

HOMES.

No. 68 of 1959.

AN ACT to amend the *Homes Act 1935*.
 [9 December 1959.]

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:—

Short title
and citation.

1—(1) This Act may be cited as the *Homes Act 1959*.

(2) The *Homes Act 1935*, as subsequently amended, is in this Act referred to as the Principal Act.

Sale of
dwelling
houses.

2 Section seventeen of the Principal Act is amended by omitting from subsection (5) the words “a monthly tenant, and shall pay therefor” and substituting therefor the words “a tenant on such terms and conditions as the Director may determine, and at”.

Remedies for
recovery of
instalments.

3 Section thirty-five of the Principal Act is amended by omitting from subsection (2) the words “three months” and substituting therefor the words “one month”.

FORESTRY.

No. 69 of 1959.

AN ACT to amend the *Forestry Act 1954*.
 [9 December 1959.]

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 This Act may be cited as the *Forestry Act 1959*.

2 Section two of the *Forestry Act* 1954 is amended—

Interpretation.

- (a) by omitting from subsection (1) the definition of "cord" and substituting therefor the following definitions:—

" 'approved sawmiller' means a person who is entitled, by virtue of any authority granted to him under the Principal Act, to obtain on, and remove from, the pulpwood area or the reserve area any milling timber;

" 'cord' means—

- (a) the quantity of round or split pulpwood that can be contained in a stack four feet wide, four feet high, and eight feet long; or
- (b) such quantity of pulpwood in any other unit of measurement as the Commission and a licensee may, either generally or in any particular case, agree to regard as the equivalent thereof;"
- (b) by inserting in subsection (1), after the definition of "reserve area", the following definition:—
- " 'working plan' means the working plan prepared by the Commission for the purposes of this Act, and published in the *Gazette* on the second day of November 1959, and includes that working plan as altered from time to time."; and
- (c) by omitting subsection (2).

3 Section three of the *Forestry Act* 1954 is amended—

Special licence to take pulpwood, &c., from certain areas.

- (a) by omitting sub-paragraphs (i) and (ii) of paragraph (a) of subsection (1) and substituting therefor the following sub-paragraph:—

"(i) to obtain from the pulpwood area and the reserve area, in each year during the currency of the licence, such quantity of pulpwood as may be specified in the licence;"

- (b) by inserting after subsection (1) the following subsections:—

"(1A) It is a condition of a special licence under this section that of the total quantity of pulpwood that the licensee is entitled to obtain by virtue of sub-paragraph (i) of paragraph (a) of subsection (1) of this section, not less than thirty thousand cords a year shall be obtained from the pulpwood area, unless

that quantity is not available therefrom by reason of any fire, storm, strike, disease, or other unforeseen circumstance, and that the licensee shall obtain pulpwood from the reserve area only if he is authorized, in writing, so to do by the Commission.

“(1B) If the Commission is satisfied that the operations of the licensee pursuant to his licence are being conducted on such a scale that the annual quantity of pulpwood obtained by him from the pulpwood area is likely to amount to not less than fifty-five thousand cords a year, the Commission shall authorize him to obtain pulpwood from the reserve area.

“(1C) The provisions of subsections (1), (1A), and (1B) of this section shall be construed subject to the terms and prescriptions of the working plan.

“(1D) Subject to this section, a licensee has, during the currency of his licence, the exclusive right to all pulpwood in the pulpwood area and the reserve area.

“(1E) Notwithstanding anything in the foregoing provisions of this section, on the expiration of fifteen years after the date of commencement of the licence, a licensee ceases to have any right to obtain any pulpwood from the reserve area unless the Commission certifies in writing to the Minister that it is satisfied that the licensee's operations are then being conducted on such a scale that the quantity of pulpwood being obtained by him pursuant to his licence amounts to not less than fifty-five thousand cords a year.”;

(c) by inserting before paragraph (a) of subsection (2) the following paragraph:—

“(aa) unless sooner determined in accordance with this Act, continues in force for a period of eighty years after the date of the commencement of the licence.”;

(d) by omitting paragraph (b) of that subsection and substituting therefor the following paragraph:—

“(b) without prejudice to any other penalty that might otherwise be imposed on the licensee, may be revoked in accordance with this section for any contravention by the licensee of, or failure by the licensee to comply with, any of the terms and conditions to which it is subject or any provisions of the Principal Act or of this Act that are applicable to the licensee.”; and

(f) by omitting subsection (3) and substituting therefor the following subsections:—

“(3) If a licensee at any time contravenes or fails to comply with any of the terms and conditions to which his licence is subject or any provisions of the Principal Act or of this Act that are applicable to the licensee, the Attorney-General, on the recommendation of the Commission, may apply to a judge for a summons requiring the licensee to show cause, on a day specified in the summons, why the licence should not be revoked.

“(4) If on the hearing of a summons under this section the licensee fails to prove to the satisfaction of the judge that the contravention or non-compliance was due to inadvertence or to circumstances beyond the control of the licensee or that there was otherwise a reasonable cause therefor and that, in all the circumstances, the contravention or non-compliance should reasonably be excused, the judge may, by order, authorize the Commission to revoke the licence, and thereupon the Commission may revoke it accordingly.

