

# FORESTRY ORDINANCE 1959.\*

697

Amended 24/62  
63/64

## An Ordinance relating to Forestry.

1. This Ordinance may be cited as the *Forestry Ordinance* 1959.\* Short title.

2. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.† Commencement.

3.—(1.) The Woods and Forests Act, 1882, of the State of South Australia is, in its application to the Northern Territory, repealed. Repeal and saving.

(2.) Notwithstanding the repeal effected by the last preceding sub-section, land which was reserved as a forest reserve under the Woods and Forests Act, 1882, of the State of South Australia and which exists as a forest reserve immediately before the date when this Ordinance comes into operation shall be deemed to be a forest reserve for the purposes of this Ordinance until the reservation of that land as a forest reserve is revoked.

4. In this Ordinance, unless the contrary intention appears— Definitions.

“Crown lands” means lands of the Crown or the Commonwealth in the Northern Territory, other than reserved or dedicated lands;

“Forester” means a person appointed or employed under the *Public Service Act* 1922–1958 to be a Forester;

“forest officer” means a person appointed or employed under the *Public Service Act* 1922–1958 and appointed to be a forest officer by the Administrator;

“forest produce” means—

(a) a growing or dead tree, whether standing or fallen;

(b) a part or product of a growing or dead tree, whether standing or fallen; and

\* No. 26, 1959; Governor-General's assent notified in *Northern Territory Government Gazette* on 2nd December, 1959.

† No date had been fixed up to 1st January, 1961.

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(c) on a forest reserve—

- (i) any other vegetable growth, whether alive or dead;
- (ii) any stone or earth or produce of stone or earth, not being gold, silver or other metal or a mineral or mineral oil; and
- (iii) any indigenous animal, bird or insect or produce of an indigenous animal, bird or insect;

“forest reserve” means land reserved under the *Crown Lands Ordinance 1931–1959* for a forest reserve or for the purposes of afforestation and silviculture;

“licence” means a licence granted under this Ordinance;

“permit” means a permit granted under this Ordinance;

“the Forestry Officer” means a person appointed by the Administrator to be the officer in charge of forestry in the Northern Territory and includes a person appointed to act as the Forestry Officer under this Ordinance;

“this Ordinance” includes regulations made thereunder;

“timber” includes fallen trees, felled trees, and all wood whether sawn, hewn, split or otherwise fashioned;

“tree” includes a tree, shrub, bush, seedling, sapling or re-shoot of any kind or age;

“working plan” means a detailed written scheme of the operations to be undertaken on or in relation to a forest reserve or a specified area of forest reserve.

Forestry  
Officer.

5.—(1.) The Administrator may appoint a qualified person to be the Forestry Officer.

(2.) In the event of the illness, suspension or absence of the Forestry Officer, the Administrator may appoint a qualified person to act as the Forestry Officer during the illness, suspension or absence, and a person so acting has all the powers and shall perform all the duties of the Forestry Officer during the illness, suspension or absence.

Qualifications  
of Forestry  
Officer.

6. A person is qualified to be the Forestry Officer if he has obtained a degree or diploma in Forestry, Forestry Science or Forest Science from an institution approved by the Administrator.

7. Subject to this Ordinance and to the direction of the Administrator, the Forestry Officer—

Forestry Officer to control forest reserves and forest produce.

- (a) shall have the control and management of—
- (i) forest reserves and forest produce from forest reserves;
  - (ii) forest produce on any unalienated Crown lands;
  - (iii) forest produce reserved under a lease of any Crown lands; and
  - (iv) articles and substances which are converted from forest produce under his control, are situated on the land where they are so converted and are the property of the Commonwealth;
- (b) may sell, at prices, or in accordance with rates, approved by the Administrator, forest produce, or articles or substances, under his control and management; and
- (c) shall provide advice and assistance for the management and development of forest produce on land declared to be a reserve for wards or deemed to be a reserve for the purposes of the *Welfare Ordinance 1953-1957*.

8.—(1.) The Administrator may, in relation to a matter or class of matters, by writing under his hand delegate to the Forestry Officer all or any of his powers and functions under this Ordinance, except this power of delegation.

Delegation by the Administrator.

(2.) A power or function so delegated may be exercised or performed by the delegate with respect to the matter, or to matters included in the class of matters, specified in the instrument of delegation.

(3.) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Administrator.

9.—(1.) The Forestry Officer may, in relation to a matter or class of matters, by writing under his hand delegate to a Forester or forest officer all or any of his powers and functions under this Ordinance, except this power of delegation.

Delegation by the Forestry Officer.

(2.) A power or function so delegated may be exercised or performed by the delegate with respect to the matter, or to matters included in the class of matters, specified in the instrument of delegation.

(3.) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Forestry Officer.

Forestry Officer,  
&c., not to hold  
lease, &c.

10. A person who is the Forestry Officer, a Forester or a forest officer shall not hold or be interested in a lease of land within a forest reserve or a licence or permit or, as principal or agent, trade in or be interested in a contract or agreement for the use or removal of any forest produce, except where, in doing so, he is acting as an agent of the Commonwealth and in the performance of his duties under this Ordinance.

Working plans.

11.—(1.) The Forestry Officer shall cause a working plan to be drawn up—

- (a) for each forest reserve; or
- (b) for such parts of such forest reserves as the Administrator directs.

(2.) A working plan drawn up in accordance with the last preceding sub-section—

- (a) shall provide for the management, during a period not exceeding ten years, of the forest reserve or part of a forest reserve for which the working plan was drawn up;
- (b) shall include provisions specifying—
  - (i) the maximum quantity of each kind of forest produce that may be taken annually from the area in the working plan;
  - (ii) the area of the forest reserve or part of a forest reserve from which forest produce may be taken annually;
  - (iii) the operations relating to management, silviculture and protection that are proposed to be undertaken on or in relation to the area in the working plan; and
  - (iv) such other matters as the Forestry Officer considers should be included in the working plan; and
- (c) shall be submitted for approval to the Administrator by the Forestry Officer.

(3.) Where a working plan has been approved by the Administrator, the Forestry Officer shall ensure that—

- (a) the working plan is not altered except with the approval of the Administrator; and
- (b) the management of and operations on the forest reserve or part of a forest reserve for which the working plan was drawn up are in accordance with the working plan.

12.—(1.) Subject to such conditions as are prescribed, the Administrator may, on the recommendation of the Forestry Officer, grant a licence— Licences in forest reserves.

- (a) to graze stock or any particular kind of stock on;
- (b) to occupy for a prescribed purpose; or
- (c) to go upon and take a prescribed substance or article from,

land within a forest reserve.

(2.) The Administrator shall not, under the last preceding sub-section, grant a licence which gives to the licensee the exclusive right to take forest produce from a forest reserve or a particular area of land within a forest reserve unless the Administrator has first invited tenders for the granting of the licence.

(3.) Where the Administrator invites tenders under the last preceding sub-section, he shall not grant the licence to a person other than the highest tenderer of those tenderers who, in the opinion of the Administrator, are capable of carrying out the conditions of the licence, unless he is satisfied that there are sufficient reasons related to the control or development of the forest reserve which make it desirable that the licence should be granted to such other person.

(4.) A licence relating to land within a forest reserve shall not be granted except in accordance with this section or the *Mining Ordinance* 1939–1958.

13. A person shall not, except in pursuance of a licence or permit granted and in force under this Ordinance or a right, lease or authority granted and in force under the *Mining Ordinance* 1939–1958 or the *Special Purposes Leases Ordinance* 1953–1956— Occupation, &c., of forest reserves prohibited.

- (a) occupy;
- (b) graze stock on; or
- (c) take a substance or article the property of the Crown or the Commonwealth from,

land within a forest reserve.

14.—(1.) Subject to section twelve of this Ordinance and to such conditions as are prescribed, the Administrator may grant a licence to do such things as are specified in the licence in relation to— Licences in respect of forest produce under control and management of Forestry Officer.

- (a) forest produce, or articles or substances under the control and management of the Forestry Officer; or
- (b) forest produce on reserved or dedicated lands.

