
FORESTRY ACT (No. 2) 1975

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FORESTRY (No. 2)

No. 75 of 1975

AN ACT to amend the Forestry Act 1920.

[22 December 1975]

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 (No. 2) 1975*. Short title and citation.

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

2 Section 4 of the Principal Act is amended—

Interpretation.

(a) by inserting before the definition of “Assistant Commissioner” the following definitions:—

“ ‘agistment licence’ means a licence of that name issued under section 30;

“ ‘apiary permit’ means a permit granted under section 28A;”;

- (b) by inserting after that definition the following definition:—
 “ ‘ contract of sale ’ means a contract for the sale of forest produce entered into under section 33A; ”;
- (c) by inserting after the definition of “ Department ” the following definition:—
 “ ‘ Departmental road ’ means a road constructed or maintained by the Department pursuant to section 8A; ”;
- (d) by omitting the definition of “ forest officer ” and substituting the following definitions:—
 “ ‘ forest officer ’ means—
 (a) an officer of the Department; or
 (b) a temporary employee of the Department who is authorized to act as a forest officer—
 (i) by warrant under the seal of the Commission; or
 (ii) by notification by the Commission published in the *Gazette*;
 “ ‘ forest permit ’ means a permit granted under section 24;
 “ ‘ forest reserve ’ means land within a State forest that is set apart by the Commission as a forest reserve under section 20; ”;
- (e) by adding at the end of the definition of “ forest produce ” or “ forest products ” the words “ and, in the case of a State forest, includes sand, gravel, clay, loam, and stone ”;
- (f) by inserting after that definition the following definitions:—
 “ ‘ forest produce licence ’ means a licence of that name issued under section 30;
 “ ‘ lease ’ means a forest lease or any other lease granted under this Act;
 “ ‘ licence ’ means an agistment licence, a forest produce licence, or any other licence issued under section 30;
 “ ‘ miner’s right ’ means a document of title of that name issued pursuant to section 13 (1) of the *Mining Act 1929*;
 “ ‘ mining operations ’ has the meaning assigned to that expression by section 2 (1) of the *Mining Act 1929*;

“ ‘mining right ’ means—

- (a) any right accruing under the *Mining Act* 1929 to the holder of a mining tenement;
- (b) any right accruing under section 52 or section 82A of that Act to any person who has made an application to which either of those sections relate;
- (c) any preferential right subsisting (whether or not its exercise has been postponed) under section 60 of that Act; or
- (d) any right accruing under section 61 of that Act to any person who has taken possession of land under that section;

“ ‘ mining tenement ’ has the meaning assigned to that expression by section 2 (1) of the *Mining Act* 1929;

“ ‘ occupation permit ’ means a permit granted under section 28;

“ ‘ permit ’ means an apiary permit, a forest permit, or an occupation permit;

“ ‘ purchaser ’ means the party under a contract of sale with whom the Commission contracts to sell forest produce under section 33A;”;

(g) by adding at the end of the definition of “ State forest ” the words “ or any land purchased by the Minister under section 16 ”;

(b) by inserting after the definition of “ trees ” the following definition:—

“ ‘ warden’s court ’ has the meaning assigned to that expression by section 2 (1) of the *Mining Act* 1929;” and

(i) by adding at the end of the definition of “ working plan ” the word “ land ”.

3 Section 5 of the Principal Act is amended by adding at the end the following subsection:—

Act not to apply to scenic reserves, &c.

“(4) Subject to subsection (3) of section 20, this Act applies to land within a State forest that is set apart as a forest reserve under that section.”.

Forestry
Department.

4 Section 7 (2) of the Principal Act is amended—

(a) by omitting paragraphs (c), (d), and (e) and substituting the following paragraphs:—

“(c) the establishment and tending of forests on Crown lands and the distribution and disposal of forest produce from those lands;

“(d) the granting of all permits, licences, and leases, and the making of all contracts of sale, under this Act;

“(e) the enforcement of the conditions of all permits, licences, leases, and contracts of sale under this Act;” and

(b) by omitting the words “Secretary for Lands” and substituting the words “Director of Lands”.

Right of
Department to
sell timber
from State
forests, &c.

5 Section 8 of the Principal Act is amended by omitting the passage beginning with the words “; and may” and ending with the word “products”.

6 After section 8 of the Principal Act the following sections are inserted:—

Power of
Department to
construct and
maintain works.

“8A The Department may construct or maintain any works that it considers necessary in relation to the matters in respect of which it has the control and management under section 7 (2) or in relation to the transport of forest produce.

Power to make
drains on
adjoining lands.
Cf. 26 Geo. V
No. 82, s. 40.

“8B—(1) The Department may construct, clean, and keep open every drain or watercourse that it deems necessary in and through any land adjoining or near a Departmental road.