“(5) Evidence in support of, or in opposition to, an application under this section may be given by affidavit or, if the judge so directs, may be given orally, or partly by affidavit and partly orally.

“(6) Subject to subsection (5) of this section, the procedure on the hearing of an application under this section shall be as the judge may direct.

“(7) On the determination of an application under this section, the judge may make such order as to the costs thereof as he may think just.

“(8) In this section, the expression ‘date of commencement of the licence’ means such date as the Commission may, by notice published in the *Gazette*, declare to be the date of the commencement of the licence.”.

4 After section four of the *Forestry Act 1954* the following section is inserted:—

“4A Notwithstanding anything in the Principal Act, the provisions of the working plan relating to—

Alterations of
working
plan.

(a) the basic principles prescribed therein for the full period of the working plan in respect of—

(i) overcutting of permissible annual cuts;

- (ii) under-demand by an industry for milling timber or pulpwood; and
- (iii) the quality and kinds of pulpwood available;
- (b) specifications for pulpwood in respect of defects and dimensions; and
- (c) the respective percentages of pulpwood required to be obtained by a licensee during any period from regrowth trees and from trees other than regrowth trees,

as respectively set forth in the working plan, shall not be altered except by agreement between the Commission and the licensee.”.

5 Section five of the *Forestry Act* 1954 is repealed and the following section is substituted therefor:—

Power of Commission to direct persons to cut timber and supply it to other persons.

“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 a licensee or an approved sawmiller, for such period as is specified in the notice—

(a) to—

- (i) cut, in accordance with the requirements specified in the notice, both pulpwood and milling timber on land within the pulpwood area or the reserve area on which he is entitled to obtain it by virtue of his licence or, as the case may be, his other authority under the Principal Act; and
- (ii) remove from that land any pulpwood or milling timber cut in pursuance of the notice; and

(b) on a roadside or other place specified in the notice, to separate pulpwood so cut from milling timber so cut.

“(2) Where, pursuant to a notice under this section—

- (a) an approved sawmiller cuts pulpwood, he shall sell that pulpwood to a licensee at a roadside or other place approved by the Commission; or
- (b) a licensee cuts milling timber, he shall sell that milling timber at a roadside or other place approved by the Commission to such sawmiller as the Commission may, by notice in writing, specify.

“(3) The Commission shall not exercise the power conferred on it by subsection (1) of this section—

- (a) unless it is satisfied that the exercise of that power is necessary in order to prevent the carrying out of the working plan being affected or

prejudiced by reason of a failure by a licensee and an approved sawmiller to reach agreement with respect to the proper co-ordination of logging operations within the pulpwood area or the reserve area, or both those areas; or

- (b) so as to require a licensee or an approved sawmiller to cut or remove timber from any land other than land on which, at the time of the giving of the notice under that subsection, the licensee or sawmiller is carrying out, or, in accordance with any working plan or logging plan applicable to his operations, is entitled to carry out, operations pursuant to his licence or, as the case may be, his other authority under the Principal Act.

“(4) Where a notice under subsection (1) of this section is given to a licensee or to an approved sawmiller, the licensee or approved sawmiller shall do all such things as may be necessary to ensure that he is in a position to obtain from the relevant land, during the period specified in the notice, such quantity of timber, in addition to that obtained by him for his own use, as he may be required, by virtue of the notice, to obtain.

“(5) If a licensee or an approved sawmiller fails to comply with any of the provisions of this section or with any requirements of a notice under this section, he is guilty of an offence.

Penalty: One hundred pounds.

“(6) If a licensee or an approved sawmiller fails, for a period of two months or more, to comply with the requirements of a notice under this section, the Commission may itself do all such acts and things as it may consider necessary and practicable to ensure the continuity of supplies of pulpwood and milling timber from the land to which the notice relates.

“(7) Nothing in subsection (6) of this section relieves a licensee or an approved sawmiller from any penalty to which he may be liable by reason of his failure to comply with a notice under subsection (1) of this section.”

6 Section six of the *Forestry Act* 1954 is amended—

- (a) by omitting subsections (1) and (2) and substituting therefor the following subsections:—

“(1) If a licensee and an approved sawmiller fail to agree as to the price to be charged for any pulpwood or milling timber required pursuant to a notice under section five to be sold by the licensee or sawmiller, the Commission shall, on the application of the licensee or sawmiller,

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

determine the price to be charged therefor, and shall also determine what, in the opinion of the Commission, would be the fair market price for the pulpwood or milling timber (as the case requires) obtained for his own use by the licensee or sawmiller from the land to which the notice relates.

