a relevant plant in a conservation or revegetation program includes propagating a seed or other propagative material of the plant at a place other than on the landholder’s land.</p> <p>(3) For subsection (1)(d), land is local to the landholder’s land if the land—</p> <ul style="list-style-type: none"> (a) is adjacent to the landholder’s land; or (b) is included in a conservation or revegetation program that includes the landholder’s land. <p>(4) In this section—</p> <p>relevant plant means—</p> <ul style="list-style-type: none"> (a) a seed or other propagative material of a vulnerable plant, near threatened plant or least concern plant; or (b) a whole protected plant that is a near threatened plant or least concern plant.
<p>Grazing activities on private land</p> <p>Section 37</p>	<p>An exemption applies to a landholder of private land who takes and uses, other than for trade, a protected plant on the land if—</p> <ul style="list-style-type: none"> (a) the plant is consumed by stock grazing on the land; and (b) the grazing is authorised or permitted under another law; (c) the plant is taken primarily for using the plant for grazing
<p>Grazing activities on State-related land</p> <p>Section 38</p>	<p>An exemption applies to a person who takes and uses, other than for trade, a protected plant on State-related land if</p> <ul style="list-style-type: none"> (a) the plant is taken by the person’s stock grazing on the land under a lease, licence, permit or other authority, or an exemption, under another law; and (b) the plant is taken primarily for using the plant for grazing.

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<p>Fodder on private land</p> <p>Fodder on State - related land Sections 41 and 42</p>	<p>41. Fodder on private land</p> <p>(1) An exemption applies to a landholder of private land who takes or uses, other than for trade, a part of a near threatened plant or least concern plant on the land if—</p> <ul style="list-style-type: none"> (a) the part is taken and used for fodder for stock lawfully kept on the land; and (b) the part is taken primarily for using the part for fodder. <p>(2) An exemption applies to a landholder of private land who takes or uses, other than for trade, a part of a near threatened plant or least concern plant on the land if—</p> <ul style="list-style-type: none"> (c) the part is taken in the course of an activity done— <ul style="list-style-type: none"> (i) for fodder harvesting under the <i>Vegetation Management Act 1999</i>; or (ii) otherwise for the purpose of fodder for stock on the land; and (d) the part is taken primarily for using the part for fodder. <p>(3) A landholder mentioned in subsection (1) or (2) does not use a part of a near threatened plant or least concern plant for trade merely because the landholder uses the part for a business of keeping stock on the land.</p> <p>42. Fodder on State-related land</p> <p>(1) An exemption applies to a person who takes and uses, other than for trade, a part of a near threatened plant or least concern plant on State-related land if—</p> <ul style="list-style-type: none"> (a) the part— <ul style="list-style-type: none"> (i) is taken or used for fodder for the person's stock on the land under a lease, licence, permit or other authority, or an exemption, under another law; or (ii) is taken in the course of an activity done for fodder harvesting under the <i>Vegetation Management Act 1999</i>; and (b) the part is taken primarily for using the part for fodder. <p>(2) The person does not use the part for trade merely because the person uses the part for a business of keeping stock on the land</p>

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Sick injured or orphaned protected animals Section 43	An exemption applies to a person who takes or uses, other than for trade, a part of a near threatened plant or least concern plant if— <ul style="list-style-type: none"> (a) the person takes the part for the care of a sick, injured or orphaned protected animal; and (b) the person— <ul style="list-style-type: none"> (i) holds a rehabilitation permit under the <i>Nature Conservation (Animals) Regulation 2020</i> for the protected animal; or (ii) is a veterinary practitioner, veterinary specialist or veterinary surgeon under the <i>Veterinary Surgeons Act 1936</i>; or (iii) is acting under the direction of a person mentioned in subparagraph (ii); and (c) the person's primary reason for taking the part is to use the part for the care of a sick, injured or orphaned protected animal.
Particular permits Section 54	<p>54 Area already cleared—particular permits</p> An exemption applies to a person who takes a protected plant in an area by clearing if <ul style="list-style-type: none"> (a) the taking is within an area from which the person has already taken plants under a protected plant clearing permit, whether or not the permit ended before the commencement; and (b) the taking is only to the same extent as the taking that is or was authorised as lawful under the permit; and(c) the taking happens within 10 years from the day the permit is granted.
High risk areas Section 55	<p>55 Area already cleared—high risk areas</p> An exemption applies to a person who takes a protected plant in an area by clearing if— <ul style="list-style-type: none"> (a) the taking is within an area from which the person has already taken plants under either of the following exemptions (each the first exemption)— <ul style="list-style-type: none"> (i) an exemption under section 48; (ii) an exemption under the repealed <i>Nature Conservation (Wildlife Management) Regulation 2006</i>, section 261ZA; and (b) the taking is only to the same extent as the taking that is or was lawful under the first exemption; and (c) the taking happens within 10 years from the day the person— <ul style="list-style-type: none"> (i) for plants taken under an exemption mentioned in paragraph (a)(i)—prepared the flora survey report required for the exemption; or (ii) for plants taken under an exemption mentioned in paragraph (a)(ii)—gave the flora survey report required for the exemption.

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<p>Area already cleared—authority under another law</p> <p>Section 56</p>	<p>56 Area already cleared—authority under another law</p> <p>An exemption applies to a person who takes a protected plant in an area by clearing if—</p> <ul style="list-style-type: none"> (a) the taking is within an area from which the person has already taken plants under either of the following exemptions (each the first exemption)— <ul style="list-style-type: none"> (i) an exemption under section 52; (ii) an exemption under the repealed <i>Nature Conservation (Wildlife Management) Regulation 2006</i>, section 261ZF; and (b) the taking is only to the same extent as the taking that is or was lawful under the first exemption; and (c) the taking happens within 10 years from the day the authorisation required for the first exemption was given to the person.
<p>Particular</p> <p>Maintenance activities</p> <p>Section 49</p>	<ul style="list-style-type: none"> 1. An exemption applies to a person who takes a protected plant in an area if the person takes the plant by clearing for any of the following maintenance activities for an existing land use of the area— <ul style="list-style-type: none"> (a) routine maintenance of existing infrastructure; (b) maintenance in the course of a plantation management activity on land that was previously lawfully cleared; (c) maintenance in the course of a cropping activity on land that was previously lawfully cleared. 2. In this section— <p>cropping activity means an activity undertaken for the management of a cropping area, including site preparation, weed control, harvesting and harvest debris clearing.</p> <p>existing infrastructure means infrastructure that exists before a plant is taken under this section.</p> <p>existing land use, of an area, means a use of the land in the area that—</p> <ul style="list-style-type: none"> a. is a lawful use of the land under another law; and b. is in existence before a plant is taken in the area under this section. <p>plantation management activity means an activity undertaken for the management of a tree plantation, including site preparation, weed control, harvesting and harvest debris clearing.</p> <p>routine maintenance, of existing infrastructure, means maintenance—</p> <ul style="list-style-type: none"> (a) necessary to maintain infrastructure established under the <i>Electricity Act 1994</i> for the generation, transmission or distribution of electricity, undertaken for an electricity entity under that Act; or (b) necessary to maintain transport infrastructure under the <i>Transport Infrastructure Act 1994</i>; or (c) necessary to maintain other infrastructure (other than

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	<p>contour banks) including a building, or other structure, built or used for any purpose.</p> <p><i>Examples of infrastructure for paragraph (c)—</i></p> <p>core airport infrastructure, fences, helipads, oil, gas or water pipelines, roads, stockyards, vehicular tracks, watering facilities, constructed drains</p> <p><i>Examples of routine maintenance—</i></p> <p>slashing, mowing, pruning or trimming of plants stockyards, vehicular tracks, water pipelines, watering facilities and constructed drains other than contour banks.</p>
<p>Firebreaks or fire management lines</p> <p>Section 50</p>	<p>1. An exemption applies to a person who takes a protected plant in an area if the person takes the plant by clearing for—</p> <p>(a) establishing or maintaining a necessary firebreak to protect infrastructure, other than a fence, road or vehicular track, if the maximum width of the firebreak is equal to the wider of the following—</p> <p>i. 1.5 times the height of the tallest vegetation next to the infrastructure;</p> <p>ii. 20m; or</p> <p>(b) establishing a necessary fire management line, if the maximum width of the clearing for the fire management line is 10m.</p> <p>2. In this section—</p> <p>infrastructure includes a building, or other structure, built or used for any purpose.</p>
<p>Compliance with accepted development vegetation clearing code</p> <p>Section 51</p>	<p>1. An exemption applies to a person who takes a protected plant in an area by clearing if the taking complies with the requirements applying to the area under—</p> <p>(a) the accepted development vegetation clearing code for managing encroachment; or</p> <p>(b) the accepted development vegetation clearing code for managing weeds.</p> <p>2. In this section—</p> <p>accepted development vegetation clearing code see the <i>Vegetation Management Act 1999</i>, section 19O(1) and (2).</p>
<p>Conservation purposes</p> <p>Section 53</p>	<p>An exemption applies to a person who takes a protected plant in an area by clearing if—</p> <p>1. the taking is for the purpose of conservation only, and to the extent necessary, to achieve the purpose; and</p> <p>2. the taking causes disturbance to another protected plant only to the extent necessary to remove the plant being taken.</p>
<p>Exemption for taking and using protected plants under particular authority or lease—Act, ss89 and 90</p> <p>Section 57</p>	<p>(1) A person has an exemption for section 89(1) of the Act to take a protected plant that is in the wild if the person takes the plant by clearing—</p> <p>(a) In the course of an activity under—</p> <p>(i) an authority, made, granted or given under another Act by the Governor in Council before 31 March 2014; or</p> <p>(ii) a mining lease or a petroleum lease granted before 31 March 2014 and</p> <p>(b) or in a way authorised under the authority, mining lease or petroleum lease,.</p> <p>(3) A person who takes a protected plant under subsection (1) has an exemption for section 90(1) of the Act to use the plant. In this section—</p> <p>mining lease means a mining lease granted under the <i>Mineral Resources Act 1989</i>;</p> <p>petroleum lease means a petroleum lease granted under the <i>Petroleum Act 1923</i>.</p>