“(2) Before entering on any land for the purposes of this section, the Department shall cause to be given to the owner and occupier of the land 14 days’ notice of its intention to enter the land.

“(3) A notice under subsection (2) shall contain such particulars (if any) as may be prescribed.

“(4) The Department shall pay to the owner and occupier of any land compensation for any damage sustained by the owner and occupier respectively by reason of the exercise by the Department of the powers conferred on it by this section, and, in default of agreement, that compensation shall be determined as provided by the *Lands Resumption Act 1957*.

“(5) The Department shall maintain and keep in repair every drain or watercourse constructed by it under this section.

“8C—(1) The Department may carry out on behalf of any person investigations, studies, surveys, or like services relating to the establishment, tending, assessment, management, or harvesting of native or exotic trees, and may impose charges for its services.

Power of Department to carry out certain services.

“(2) The Department shall cause all payments received by it under this section to be credited to the Forestry Fund.

“8D—(1) The Department may impose charges for the use of Departmental roads by persons for the transport of forest products and other goods in the course of carrying on, or for the purposes of, a trade or business.

Power of Department to impose charges for transport of forest products, &c., on Departmental roads.

“(2) The Department shall cause all payments received by it under this section to be credited to the Forestry Fund.”.

7 After section 9 of the Principal Act the following section is inserted:—

“9AA—(1) Subject to subsection (4), the Commission shall, before it commences or causes to be commenced any work for the purpose of exercising the powers and functions that it is authorized to exercise by section 9, consult the Director of Environmental Control on how it may avoid, prevent, or mitigate pollution or substantial alteration of the environment if—

Commission required to consult Director of Environmental Control in certain cases.

- (a) the work appears to the Commission to be of a kind that will or may cause that pollution or alteration; or
- (b) the Director has informed the Commission that, for the reasons given by the Director in relation to the work, he considers it to be work of that kind and those reasons are satisfactory to the Commission.

“(2) In subsection (1), ‘environment’ and ‘pollution’ have the meanings respectively assigned to those expressions by the *Environment Protection Act 1973*.

“(3) The Director of Environmental Control may, on being consulted by the Commission on any matter to which subsection (1) relates, advise the Commission on how best to deal with that matter.

“(4) Subsection (1) does not apply to or in relation to any work of a kind that the Director of Environmental Control has, either generally or specially, advised the Commission is a kind of work in respect of which consultation with him under that subsection is unnecessary.”.

Chief
Commissioner
for Forests and
Assistant.

8 Section 9A of the Principal Act is amended—

- (a) by omitting from subsection (5) the numeral “ 1923 ” and substituting the numeral “ 1973 ”; and
- (b) by omitting subsection (6).

Appointment
of other
officers.

9 Section 10 of the Principal Act is amended by omitting the numeral “ 1923 ” (wherever occurring) and substituting, in each case, the numeral “ 1973 ”.

10 Sections 11 and 12 of the Principal Act are repealed and the following sections are substituted:—

Offences by
forest officers.

“ 11—(1) No forest officer—

- (a) shall hold, or be interested in, a permit, licence, or lease under this Act;
- (b) shall be a party to, or be interested in, a contract of sale under this Act; or
- (c) shall, as principal or agent, trade in, or be interested in a contract for the working or removal of, any forest produce, except with the express permission of the Minister, and on the recommendation of the Commission.

“(2) The Minister may at any time withdraw a permission given by him under subsection (1) (c).

Provisions
relating to the
conduct of
auctions by
forest officers.

“ 12—(1) If so directed by the Commission, a forest officer may in the performance of his duties conduct an auction of forest produce or the rights to forest produce.

“(2) A forest officer who conducts an auction pursuant to subsection (1) is required to hold an auctioneer’s licence under the *Auctioneers and Estate Agents Act 1959*.”.

Reservation
of timber
reserves.

11 Section 18 of the Principal Act is amended by omitting the words “ Secretary for Lands ” (wherever occurring) and substituting, in each case, the words “ Director of Lands ”.

12 Section 20 of the Principal Act is repealed and the following sections are substituted:—

“20—(1) Subject to this section, the Commission may, by Forest reserves. notification published in the *Gazette*, set apart land within a State forest as a forest reserve—

- (a) for use by members of the public for recreational purposes;
- (b) for the preservation or protection of any features of the land of aesthetic, scientific, or other value or interest that the Commission is of opinion should be preserved or protected; or
- (c) for the preservation or protection of the fauna or flora contained in that land or of any such fauna or flora.

“(2) Land shall not be set apart as a forest reserve under this section if it is subject to any right or interest under Part IV.

“(3) The Commission or any other person shall not exercise in relation to a forest reserve the powers vested in it or him under or pursuant to Part IV, except the power to issue a forest produce licence.

“(4) Any land that is set apart as a forest reserve under this section shall be deemed to be land that is required for use for a public purpose under this Act.

“(5) This section and the regulations made under section 60 in relation to forest reserves have effect subject to the *National Parks and Wildlife Act 1970*.

“20A—(1) The Commission shall cause a map of every State forest and every timber reserve to be deposited in the office of the Surveyor-General. Maps to be deposited in Department.

“(2) A map referred to in subsection (1) shall be open to public inspection at any reasonable time without payment of a fee.”.

13 Section 22 of the Principal Act is repealed and the following section is substituted:—

“22—(1) Subject to this section, the Commission shall cause Working plans. to be prepared working plans for State forests.

“(2) A working plan may, in the Commission’s discretion, be in respect of—

- (a) a single State forest; or
- (b) a group of State forests.

“(3) Every working plan—

- (a) shall regulate the management of the State forest or forests to which it relates;
- (b) shall embody the forest policy for the area of forest land to which it relates; and
- (c) shall completely control all matters connected with the State forest or forests to which it relates.”.

New heading to Part IV.

14 The heading to Part IV of the Principal Act is omitted and the following heading is substituted:—

“ PART IV

“ DISPOSAL OF FOREST PRODUCE: PERMITS, LICENCES, CONTRACTS OF SALE, AND LEASES ”.

15 Section 23 of the Principal Act is repealed and the following section is substituted:—

Powers of Commission, &c.

“ 23 The powers that are vested in the Commission or any other person under this Part to dispose of forest produce or to grant permits or issue licences or to enter into contracts of sale for any purpose under this Act shall not be exercised in respect of Crown lands other than State forests and timber reserves without the concurrence of the Director of Lands.”.

Forest permits.

16 Section 24 of the Principal Act is amended—

- (a) by omitting the words “ timber or other forest products ” and substituting the words “ forest produce ”; and
- (b) by adding at the end the following subsection:—
 - “(2) Forest permits granted under this section may be of such classes as are prescribed.”.

Effect of permit.

17 Section 25 of the Principal Act is amended—

- (a) by omitting the words “ A forest permit ” and substituting the words “ Without prejudice to the generality of section 24, a forest permit or a forest permit of a prescribed class ”; and
- (b) by omitting the words “ timber and forest products as are ” and substituting the words “ forest produce as is ”.

Permit may be granted subject to conditions.

18 Section 27 of the Principal Act is amended—

- (a) by omitting subsection (1) and substituting the following subsections:—
 - “(1) A forest permit may be granted subject to such conditions as the Commission may determine.

“(1A) The regulations may prescribe the conditions subject to which a forest permit of any specified kind or class may be granted and, without prejudice to subsection (1), a forest permit of that kind or class shall not be granted otherwise than subject to the conditions so prescribed.”; and

(b) by omitting from subsection (2) the word “The ” and substituting the words “Without prejudice to the generality of subsection (1A), the ”.

19 Section 28 of the Principal Act is amended by omitting subsections (2) and (3) and substituting the following subsections:— Occupation permits.

“(2) An occupation permit may be granted for a period not exceeding 15 years.

“(3) The Commission may renew an occupation permit so long as the aggregate period during which the permit is in force does not exceed 15 years.”.

20 After section 28 of the Principal Act the following section is inserted:—

“28A—(1) The Commission or a forest officer who is authorized, Apiary permits. either generally or specially in that behalf by the Commission, may grant an apiary permit to a person authorizing him to keep bee hives on land within a State forest.

“(2) An apiary permit may be granted for a period not exceeding one year.”.

21 Section 29 of the Principal Act is amended by omitting subsection (2) and substituting the following subsections:— Sale by auction of forest permits.

“(2) The right to be granted a forest permit may be submitted to public auction or tender as may be prescribed.

“(2A) Notwithstanding subsection (2), no right shall be submitted to public auction or tender under that subsection unless the land in respect of which the relevant forest permit is to be granted has been inspected and reported on by a forest officer, and the value of the forest produce on that land has been assessed by the officer and an upset price placed on that forest produce by the Commission.”.

22 Section 30 of the Principal Act is repealed and the following sections are substituted:—

Issue of
licences.

“30—(1) Subject to this section, the following classes of licences may be issued by the Commission or by forest officers authorized either generally or specially in that behalf by the Commission:—

- (a) Forest produce licences;
- (b) Agistment licences; and
- (c) Any other class of licence that may be prescribed.

“(2) A forest officer who is authorized to issue any licence or licences of a class referred to in subsection (1) shall comply with such limitations (if any) as are imposed by the Commission, and with the restrictions prescribed by section 30A, in respect of the issue by him of that licence or those licences.

Forest produce
licences.

“30A—(1) A forest produce licence may be issued for a term not exceeding 3 months.

“(2) A forest produce licence authorizes the licensee and his employees (if any) to cut and take, during the period of the currency of the licence, the forest produce specified in the licence on the State forest, timber reserve, or other Crown land that is defined in the licence and to remove that produce from that land as provided in section 31.

“(3) A forest produce licence may be issued—

- (a) subject to such conditions as the Commission may determine; and
- (b) subject to the payment of—
 - (i) such fees as may be prescribed; and
 - (ii) such royalties on the forest produce cut or taken under the licence as, having regard to such minimum rates of royalty as are prescribed, are specified in the licence.

“(4) The provisions of section 29 (3) apply to the fixing or assessment of the royalties payable under a forest produce licence as they apply to the fixing or assessment of the royalties payable under a forest permit.

“(5) Except in the case of a forest produce licence to which subsection (10) applies, the regulations may prescribe the conditions subject to which a forest produce licence of any specified kind or class may be granted and, without prejudice to subsection (3) (a), a forest produce licence of that kind or class shall not be granted otherwise than subject to the conditions so prescribed.

“(6) The Commission may, before the issue of a forest produce licence relating to any forest produce, submit the produce for sale by public auction or tender.

“(7) Where a sale of forest produce is made by a method referred to in subsection (6), a forest produce licence shall be issued to the person to whom the produce is sold, and the purchase price paid by him shall be deemed to be the royalties that, apart from this subsection, would be payable by him pursuant to subsection (3) (b).

“(8) The Commission may, in any particular case, limit the number of forest produce licences that may be issued in respect of the same area.

“(9) No forest produce licence shall be issued in respect of any land held under an existing forest permit without the consent of the holder of the permit.

“(10) Notwithstanding subsection (9), where the Commission is of the opinion—

- (a) that it is advisable to permit the cutting and taking of a particular species of timber or class of forest produce on land held under an existing forest permit; and
- (b) that the cutting, taking, and removal of that species of timber or class of forest produce are not likely to prejudice the interests of the holder of the permit,

it may, in its absolute discretion, authorize the issue of a forest produce licence or forest produce licences authorizing the cutting and taking of that species of timber or class of forest produce on that land, and its removal from that land, to such person or persons as the Commission may determine.

“(11) Where the Commission authorizes the issue of a forest produce licence or forest produce licences under subsection (10), the licence or licences shall be issued by the Commission or by a forest officer to whom section 30 (1) applies.

“30B—(1) An agistment licence authorizes the licensee to agist Agistment licences. stock on such land within a State forest as is specified in the licence.

“(2) An agistment licence may be issued for a term not exceeding one year.”

23 Section 32 (2) of the Principal Act is amended by inserting after the word “permit” (wherever occurring) the words “or Forfeiture of permit or licence. licence”, in each case.

Application for
forfeiture of
permit.

24 Section 33 (1) of the Principal Act is amended by omitting the word " police " (wherever occurring).

25 After section 33 of the Principal Act the following sections are inserted:—

Contracts of
sale.

" 33A—(1) The Commission may enter into a contract with a person for the sale to him of forest produce from any land within a State forest or timber reserve or on any other Crown land.

"(2) The right to enter into a contract of sale as a purchaser may be submitted to public auction or tender as may be prescribed, and where such a submission is made, the provisions of subsection (2A) of section 29 apply, with the necessary modifications, to the submission as if it were a submission of a right to which that subsection applies.

"(3) A contract of sale may provide that it is to continue for a term not exceeding 15 years.

"(4) The Commission may renew a contract of sale so long as the aggregate term during which the contract is in force does not exceed 15 years.

"(5) A contract of sale shall provide for the payment by the purchaser of the royalties specified in the contract for all forest produce sold to him under the contract.

"(6) The provisions of section 29 (3) apply to the fixing or assessment of the royalties payable under a contract of sale as they apply to the fixing or assessment of the royalties payable under a forest permit.

"(7) A contract of sale may be subject to such terms and conditions as are specified in the contract, being terms and conditions determined by the Commission.

"(8) The regulations may prescribe the terms and conditions to which a contract of sale may be subject and, without prejudice to subsection (7), a contract of sale shall not be entered into otherwise than subject to the terms and conditions so prescribed.

"(9) Without prejudice to the generality of subsections (7) and (8)—

(a) the terms and conditions to which a contract of sale is subject may include terms and conditions relating to—

(i) the obtaining, cutting, and conversion of the forest produce sold under the contract;

- (ii) the marking of that forest produce, its removal from the land from which it has been obtained, and the protection and preservation of timber and other growth on that land that are not sold under the contract;
 - (iii) the cancellation of the contract by the Commission for default by the purchaser in payment of the royalties or fees payable thereunder or on such other grounds as are specified in the contract or the regulations; and
 - (iv) the suspension of any of those terms and conditions or any obligations imposed on the purchaser by this Act, except the obligation to pay royalties or fees; and
- (b) the regulations may impose on the purchaser under a contract of sale similar responsibilities as may be imposed on the holder of a forest permit by the regulations made pursuant to section 27 (2).

“ 33B No royalty is payable for any sand, gravel, clay, loam, or stone taken by the holder of a forest permit or by a licensee under a forest produce licence or a purchaser under a contract of sale that is used by the holder, licensee, or purchaser for the purposes of work carried on by him on Crown land in connection with the taking or obtaining by him of other forest produce pursuant to the permit, licence, or contract.”

Royalties not payable in certain cases.

26 Section 34 of the Principal Act is amended—

Grant of forest leases.

- (a) by omitting from subsection (1) the word “ The ” and substituting the words “ Subject to this section, the ”;
- (b) by omitting from that subsection the words “ fourteen years ” and substituting the words “ 20 years ”;
- (c) by inserting after that subsection the following subsection:—
 - “(1A) The Commission may renew a forest lease so long as the aggregate term during which the lease is in force does not exceed 20 years.”; and
- (d) by omitting subsection (3) and substituting the following subsections:—
 - “(3) Where the Commission has reason to believe that the lessee under a forest lease has committed a breach of a condition to which the lease is subject, the Commission may give to the lessee a notice in writing requiring him,

within the time specified in the notice, to satisfy the Commission that all the conditions of the lease have been complied with, and in default of the Commission being so satisfied by the lessee, the Commission may cancel the lease.

“(4) The Commission shall cause notice of the cancellation of a forest lease under subsection (3) to be published in the *Gazette* and on the publication of the notice the lessee’s interest in the lease ceases and determines without any re-entry or other formal proceeding by the Commission or any person on its behalf.”.

27 After section 34 of the Principal Act the following sections are inserted:—

Forest leases of
land subject to
mining rights.
Cf. 26 Geo. V
No. 35, s. 120A.

“34A—(1) Before granting a forest lease under section 34 in respect of any land within a State forest that is subject to a mining right, the Commission shall cause to be served such notice as may be prescribed on the person in whom the right is vested and shall consider any representations made to the Commission by that person within one month after the service of the notice with respect to the proposal to grant the forest lease.

“(2) If the Commission considers it necessary to do so in order to facilitate, or prevent interference with, mining operations on any land within a State forest that is subject to a forest lease, the Commission may cause a written notice to be served on the lessee directing him not to institute, or to discontinue, any such practice as is specified in the notice.

“(3) Any directions given to a lessee under subsection (2), so long as they remain in force, have effect, for the purposes of subsections (3) and (4) of section 34, as if they were conditions contained in the relevant forest lease.

“(4) Where the Commission is satisfied that a lessee has not complied with a direction given to him under subsection (2), the Commission may cancel his forest lease.

“(5) Except as otherwise expressly provided in this Act, or by the regulations for the purposes of section 21, nothing in a forest lease derogates from any mining right or entitles the lessee to interfere with, or obstruct, the exercise of any mining right, or to interfere with any work constructed or other thing done in the exercise of any mining right.

“ 34B—(1) Where the Commission is satisfied that, by reason of any mining operations being carried out under the *Mining Act* 1929 in, on, or under any land within a State forest that is subject to a forest lease, that land cannot reasonably be used for the purposes for which it is authorized to be used under the lease, the Commission shall, on the written application of the lessee, cancel the lease so far as it relates to that land.

Termination of forest leases in consequence of mining operations.
Ibid., s. 95A.

“(2) Where the Commission cancels a forest lease in relation to any land under subsection (1), the Commission shall determine the rent that is payable under the lease after the cancellation, and in so doing shall make due allowance for the diminution (if any) in the relative value of the land by reason of the reduction in the total area to be held by the lessee, and the rent so determined is payable as provided by the lease.

“ 34C—(1) Subject to this section, where, in the exercise of the rights under the *Mining Act* 1929 of the holder of a mining tenement, damage is occasioned to an improvement in or on land within a State forest that is subject to a forest lease, the lessee may recover from the holder of the mining tenement compensation for the damage so occasioned, unless—

Special provisions as to compensation for damage to improvements to land subject to forest lease by holder of mining tenement.
Cf. 20 Geo. V No. 71, s. 122A.

(a) at the time when the improvement was erected or constructed; and

(b) during the whole period from the time of its erection or construction to the occurrence of the act or operation by reason of which the damage was caused,

the land in or on which the improvement is situated formed part of a mining tenement or was subject to section 52 or section 82A of that Act.

“(2) Subject to this section, where a forest lease is cancelled under section 34B so far as it relates to any land by reason of the exercise of the rights under the *Mining Act* 1929 of the holder of a mining tenement, the lessee may recover from the holder of the mining tenement compensation for any improvement belonging to the lessee in or on the land in relation to which the lease is cancelled, unless—

(a) at the time when the improvement was erected or constructed; and

(b) during the whole period from the time of its erection or construction to the cancellation of the lease,

the land in or on which it is situated formed part of a mining tenement or was subject to section 52 or section 82A of that Act.

“(3) Without prejudice to the rights conferred by subsection (1) or subsection (2)—

- (a) where the holder of a claim under a miner’s right is, by virtue of that holding, liable to pay compensation under this section, the compensation may be recovered from the holder of any lease under the *Mining Act 1929* over any land contained within the claim granted on an application made by the holder of the claim; and
- (b) where the holder of such a lease is liable, by virtue of that holding, to pay compensation under this section, the compensation may be recovered from the holder of any consolidated lease granted on the surrender of that lease.

“(4) Where a lease under the *Mining Act 1929* has been declared forfeited by a warden’s court, the land to which the lease relates shall, for the purposes of this section, be deemed to be comprised within a mining tenement during the period within which the preferential right referred to in section 60 of that Act is, or may become, exercisable in relation to that land.

“(5) Where, consequent upon the forfeiture of a lease under the *Mining Act 1929*, possession of the land to which the lease relates has been taken under section 61 of that Act by the applicant for the forfeiture—

- (a) the land shall, during the continuance of that possession, be deemed, for the purposes of this section, to be comprised within a mining tenement held by that person;
- (b) any rights conferred on him by subsection (4) of that section in relation to that land shall, for the purposes of this section, be deemed to be conferred on him as the holder of that tenement; and
- (c) any compensation which may be recovered from him under this section consequent upon the exercise of those rights may also be recovered from the holder of the lease granted under section 61 of that Act consequent upon the forfeiture.

“(6) The right to recover compensation from any person under this section is enforceable against that person notwithstanding that he has ceased to hold the mining tenement or lease under the *Mining Act 1929* by virtue of which he is liable to pay the compensation, but nothing in this subsection affects any agreement between any of

the persons from whom the compensation may be recovered as to their liability, as between themselves, to meet the cost of the compensation.

“(7) A claim for compensation under subsection (1) or subsection (2) shall be determined by a warden’s court in accordance with the provisions of Part XI of the *Mining Act* 1929 as if it were a claim for compensation under section 122A of that Act.

“(8) The following provisions apply in relation to a claim for compensation under subsection (1) with respect to any improvement in or on any land:—

- (a) No compensation shall be awarded if the forest lease so far as it relates to that land has been cancelled under section 34B;
- (b) No claim for the compensation may be made while an application under section 34B is pending for the cancellation of the forest lease so far as it relates to that land; and
- (c) The warden’s court may refuse to determine the compensation until an application has been made, and determined under section 34B, for the cancellation of the forest lease so far as it relates to that land or such part of it as the court may determine.

“(9) In determining any claim for compensation under subsection (2) for any improvement, regard shall be had to any compensation previously awarded under subsection (1) in respect of that improvement.”.

28 Section 36 of the Principal Act is amended—

Sawmills to be registered.

- (a) by omitting from subsection (2) the words “one hundred dollars” and substituting the amount “\$50”; and
- (b) by omitting from subsection (3) the words “Penalty: One hundred dollars and a daily penalty of ten dollars.” and substituting the words “Penalty: \$500.”.

29 Section 39 of the Principal Act is amended—

Gross revenue to be applied for forestry purposes.

- (a) by omitting from subsection (1) the words “Except as provided by subsection (2) hereof, in” and substituting the word “In”; and
- (b) by omitting subsection (2).

30 Section 40 of the Principal Act is repealed and the following section is substituted:—

Interpretation. “ 40 For the purposes of this Part, ‘ revenue of the Department ’ includes—

- (a) all royalties and the proceeds of the sale of forest produce;
- (b) all fees, rents, and other charges payable under this Act; and
- (c) damages awarded for offences against this Act.”.

Offences against officers.

31 Section 41 of the Principal Act is amended—

- (a) by omitting from subsection (1) (b) the words “ such person shall be liable to a penalty of one hundred dollars.”; and
- (b) by adding at the end of that subsection (in alignment with its commencement) the words “ that person is liable to a penalty of \$250.”.

False entries or returns.

32 Section 42 of the Principal Act is amended by omitting the words “ two hundred dollars ” and substituting the amount “ \$500 ”.

Damaging by fire.

33 Section 43 of the Principal Act is amended by omitting the words “ such person shall be liable to a penalty of not less than twenty dollars and not more than one hundred dollars, and in addition shall be ” and substituting the words “ that person is liable to a penalty of \$1 000, and in addition is ”.

34 Section 44 of the Principal Act is repealed and the following section is substituted:—

Reasonable measures to extinguish fires to be taken by holders of permits, &c., and purchasers under contracts of sale.

“ 44—(1) Every person who is—

- (a) the holder of a permit, licence, or lease; or
- (b) a purchaser under a contract of sale,

shall take all reasonable measures to extinguish bush fires on the land to which his permit, licence, lease, or contract relates.

“(2) Failure to comply with the provisions of this section constitutes a forest offence.”.

Unlawfully ringbarking trees, &c.

35 Section 45 of the Principal Act is amended by omitting subsection (1) and substituting the following subsections:—

“(1) A person who, without lawful authority—

- (a) cuts, saws, ringbarks, destroys, damages, or takes from a State forest, timber reserve, or other Crown land any tree or other forest produce;

(b) strips bark from a tree in a State forest, timber reserve, or other Crown land; or

(c) takes, interferes with, or damages any building, fence, or goods that are the property of the Department and that are in or on any State forest, timber reserve, or other Crown land,

is liable to a penalty of \$500 and, in addition, is liable for the full amount of any damage done, or loss involved, by reason of his act.

“(1A) Without limiting the generality of the expression ‘ goods ’ in subsection (1), that expression includes materials, vehicles, tools, and mechanical equipment.”.

36 Section 46 of the Principal Act is repealed and the following section is substituted:—

“ 46 Except in pursuance of a permit, licence, or lease, a person Offences in State forests. who—

(a) depastures any stock in a State forest; or

(b) occupies, clears, or breaks up any land in a State forest for cultivation or any other purpose,

commits a forest offence.”.

37 After section 47 of the Principal Act the following section is inserted:—

“ 47A—(1) Where a person who is authorized to enforce a provision of this Act has reasonable grounds for believing that another person has committed, or is committing, an offence against that provision, he may require that other person to state his name and the address of his abode. Power to require offenders to disclose identity.

“(2) A person who, when required under this section to state his name and the address of his place of abode, fails or refuses to give his full name and that address or gives a name or address that is false commits a forest offence.”.

38 Section 48 (1) (a) of the Principal Act is amended by omitting the words “ not less than four dollars nor more than one hundred dollars ” and substituting the amount “ \$500 ”. Penalty for forest offence.

39 After section 49 of the Principal Act the following section is inserted:—

“ 49A—(1) Notwithstanding any other law or rule of law, where a person as the employee of another person (in this section referred to as ‘ the employer ’) commits an offence against this Act, the Liability of employer for offence by employee. Cf. 25 Geo. V No. 63, s. 35B.

employer is guilty of an offence against this Act in like manner as the employee (whether or not the offence was committed without his authority or contrary to his orders or instructions) and may be proceeded against and convicted accordingly unless he proves that he had no knowledge of the commission of the offence and could not, by the exercise of due diligence, have prevented the commission of the offence.

“(2) The employer may be proceeded against and convicted pursuant to subsection (1) notwithstanding that the employee has not been proceeded against or has not been convicted under this Act.

“(3) Nothing in subsection (1) prejudices or affects any liability imposed by or under this Act on a person by whom an offence against this Act is actually committed.

“(4) In this section, ‘employee’ includes a contractor, whether independent or otherwise.”.

Penalty to be
in addition to
fines under
permit or lease.

40 Section 51 of the Principal Act is amended by omitting the words “any permit or licence granted or issued under this Act,” and substituting the words “a permit, licence, or contract of sale”.

Seizure and
forfeiture of
timber and
products.

41 Section 53 (2) of the Principal Act is amended by omitting the words “one hundred dollars” and substituting the amount “\$500”.

Procedure on
seizure.

42 Section 54 (c) of the Principal Act is amended by omitting the words “*Justices Procedure Act 1919*” and substituting the words “*Justices Act 1959*”.

Seizure of
timber, &c.,
irregularly cut.

43 Section 55 (2) of the Principal Act is amended by omitting the word “twelve” and substituting the numeral “9”.

Imposition of
penalties by
Commission in
certain cases.

44 Section 56A (1) of the Principal Act is amended by omitting the words “forest permit, occupation permit, licence, timber lease, or forest lease” and substituting the words “permit, licence, or lease or the purchaser under a contract of sale”.

Timber from
private property
to be marked in
certain cases.

45 Section 59 (2) of the Principal Act is amended by omitting the words “forty dollars” and substituting the amount “\$100”.

46 After section 59A of the Principal Act the following section is inserted in Part VII:—

Notice to be
given in certain
cases in
relation to
proposed cutting
of timber.

“59B—(1) Subject to this section, a person (including the Crown) who, being the owner of any land, intends to cut, or cause to be cut, more than 40 cubic metres of timber growing on a part of the land that is within 400 metres of the common boundary of that

land and land owned by another person (including the Crown) shall give notice to that other person of his intention to do so at least two weeks before the cutting of the timber is commenced.

“(2) The following provisions apply to the giving of a notice under subsection (1):—

- (a) Subject to paragraph (b), the notice shall be given in writing delivered or sent by post to the person to whom it is directed; and
- (b) Where it is not practicable to give the notice in accordance with paragraph (a), that notice may be given verbally to that person, but in such a case it shall be confirmed in writing as soon as is reasonably practicable.