“(2) The price determined by the Commission pursuant to subsection (1) of this section shall comprise the total of—

- (a) the amount of the costs incurred in felling, snagging, barking, cross-cutting, splitting, and transporting pulpwood or milling timber, together with such amount in respect of the use or hire of any plant or machinery used for the purpose of obtaining the pulpwood or milling timber, and for supervision, camp charges, and other overheads, and also such amount (if any) by way of a toll for the use of any road constructed by the person by whom the pulpwood or milling timber is sold 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) the royalty payable in respect of that pulpwood or milling timber; 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.

“(2A) Subject to subsection (1) of section seven, a determination by the Commission under subsection (1) of this section is final and binding on all persons concerned.

“(2B) In determining, for the purposes of paragraph (a) of subsection (2) of this section, the amount of the toll to be charged for the use of a road, the Commission shall have regard to the costs of construction and maintenance of the road, and the amount of the toll so determined shall be an amount that bears the same proportion to those costs as the quantity of pulpwood or milling timber in respect of which the determination is made bears to the sum of—

- (a) the total quantity of pulpwood and milling timber that, on and after the commencement of the *Forestry Act 1959*, has been taken from the area from which the first-mentioned pulpwood or milling timber was taken; and
- (b) the total quantity of pulpwood and milling timber of commercial value that is estimated by the Commission, as at the date of the determination, to be still available for cutting in that area.”; and
- (b) by omitting from subsection (3) the words “determine any dispute that may arise with respect to a charge made pursuant to” and substituting therefor the words “make a determination under”.

7 Section seven of the *Forestry Act 1954* is amended—

- (a) by omitting subsection (1) and substituting therefor the following subsection:—

Authority to obtain pulpwood and milling timber in certain cases.

“(1) Notwithstanding anything in section six, if a person to whom any pulpwood or milling timber is required to be sold pursuant to a notice under section five is dissatisfied with the price determined by the Commission, pursuant to subsection (1) of section six, in respect of the sale thereof and that person satisfies the Commission that he is able, for a period of not less than two years, to obtain both pulpwood and milling timber himself from the area specified in the notice, at prices at least five per cent lower, in each case, than the prices respectively determined by the Commission pursuant to subsection (1) of section six, the Commission may authorize that person to enter on that area, or such part thereof as the Commission may determine, and obtain such quantities of pulpwood and milling timber as the Commission may determine.”; and

- (b) by omitting subsection (3).

8 After section seven of the *Forestry Act 1954* the following section is inserted:—

“7A If a dispute arises between a sawmiller and a licensee (otherwise than in a case to which section six applies) with respect to the amount to be paid by a licensee to an approved sawmiller for the use of a road constructed by the sawmiller

Determination of amounts to be paid by way of road tolls.

or as to the amount to be paid by an approved sawmiller to a licensee for the use of a road constructed by the licensee, the Commission shall determine the amount to be paid on an equitable basis, having regard to the costs of the construction and maintenance of the road and the quantity of milling timber or pulpwood carried, or estimated by the Commission to be likely to be carried, over the road during such period as the Commission may think relevant.”

The second
schedule.

9 The second schedule to the *Forestry Act 1954* is amended—

(a) by omitting paragraph 2 and substituting therefor the following paragraph:—

“2. All operations carried out by the licensee shall be carried out in conformity with the working plan.”;

(b) by omitting paragraph 4 and substituting therefor the following paragraph:—

“4. The licensee shall, on his own initiative, take prompt action to suppress any fire occurring within, or threatening, any area on which the licensee is directly responsible for carrying out any logging operations.”;

(c) by omitting paragraphs 6 and 7;

(d) by omitting from paragraph 8 the words “for obtaining from the pulpwood area pulpwood required” and by omitting from that paragraph the word “pulpwood” (last occurring) and substituting therefor the words “wood pulp”; and

(e) by omitting paragraph 10 and substituting therefor the following paragraph:—

“10—(1) The licensee shall submit to the Commission for its approval reasonable specifications of any logging roads proposed to be constructed by the licensee within the pulpwood area or the reserve area as are necessary for the operation of any area for the logging of which he is, at any time, directly responsible.

“(2) The licensee shall not construct any logging road within the pulpwood area or the reserve area unless the specifications thereof have been approved by the Commission.

“(3) For the purposes of sub-paragraph (1) of this paragraph, specifications shall be deemed to be reasonable specifications, notwithstanding that they may be sufficient only for the immediate purposes of the proposed logging operations to which they relate, if they are so prepared as to provide for the later development of the road, if required.”.

HUON VALLEY PULP AND PAPER INDUSTRY.

No. 70 of 1959.

AN ACT to encourage the establishment in this State of an industry for the manufacture of wood pulp and paper, and to provide for matters incidental thereto. [9 December 1959.]

WHEREAS Australian Paper Manufacturers Limited, a Preamble. company incorporated in the State of New South Wales and carrying on business in this State, is desirous of establishing in this State the industry of manufacturing wood pulp from pulpwood obtained from forests in the areas described in the first schedule to the *Forestry Act 1954*:

And whereas as the result of investigations made by the Forestry Commission and the company the quantity of pulpwood estimated to be available in those areas is considered to be sufficient for the purposes of the proposed industry: