

section (2) of this section shall apply to him accordingly, as if he had been so recommitted pursuant to a warrant under that subsection.

(4) Notwithstanding anything in subsection (3) of this section, if a person to whom that subsection relates was, before being released on probation pursuant to the licence, transferred from a gaol to a reformatory prison, he shall serve the unexpired portion of his original sentence in addition to the fixed sentence imposed on him in respect of the offence of which he is convicted during the currency of the licence.

"18 If a licence under section sixteen remains unrevoked for a period of two years after the date on which it is issued the person to whom the licence relates shall be deemed to have suffered in full the imprisonment or detention, as the case may be, to which he was sentenced."

Person released on probation deemed to have suffered his original sentence if licence unrevoked for two years.

FORESTRY.

No. 49 of 1954.

AN ACT to amend the *Forestry Act* 1920. [10 December, 1954.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Forestry Act* 1954.

Short title and citation.

(2) The *Forestry Act* 1920, as subsequently amended, is in this Act referred to as the Principal Act.

2—(1) In this Act, unless the contrary intention appears—

"cord" means the quantity of round or split pulp-wood that can be contained in a stack four feet wide, four feet high, and eight feet long;

Interpretation. Cf. 9 & 10 Geo. VI. No. 64, s. 3.

"licensee" means a person to whom a special licence under section three is granted;

"milling timber" means logs or parts of trees, whether standing or fallen, that are, in the opinion of the Commission, suitable for use for sawmilling purposes, and includes the lower portion of any regrowth tree that is more than sixteen inches in diameter at a height of four feet three inches from the ground;

"pulpwood" means timber other than milling timber;

"pulpwood area" means all the Crown lands in that part of the State that is described in Part I of the first schedule;

"regrowth tree" means a tree the age of which is less than one hundred and ten years;

"reserve area" means all the Crown lands in that part of the State that is described in Part II of the first schedule.

(2) In sections five, six, and seven, a reference to pulpwood or milling timber shall be construed as including a reference to both pulpwood and milling timber.

(3) For the purposes of this Act, if a question arises as to whether any timber is or is not pulpwood or milling timber, that question shall be determined by the Commission, and the decision of the Commission thereon shall be final.

Special
licence to
take pulp-
wood, &c.,
from certain
areas.

3—(1) Notwithstanding anything in the Principal Act, the Commission—

(a) may grant to a person a special licence conferring on that person the exclusive right, subject to this Act, to do all or any of the following things, according as may be specified in the licence, namely:—

(i) To obtain from the pulpwood area during such period (being not less than fifty years or more than eighty years after the grant of that right) as the Commission may determine and as may be specified in the licence such quantity of pulpwood (being not less than thirty thousand cords, or more than forty-five thousand cords, a year) as the Commission may approve;

(ii) To obtain from the reserve area, during the period determined pursuant to subparagraph (i) of this paragraph, such quantity of pulpwood, in addition to the quantity of pulpwood approved under that sub-paragraph, as the Com-

mission may approve but so that the total quantity of pulpwood that may be so obtained from the pulpwood area and the reserve area is not less than fifty-five thousand cords, or more than sixty-five thousand cords, a year;

