

Code of Practice

For the take and use of protected plants
under an exemption

Nature Conservation

Act 1992

Prepared by: Department of Environment and Science

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1. Operation of this Code

1.1 This Code of Practice for the take or use of a protected plant under an exemption ('the Code') is approved under section 174A of the *Nature Conservation Act 1992* ('the Act').

1.2 The Code should be read in conjunction with the Nature Conservation (Plants) Regulation 2020 ('Plants Regulation') (relevant sections as stated).

1.3 The Code applies to the following activities under the Plants Regulation:

- a) take of a protected plant under Chapter 3, Part 3 of the Plants Regulation
- b) use of a protected plant under Chapter 3, Parts 2 or 3 of the Plants Regulation.

1.4 The purpose of the Code is to state the things a person must do when taking or using protected plants under exemptions specified in section 1.3 of the Code. These include:

- a) Operational requirements that apply to the take of protected plants
- b) Administrative requirements that apply to the clearing of protected plants
- c) Administrative requirements that apply to the harvest and use (trade and movement) of protected plants, including:
 - i) Record keeping requirements
 - ii) Labelling requirements
 - iii) Tagging requirements

1.5 All requirements in the Code apply to a person acting under an exemption specified in section 1.3 of the Code unless stated otherwise.

2. Operational requirements that apply to the harvest of a protected plant under Chapter 3, Part 3 of the Plants Regulation

2.1 A person harvesting a protected plant under Chapter 3, Part 3 of the Plants Regulation must do all of the following:

- a) Only interfere with or damage understorey plants to access and/or remove the plant and only to the minimum extent necessary to take the plant.
- b) Clean tools to be used for harvesting the plant with detergent and water or disinfecting agent prior to commencing collection on a property.
- c) Remove soil from boots and shoes and remove propagules from clothing before leaving a property on which a plant was to be taken.
- d) Inspect vehicles and remove any plant propagules and soil from tyre tread prior to leaving a property on which a plant was to be taken.
- e) Comply with any harvest period notice declared and in effect for the plant.
- g) Ensure the harvesting of the plant part does not result in the death of the plant from which the part is taken, unless sections 2.1, 2.2 and 2.3 of the Code are satisfied.
- f) Ensure enough of the plant remains to allow for reproduction of the plant and provide habitat or

food for other wildlife.

2.2 A person harvesting a plant part from a restricted plant under Chapter 3, Part 3 of the Plants Regulation must do all of the following:

- a) When collecting seeds, fruit or other propagating material, collect no more than 20% of the seeds, fruit or propagating material from any one plant in any 12-month period.
- b) Remove no more than 20% of the flowers, fronds, foliage or other parts from any one plant in any 12-month period.
- c) For plants that reproduce by spores and rhizomes, harvest no more than 20% of the plant stems from each plant.
- d) Only harvest bark from dead or fallen trees, or harvest dead bark only from live trees with a minimum trunk diameter of 15cm at breast height.
- e) When taking cycad parts—
 - i) seed must be ripe and shed from the plant or be on the point of being shed
 - ii) remove material more or less evenly from each crown in a plant
 - iii) if the plant is of the genus *Bowenia*—
 - a) do not harvest from a plant with less than three fronds
 - b) at least two fronds must remain on a plant after harvesting
 - c) no frond is to be harvested from a plant bearing female cones.
- f) When taking grasstree parts—
 - i) spikes must be cut only after seeds have been shed
 - ii) do not harvest the central growing core of grasstree leaves
 - iii) remove material more or less evenly from the circumference of the plant.
- g) When taking sandalwood parts—
 - i) only remove foliage, twigs or propagative material
 - ii) do not harvest the main stem/s.

2.3 A person harvesting a plant part from a restricted plant under section 40 of the Plants Regulation must do all of the following:

- a) When collecting plant parts, other than propagative material and bark, a person must not take—
 - i) more than 40 plant parts or cuttings of the species in a month;
 - ii) more than 200 plant parts or cuttings of the species in any 12-month period.
- b) When collecting seed, a person must not take—
 - i) if the seed of the species is larger than 1cm in any dimension—
 - a) more than 20 seeds of the species in a month;
 - b) more than 100 seeds of the species in any 12-month period;
 - ii) if the seed of the species is larger than 2mm but not larger than 1cm in any dimension—
 - a) more than 50 seeds of the species in a month;
 - b) more than 250 seeds of the species in any 12-month period;
 - iii) if the seed of the species is not larger than 2mm in any dimension—
 - a) more than 10g of seed of the species in a month;
 - b) more than 100g of seed of the species in any 12-month period.

3. Operational requirements that apply to the clearing or harvesting of a protected plant under Chapter 3, Part 3 of the Plants Regulation

3.1 A person taking a protected plant by harvest or clearing under Chapter 3, Part 3 of the Plants Regulation must do both of the following:

- a) only disturb the soil to the extent necessary to remove the plant.
- b) only take protected plants from an area other than a monitoring plot established under a protected plant harvesting licence.

4. Administrative requirements for the clearing of a protected plant under Chapter 3, Part 3 of the Plants Regulation

4.1 A person who takes a protected plant by clearing within a high risk area under section 48 of the Plants Regulation must give the chief executive the flora survey for the high risk area

- a) at least 1 week before commencing clearing and
- b) no later than 12 months after the flora survey undertaken for the report was completed.

4.2 A person clearing a protected plant in an area other than a high risk area under sections 46 or 47 of the Plants Regulation must keep a copy of the flora survey trigger map obtained or received for the exemption for five years from the day clearing under the exemption starts.

Note: A copy of the flora survey trigger map received or obtained for the purposes of clearing outside of a high risk area under section 261Z of the repealed Nature Conservation (Wildlife Management) Regulation 2006, is taken to be valid under this code for five years from the day clearing under the exemption starts.

5. Administrative requirements for the harvest of a protected plant under Chapter 3, Part 3 of the Plants Regulation

Protected plant harvest record requirements

5.1 A person harvesting a protected plant under Chapter 3, Part 3 of the Plants Regulation to use the plant for trade must keep a protected plant harvest record for the plant.

5.2 If Section 5.2 of the Code does not apply, a protected plant harvest record required to be kept under section 5.1 of the Code must include the following particulars for each species of plant:

- a) If a conservation plan states the information that must be included in the record— the stated information.
- b) The scientific name and common name (if any) of the plant taken.
- c) The exemption section under which the plant was taken.
- d) The date and approximate time when the plant was taken.
- e) The location of harvest (i.e. the title reference for the land from which each plant was taken and other details that may prove the lawful origin of the plant).
- f) The total number of whole plants or, for plant parts, the number of cuttings or, where relevant, the volume/weight of plant parts taken from the land.
- g) The name of the person who took the plant and, if a vehicle was used, its registration number.
- h) If the plant was taken by or for a business (including by a contractor for a business)—

- i) the name of the business
 - ii) the name of the person, contractor or entity operating on behalf of the business.
- i) For a whole plant that may be used for trade—the identification code of the official tag attached to the plant.

Protected plant harvest label requirements

5.3 A person who harvests a whole restricted plant under Chapter 3, Part 3 of the Plants Regulation must, at the time of harvest, attach a protected plant harvest label in either of the following ways

- a) Attach the label to either:
 - i) if it is a whole plant—the whole plant; or
 - ii) if it is one or more plant parts—a bundle or container containing the plant part; or
- b) If it is impractical or would be unreasonable to attach a protected plant harvest label to a whole restricted plant under section 5.4(a) of the Code given the plant's nature or condition, attach the label as close as is reasonably practicable to the protected plant.

5.4 A protected plant harvest label required to be attached under section 5.4 of the Code must include the following particulars:

- a) The scientific name and common name (if any) of the plant.
- b) The date and approximate time when the plant was taken.
- c) If the protected plant harvest label is for a container or package containing plants, the number of plants in the container or package.
- d) The location of harvest (i.e. the title reference for the land from which each plant was taken and other details that may prove the lawful origin of the plant).
- e) The exemption section number in the Plants Regulation, under which the plant was harvested.
- f) The name/s of the harvester/s.
- g) The business name if harvested by or on behalf of a business or contractor.

6. Administrative requirements for taking or using a protected plant for trade under Chapter 3, Part 2 or Part 3 of the Plants Regulation

Protected plant trade record requirements

6.1 If a person does either of the following, they must keep a protected plant trade record:

- a) harvests a restricted plant under Chapter 3, Part 3 of the Plants Regulation that is to be used for trade
- b) uses a restricted plant under Chapter 3, Part 2 or 3 of the Plants Regulation for trade.

6.2 A protected plant trade record required to be kept under section 6.1 of the Code must include the following particulars for each species of plant:

- a) If a conservation plan states the information that must be included in the record—the stated information.
- b) The scientific name and common name (if any) of the plant.
- c) For a plant moved (where there is no change of ownership or trade)—all of the following:
 - i) the street address of the place where the plant was moved from
 - ii) the street address of the place where the plant was moved to

- iii) the total number of plants being moved
- iv) the identification code of the official tag attached to each plant moved and the date of movement of the plant.
- d) For each transaction by which a plant was sold or given away—all of the following:
 - i) the identification code of the official tag attached to each plant
 - ii) the date of the transaction
 - iii) the full name and address of the person who sells or gives away the plant
 - iv) the full name and address of the person who buys or receives the plant
 - v) the total number of plants sold or given away under the transaction.
- e) For plants propagated, from wild harvested plants or plant parts—all of the following:
 - i) the total number of plants produced by the propagation or cultivation
 - ii) the identification code of the official tag attached to each plant
 - iii) if a plant taken or otherwise obtained under a protected plant trade exemption dies or is lost or stolen:
 - A) the date the plant was reasonably believed to have died or been lost or stolen
 - B) the total number of plants that died or were lost or stolen
 - C) if an official tag was attached to, or accompanied the plant—the identification code for the tag.

Protected plant trade label requirements

6.3 A person must, before a restricted plant other than the trunk, a log or timber of sandalwood), is used for trade under Chapter 3, Part 2 or 3 attach a protected plant trade label in either of the following ways:

- a) Attach the label to either:
 - i) if it is a whole plant—the whole plant; or
 - ii) if it is one or more plant parts—a bundle or container containing the plant part; or
- b) If it is impractical or would be unreasonable to attach a protected plant trade label to a whole restricted plant under section 6.3(a) of the Code given the plant's nature or condition, attach the label as close as is reasonably practicable to the protected plant.

6.4 A protected plant trade label required to be kept under section 6.3 of the Code must include the following particulars:

- a) The scientific name and common name (if any) of the plant taken or otherwise obtained.
- b) The origin or source of the plants (e.g. lawfully taken from the wild, propagated, cultivated or imported from another state or territory).
- c) For wild harvested plants, the exemption section or plant authority ID under which the plant was harvested.

Additional labelling requirement for using a restricted plant for trade outside of Queensland

6.5 Before using a restricted plant for trade by moving the plant to a place outside the State or by selling, exchanging or giving away the plant to another person outside the State for benefit, gain or reward, a person must –

- a) mark or label a container containing the plant as follows:
 - i) if the container only contains restricted plants taken under a protected plant licence or an exemption under Chapter 3, Part 3 -‘This product has been taken under a *Nature Conservation Act 1992* (Queensland) licence, permit or exemption.’;

ii) otherwise:

A) 'Some of this product has been taken under a *Nature Conservation Act 1992* (Queensland) licence, permit or exemption.'; and

B) 'The remaining plants have been obtained from propagation or cultivation or lawfully taken in the wild in another State.'

Tagging requirements

6.6 A person who takes a whole restricted plant under Chapter 3, Part 3 of the Plants Regulation, other than the trunk, a log or timber of sandalwood, and uses it for trade must:

a) attach an official tag supplied under section 165 of the Plants Regulation to the plant—

i) if the holder or person does not have an official tag supplied under that section for the plant before it is taken—

A) as soon as practicable after the plant is moved from the place where it is taken; and

B) before the plant is otherwise used for trade; or

ii) otherwise before it is moved from the place where it is taken.

7. General requirements for protected plant harvest records and protected plant trade records

7.1 A person who is required to keep a protected plant harvest record under section 5.1 of the Code or a protected plant trade record under section 6.1 of the Code must do all of the following—

a) ensure that information included in the records is –

i) complete and accurate; and

ii) legible; and

iii) for a record that is not kept in an electronic record system—in ink.

b) keep the record in a written or electronic record system

c) keep the record in a way that the record is available on request by a conservation officer

d) If the record is kept in an electronic record system (the primary system) and the primary system is not working on the day that particular information must be included in the record—

i) the information must be recorded in a written record system or another electronic record system; and

ii) the written record system or other electronic record system is taken to be a part of the primary system.

e) keep the record or a copy of the record in a secure way at—

i) for an individual—the person's place of residence; or

ii) for a recreational plant society—the society's office or other usual place for keeping the society's records; or

iii) for a corporation keeping a record about a restricted plant taken or otherwise obtained or used under section 21 of the Plants Regulation—

A) the premises at which the activity occurred; or

B) if the premises is not a place open for business—an office of the corporation that is in the State; or

iv) for another corporation—an office of the corporation that is in the State.

- f) keep the record or a copy of the record for at least five years after the activity to which the record relates was undertaken.
- g) ensure the information required to be included by the Code is recorded within the following timeframes:
 - i) for information a conservation plan states must be included in the record—on the day stated in the conservation plan; or
 - ii) for other information—within 72 hours after the event to which the information relates happens.

8. Additional record keeping requirements that apply to buying or selling a restricted plant

8.1 A person who undertakes either of the following activities must keep a record:

- a) buys or accepts a restricted plant under Chapter 3, Part 2 or 3 or the Plants Regulation
- b) sells or gives away a restricted plant under sections Chapter 3, Part 2 or 3 of the Plants Regulation, unless the plant is not sold or given away in the course of a retail activity to a person for ~~the person's~~ their own personal use.

8.2 A record that is required to be kept under section 8.1 of the Code must be kept for five years after the person ceases to possess the plant.

8.3 A record that is required to be kept under section 8.1(a) of the Code for buying a restricted plant must include the following particulars—

- a) the name and address of the person selling or giving away the plant (the seller);
- b) the source of the identification used to verify the identity of the seller, including the particulars of the type of document produced by the seller and any identifying features of the document, including, for example, the number of the document;
- c) if the seller obtains the plant under an exemption under section 21 or 31—details of the exemption identified by the seller.

8.4 A record that is required to be kept under section 8.1(b) of the Code for selling or giving away a restricted plant must include:

- a) the name and address of the person to whom the plant is sold or given (the buyer);
- b) the source of the identification used to verify the identity of the buyer, including the particulars of the type of document produced by the buyer and any identifying features of the document, including, for example, the number of the document;
- c) if the buyer is a corporation—the name of the corporation;
- d) if the buyer is a business or a person operating under a business or trading name—the name of the business or trading name.

9. Requirement if a record is stolen, lost, destroyed or damaged

9.1 A person who is required to keep a record under sections 5.1, 6.1 or 8.1 of the Code must, within 24 hours after becoming aware of the record's theft, loss, destruction or damage, give the chief executive a notice stating the record has been stolen, lost, destroyed or damaged.

10. Key definitions

Terms are defined by the Act and Plants Regulation unless state below:

protected plant harvest label means a label under section 5.4 of the Code that includes the information required by the Code

protected plant harvest record means a record under section 5.1 of the Code that includes the information required by the Code

protected plant trade label means a label under section 6.3 of the Code that includes the information required by the Code

protected plant trade record means a record under section 6.1 of the Code that includes the information required by the Code

restricted plant means a threatened plant, near threatened plant or special least concern plant