“(3) An owner of land who contravenes or fails to comply with any of the provisions of this section is liable to a penalty of \$100.”.

47 Section 60 of the Principal Act is amended—

Regulations.

(a) by omitting paragraph (e) of subsection (1) and substituting the following paragraphs:—

“(e) prescribing the forms of permits, licences, leases, and contracts of sale and the forms of application for, and transfers and surrenders of, permits, licences, and leases;

“(ea) prescribing the periods for which permits may be granted, the terms for which licences and leases may be issued, and the terms for which contracts of sale may be entered into;

“(eb) regulating the manner of applying for permits, licences, and leases and the terms and conditions under which permits, licences, and leases shall be held, transferred, determined, cancelled, surrendered, or withdrawn;”;

(b) by omitting paragraph (i) of that subsection and substituting the following paragraphs:—

“(i) prescribing—

(i) the amount of minimum prices or rates of royalty to be paid in prescribed cases;

(ii) the rents, fees, dues, and charges payable in respect of permits, licences, and leases;

- (iii) the fees and charges payable in respect of contracts of sale;
- (iv) that, in respect of permits, licences, and leases held in connection with prescribed industries, special and differential rents, royalties, fees, dues, and charges shall be payable; and
- (v) that, in respect of contracts of sale entered into in connection with prescribed industries, special and differential royalties, fees, and charges shall be payable;

“(ia) prescribing the method of measuring any kind or species of forest produce specified in the regulations for the purpose of determining the royalties payable in respect of that kind or species;”;

(c) by omitting paragraph (s) of that subsection and substituting the following paragraph:—

“(s) requiring every person who is the holder of a permit or licence or the purchaser under a contract of sale to produce for inspection by the Commission or a person acting under its authority every book of account, mill return, and other document connected with that permit, licence, or contract of sale;”;

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

“(w) enabling forest officers to stop, detain, or seize any forest produce within the boundaries of any State forest, timber reserve, or other Crown land or on any country road or subsidiary road as defined in the *Roads and Jetties Act 1935*;”;

(e) by omitting paragraph (y) of that subsection and substituting the following paragraph:—

“(y) requiring every person who is the holder of a permit or licence, the purchaser under a contract of sale, or the owner of a private forest to register in the Commission’s office and retain the use of a brand whereby timber cut in, or proceeding from, his holding or cut pursuant to

the contract may be distinguished from any other timber and prescribing the manner of, and the fees to be paid for, that registration;”;

(f) by omitting from paragraph (za) of that subsection the words “under this Act” and substituting the words “or to which a contract of sale relates”;

(g) by adding at the end the following paragraphs:—

“(zd) making provision for or with respect to—

- (i) the prohibition or control of the bringing of any conveyance or thing (including a living thing) into, or over, or the use or possession in or over, a forest reserve or part thereof or other land within a State forest;
- (ii) the exclusive use of any road or other improvement in a forest reserve or other land within a State forest by such persons or conveyances, or such classes of persons or conveyances, as are prescribed or as are determined by the Commission;
- (iii) the use of any improvement referred to in sub-paragraph (ii) by such persons or conveyances, or such classes of persons or conveyances, as are prescribed or as are determined by the Commission, and prescribing restrictions and conditions subject to which that improvement may be used by any other persons, conveyances, or classes of persons or conveyances as are prescribed or as are determined by the Commission;
- (iv) the conduct of members of the public in forest reserves;
- (v) the preservation or protection of the fauna or flora in forest reserves;
- (vi) the prevention of damage or injury to forest reserves or to any property or other things in them;

(vii) the preservation or protection of the property or other things in forest reserves; and

(viii) the prohibition or control of the removal of any property or other things from forest reserves; and

“(ze) authorizing a forest officer or other prescribed person who finds a person offending against the provisions of the regulations made for the purposes of paragraph (zd) to require that person to leave the forest reserve or other land within a State forest in which he is so found offending and providing that, if such a person refuses to do so, or does not do so with reasonable expedition, he is guilty of an offence against those regulations.”; and

(b) by omitting subsection (2) and substituting the following subsections:—

“(2) Any regulations made under paragraph (zd) of subsection (1)—

(a) may confer powers and discretions on the Commission and on forest officers and other prescribed persons in relation to the matters referred to in that paragraph; and

(b) may apply generally to forest reserves or other lands within State forests or to any specified forest reserve or other land within a State forest.

“(2A) For the purposes of subsection (1) (zd), ‘conveyance’ means any vehicle, vessel, or aircraft, or any other contrivance intended for the carriage of persons or goods over land or water or in the air.

“(2B) The regulations may impose a penalty not exceeding \$500 for an offence against the regulations or for a contravention or failure to comply with any provision, term, or condition contained in a permit, licence, lease, or contract of sale.”.