- (iii) To obtain, during the period determined pursuant to sub-paragraph (i) of this paragraph, from such parts of the pulpwood area as the Commission may approve for the purpose (being parts of the pulpwood area that, in the opinion of the Commission, are not required for the operation, or to be kept in reserve for the purposes, of any sawmill using timber obtained from Crown land within that area) such quantity of milling timber, not exceeding five million superficial feet (computed by Hoppus log measure) a year, as the Commission may approve; and
 - (iv) To obtain, from that part only of the reserve areas as lies to the south of parallel of latitude $43^{\circ} 30'$ South, during the period determined pursuant to sub-paragraph (i) of this paragraph, such quantity of milling timber (in addition to the quantity of milling timber approved under sub-paragraph (iii) of this paragraph) as the Commission, having regard to the working plan referred to in paragraph 2 of the second schedule, may approve (being milling timber that is obtained in conjunction with pulpwood obtained from that part of the reserve area); and
- (b) shall, to such extent as the working of forests is made possible or facilitated by the development of roads, take such steps as may reasonably be necessary to ensure that not less than thirty million superficial feet (computed by Hoppus log measure) of milling timber a year is made available within the pulpwood area, upon the terms and conditions prescribed by or under the Principal Act, for the use of persons operating sawmills using timber obtained from Crown lands within that area.
- (2) A special licence under this section—
- (a) shall be granted subject to the terms and conditions specified in the second schedule and such other terms and conditions as may be agreed upon between the Commission and the licensee and as may be specified in, or indorsed on, the licence; and

- (b) subject to subsection (3) of this section, may, without prejudice to any other penalty that may be imposed, be revoked by the Commission, in its absolute discretion, at any time for non-compliance by the licensee with any of the terms and conditions to which it is subject or with any provisions of the Principal Act or of this Act that are applicable to the licensee.

(3) Notwithstanding anything in paragraph (b) of subsection (2) of this section, a revocation by the Commission of a special licence under this section takes effect only if and when it is approved by the Governor, but upon being so approved is final and is not subject to appeal or review.

Applications
for special
licences:
How applica-
tions may be
dealt with.

4—(1) A person who desires the Commission to grant him a special licence under this section shall make application therefor, in writing, to the Commission, in a form approved by the Commission.

(2) Applications under this section shall be considered by the Commission in the order in which they are received.

(3) Upon receipt of an application under this section the Commission may, in its absolute discretion—

- (a) grant to the applicant a special licence under section three;
- (b) refuse to grant to the applicant a special licence under that section; or
- (c) upon the applicant depositing with the Commission the sum of one thousand pounds, grant to the applicant an option over the pulpwood area for the purposes of investigation.

(4) An option under subsection (3) of this section may be granted so as to have effect for a period not exceeding twelve months after the date on which it is granted, but may be extended by the Commission, in its absolute discretion, for a further period of not more than three months.

(5) While an option under subsection (3) of this section is in force, the Commission shall not grant to any person other than the holder of the option either an option under that subsection or a special licence under section three.

(6) If a person to whom an option under subsection (3) of this section is granted—

- (a) is granted a special licence under section three and complies with the provisions of paragraph 8 of the second schedule, the Commission shall, at the expiration of the period mentioned in that paragraph, refund to that person the sum deposited by him with the Commission pursuant to paragraph (c) of subsection (3) of this section; or
- (b) is not granted a special licence under section three, or, if granted a special licence under that section, does not comply with the provisions of para-

graph 8 of the second schedule, the Commission may, without prejudice to its power to revoke the licence, declare the sum deposited with it by that person pursuant to paragraph (c) of subsection (3) of this section to be forfeited.

(7) A sum that is declared to be forfeited pursuant to paragraph (b) of subsection (6) of this section shall be paid to the credit of the special account mentioned in section thirty-nine of the Principal Act.

5—(1) Notwithstanding anything in the Principal Act or in section three of this Act, the Commission may at any time, by notice in writing, require any person (including a licensee) who is entitled under that Act or under this Act to obtain and remove pulpwood or milling timber from any land within the pulpwood area or the reserve area—

Power of Commission to direct persons to supply pulpwood or milling timber to other persons.

(a) to—

- (i) cut pulpwood or milling timber; and
- (ii) remove, from the land on which he is entitled to obtain it, any pulpwood or milling timber cut in pursuance of the notice,

in such manner as may be specified in the notice;

(b) to separate pulpwood obtained by him on that land from milling timber so obtained by him; and

(c) to sell and deliver in each month to such other persons as the Commission may direct such minimum quantity of pulpwood or milling timber so obtained by him as the Commission may determine and as may be specified in the notice,

but so that the person to whom the notice is given is not required to sell and deliver milling timber to another person until the firstmentioned person has obtained for his own use the approved monthly supply of milling timber.

(2) A person to whom a notice under this section is given shall comply in all respects with the requirements of the notice.

Penalty: Fifty pounds.

(3) In subsection (1) of this section, "approved monthly supply" means such quantity of milling timber per month as the Commission may approve, having regard to the maximum annual quantity of milling timber that a person is authorized, under the Principal Act or this Act, to obtain.

6—(1) A person (including a licensee) who engages in any operations for the cutting and removal of milling timber from the pulpwood area is, notwithstanding anything in the Principal Act, entitled to charge any other person to whom the firstmentioned person sells and delivers, pursuant to a notice under section five, pulpwood or milling timber obtained by

Charges for pulpwood and milling timber supplied pursuant to section 5.

him in the course of those operations, an amount comprising the total of the following amounts, namely:—

- (a) The amount of the actual costs incurred in felling, barking, splitting, snigging, and delivering that pulpwood or milling timber, together with such amount (if any) by way of a toll for the use of roads constructed by the firstmentioned person and used for the purposes of the carriage of that pulpwood or milling timber to the point of delivery as the Commission may approve;
- (b) An amount representing such rate of royalty on that pulpwood or milling timber as the Commission may approve; and
- (c) Such amount as the Commission may approve, being an amount equal to not less than five per cent of the amount specified in paragraph (a) of this subsection.

(2) If a dispute arises with respect to any charge made pursuant to subsection (1) of this section, that dispute shall be determined by the Commission, and, subject to subsection (1) of section seven, a determination by the Commission under this subsection is final and binding on all persons concerned.

(3) For the purpose of enabling the Commission to determine any dispute that may arise with respect to a charge made pursuant to subsection (1) of this section, the Commission may, by notice in writing, require a person concerned in the dispute to produce to the Commission or to an officer of the Commission appointed by the Commission for the purpose all relevant books of account in the possession of that person or to furnish to the Commission or that officer such audited statements and other information as the Commission may require.

(4) A person to whom a notice under subsection (3) of this section is given shall comply in all respects with the requirements of the notice within such time as the Commission may allow in that behalf.

Penalty: Fifty pounds.

Authority to obtain pulpwood and milling timber in certain cases.

7—(1) Notwithstanding anything in section six, if a person to whom any pulpwood or milling timber is required to be sold and delivered pursuant to a notice under section five is dissatisfied with the charges determined by the Commission, pursuant to subsection (2) of section six, in respect of the sale and delivery thereof and that person satisfies the Commission that he is prepared, for a period of not less than twelve months, to obtain that pulpwood or milling timber himself from the pulpwood area or the reserve area, the Commission may authorize that person to enter on such part of the pulpwood area or of the reserve area as the Commission may determine and obtain such quantity of pulpwood or milling timber as the Commission may determine.

(2) An authority under subsection (1) of this section shall be in the form of a licence or permit under the Principal Act, according as the Commission may think most appropriate in the circumstances, and, notwithstanding anything in that Act—

- (a) shall be subject to the observance of such terms and conditions (either in lieu of, or in addition to, the terms and conditions prescribed by or under that Act) as the Commission, in its absolute discretion, may impose; and
- (b) shall continue in force for such period as may be specified therein.

(3) The conditions imposed pursuant to paragraph (a) of subsection (2) of this section may include a condition that the holder of an authority under that subsection shall, on such terms as the Commission may impose, supply to such other persons (including a licensee) as the Commission may direct such kinds and quantities of pulpwood or milling timber obtained thereunder, and at such intervals, as the Commission may direct.

8—(1) The powers and duties conferred and imposed on the Commission by this Act are in addition to, and not in derogation of, the powers and duties conferred and imposed on the Commission by or under the Principal Act, and this Act shall be construed accordingly. Savings.

(2) Except as otherwise provided in this Act or so far as may be necessary for the proper enjoyment of the rights conferred by this Act on a person to whom a special licence under section three is granted, nothing in this Act affects any rights of a person to obtain forest products from any part of the pulpwood area or of the reserve area pursuant to any licence, permit, or other authority granted under the Principal Act.

9 No special licence shall be granted by the Commission under section three at any time after the thirty-first day of December 1964. Limitation of time within which special licences may be granted.

THE FIRST SCHEDULE.

(Section 2.)

Part I—The pulpwood area.

All Crown lands to which the Principal Act applies that are situated within that part of the State that is bounded on the West by meridian 146° 35' East on the North by the Weld River to its junction with the Huon River, and thence by that River and D'Entrecasteaux Channel on the North and East to parallel of latitude 43° 30' South and on the South by that parallel of latitude.

Part II—The reserve area.

All Crown lands to which the Principal Act applies that are situated within that part of the State that lies to the south of parallel of latitude 42° 56' South and to the east of meridian 146° 35' East (exclusive of the area described in Part I of this schedule), but inclusive of all Crown lands within the area of the watersheds of the Russell and Little Denison Rivers.

THE SECOND SCHEDULE.

(Section 3.)

Terms and conditions to which a special licence is subject.

1. Where, in the opinion of the Commission, any part of the pulpwood area or of the reserve area is required for use for any public purpose under the Principal Act or any other Act, the Commission may, by notice in the *Gazette*, exclude that part of that area from the operation of the licence, either indefinitely or for a specified period, and, while a notice under this paragraph is in force, the licensee has no rights over the part of the pulpwood area or of the reserve area, as the case may be, to which the notice relates.

2. All operations carried out by the licensee pursuant to his licence shall be carried out in conformity with a general working plan prepared by the Commission and a logging plan prepared by the licensee for each five yearly period of operations and approved by the Commission (in this schedule referred to as an "approved logging plan").

3.—(1) The licensee shall, if so directed by the Commission, convert into case timber such quantity of the milling timber obtained by him from the pulpwood area (not exceeding one fourth of the quantity so obtained in each year) as the Commission may direct.

(2) In this paragraph, "case timber" means timber that is suitable, or that, by a process of treatment, conversion, or manufacture, is capable of being rendered suitable, for use in the manufacture of cases for fresh fruit or processed fruit.

4. The licensee is responsible for the initiation and carrying out of fire protection activities on any part of the pulpwood area or of the reserve area to which an approved logging plan relates for a period of five years after the approval of the logging plan and for a further period of five years after that part of the area has been cut over pursuant to the approved logging plan.

5. The licensee shall, at all times, comply with such of the provisions of the *Rural Fires Act 1950* as are applicable to him.

6. Subject to paragraph 7 of this schedule, the licensee shall pay to the Commission in respect of all pulpwood and milling timber obtained by him pursuant to his licence royalty at such rates as the Commission may determine.

7. The royalty payable pursuant to paragraph 6 of this schedule—

(a) shall be paid at such times as may be agreed upon between the Commission and the licensee;

(b) shall, in the case of pulpwood or milling timber that is removed by the licensee over any road constructed by the Commission, be increased by such amount as the Commission may, in its absolute discretion, determine; and

(c) shall, in the case of the royalty payable in respect of pulpwood, be reviewed at the expiration of each period of ten years during the currency of the licence.

8. The licensee, during the first two years after the date of issue of the licence, shall expend, to the satisfaction of the Commission, not less than £300,000 in or in connection with operations for obtaining from the pulpwood area pulpwood required for the establishment or expansion of a pulpwood industry.

9. The licensee shall, after the expiration of the period of five years after the granting of the licence, cut and remove at least 30,000 cords of pulpwood in each year.

10. The licensee shall, if so required by the Commission in writing, construct, to the satisfaction of the Commission, such logging roads within the pulpwood area and the reserve area as the Commission may determine to be necessary for the purposes of this Act.