(2.) In this section, “reserved or dedicated lands” means lands reserved or dedicated under a reservation or dedication made and in force under a law in force in the Territory.

Interference with forest produce prohibited except under licence, &c.

- 15.—(1.) A person shall not injure, destroy, cut, fell or move—  
 (a) forest produce; or  
 (b) an article or substance,

under the control and management of the Forestry Officer, except in pursuance of a licence or permit granted and in force under this Ordinance or a right, lease or authority granted and in force under the *Mining Ordinance 1939–1958* or the *Special Purposes Leases Ordinance 1953–1956*.

- (2.) A person shall not injure, destroy, cut, fell or move—  
 (a) a growing tree; or  
 (b) a part or product of a growing tree,

in a forest reserve, except in pursuance of a licence or permit granted and in force under this Ordinance.

Use of certain forest produce by pastoral lessees, &c.

16. Notwithstanding anything contained in this Ordinance, where land is leased under a pastoral lease or pastoral homestead lease under the *Crown Lands Ordinance 1931–1959* the lessee may—

- (a) permit stock depastured on the land to graze on trees and the leaves of trees growing on the land;  
 (b) lop such trees and cut the leaves of such trees for the purpose of feeding such stock; and  
 (c) with the consent of the Administrator, cut timber trees on the land for use on or in connexion with the land.

Royalties.

17.—(1.) A licence or permit is subject to the payment, by the holder, of royalties for all forest produce taken.

(2.) Royalties shall be assessed in such manner and at such rates as are prescribed.

Conditions of licences.

18. A licence under this Ordinance is subject to such covenants, conditions and provisions as are—

- (a) prescribed; or  
 (b) determined by the Administrator and expressed in the grant of the licence.

Term of licence.

19. A licence under this Ordinance shall be for a term or period not exceeding ten years.

Payment of rent, fees and charges.

20. A licence under this Ordinance shall contain—

- (a) a covenant to pay the rent, fees and charges for or under the licence at the prescribed times; and  
 (b) a provision that the licence shall be liable for forfeiture for—  
 (i) failure to pay the rent, or a fee or charge for or under the licence, at the prescribed time; or  
 (ii) breach of any condition of the licence.

21.—(1.) Where a licence under this Ordinance is liable to forfeiture, the Administrator or an officer authorized by him to do so may serve notice in writing on the licensee that the licence is forfeited. Forfeiture of licence.

(2.) A notice under the last preceding sub-section may be served on the licensee personally or by sending it by post to the licensee at his address last-known to the Administrator.

(3.) A notice served under this section revokes the licence.

22.—(1.) The Administrator, the Forestry Officer or a Forester authorized in writing by the Forestry Officer to do so may, in his discretion, grant to an applicant a permit to enter a forest reserve for a purpose not inconsistent with this Ordinance. Permits.

(2.) A permit—

(a) shall be in writing signed by the person granting the permit;

(b) shall be for a period not exceeding fourteen days;

(c) shall set out—

(i) the name of the person to whom it applies;

(ii) the forest reserve or part of a forest reserve to which it applies; and

(iii) the purpose and the period for which it is granted; and

(d) shall contain and be subject to such conditions as are prescribed or determined by the Administrator.

(3.) Subject to the next succeeding sub-section and to such conditions as are prescribed or determined by the Administrator, a permit entitles the person to whom it is granted to enter the forest reserve or part of a forest reserve to which it applies and do an act consistent with the purposes for which the permit is granted.

(4.) Where the Administrator, the Forestry Officer, a Forester, a forest officer, or a person authorized in writing by the Administrator to act under this sub-section is of the opinion that the person to whom a permit has been granted—

(a) has done, is doing or is about to do an act which is not consistent with the purpose for which the permit was granted; or

(b) has committed, is committing or is about to commit a breach of a condition to which the permit is subject, he may give notice in writing to the person to whom the permit was granted that the permit is revoked.

(5.) A permit is revoked when notice is given in accordance with the last preceding sub-section.

(6.) Where a permit is revoked, the person to whom the permit was granted shall not remain on the forest reserve or part of a forest reserve to which the permit applied when the permit was in force.

Timber to be marked for identification.

23. The owner of timber cut from land other than Crown lands and forest reserves shall ensure that the timber is marked for identification as prescribed.

Forester, &c., may require explanation of possession of forest produce.

24.—(1.) The Administrator or the Forestry Officer may by writing under his hand authorize a person (in this section referred to as an “authorized person”) to act under this section.

(2.) A Forester, forest officer or authorized person may require a person in possession of forest produce to give an account of the manner in which he became possessed of that forest produce.

(3.) A person shall not refuse or fail to give an account, to the satisfaction of a Forester, forest officer or authorized person requiring him to do so, of the manner in which he became possessed of forest produce in his possession.

Receiving forest produce unlawfully obtained.

25. A person shall not receive forest produce knowing it to have been unlawfully obtained.

Forestry Officer, &c., not to be obstructed.

26. A person shall not obstruct or hinder—

- (a) the Forestry Officer, a Forester or a forest officer; or
- (b) a person authorized by the Administrator or the Forestry Officer to exercise a power or function or perform a duty under this Ordinance,

in the exercise of a power or function or the performance of a duty under this Ordinance.

Penalty and damages.

27.—(1.) A person who contravenes or fails to comply with a provision of this Ordinance is guilty of an offence and, on conviction—

- (a) is punishable by a fine not exceeding Fifty pounds or imprisonment for a term not exceeding six months; and
- (b) is liable for any loss or damage caused by the offence.

(2.) The amount of any loss or damage caused by an offence under this Ordinance may be awarded by a court fixing the penalty for the offence and, where so awarded, may be recovered in the same manner as a pecuniary penalty.



28.—(1.) Where the Forestry Officer, a Forester, a forest officer or a person authorized in writing by the Administrator or the Forestry Officer to act under this section believes on reasonable grounds that an offence has been committed in respect of any forest produce, he may seize that forest produce and mark it with a distinctive mark.

Seizure, &c., of forest produce when offence committed.

(2.) When forest produce is seized and marked under the last preceding sub-section it is deemed to be the property of the Commonwealth and may be disposed of as the Administrator directs, but where a person satisfies the Administrator within three months after the seizure and marking that he was the lawful owner of the forest produce at the time of the seizure and marking the Administrator shall return the forest produce to that person or pay him its value at the time of the seizure and marking.

29. Where in any proceedings under this Ordinance a question arises as to whether any forest produce is the property of the Commonwealth, that forest produce shall be presumed to be the property of the Commonwealth until the contrary is proved.

Presumption that forest produce is property of Commonwealth.

30 The Administrator or a person authorized in writing by the Administrator to do so may, in the name of the Commonwealth, sue for and recover rent, or a fee, charge or payment, due and payable under this Ordinance.

Recovery of fees, &c.

31 An allegation in a complaint that a person is the Forestry Officer, a Forester, a forest officer or a person authorized under this Ordinance by the Administrator or the Forestry Officer to do an act or perform a function shall be *prima facie* evidence of the matter alleged.

Allegation to be *prima facie* evidence.

32 A person authorized under this Ordinance to exercise a power or perform a duty is not liable personally for an act done in good faith in the exercise of the power or the performance of the duty.

No personal liability for acts done in good faith.

33. The Administrator may make regulations, not inconsistent with this Ordinance, prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance and in particular for—

Regulations.

- (a) regulating the management, protection and control of forest reserves;
- (b) regulating the conversion, sale and transport of forest produce;
- (c) regulating the inspection of forest produce;

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- (d) prohibiting or regulating the carrying or use of fire-arms on forest reserves;
  - (e) prohibiting or regulating the killing, wounding, hunting, pursuing, snaring, catching, taking or destroying of indigenous birds or animals on forest reserves;
  - (f) preventing, or reducing the incidence of, fires or damage from fires in forest reserves; and
  - (g) prescribing penalties not exceeding Fifty pounds or imprisonment for six months for offences against the regulations.
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