
FORESTRY AMENDMENT ACT 1980

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FORESTRY AMENDMENT ACT 1980

No. 95 of 1980

AN ACT to amend the Forestry Act 1920 for the purpose of authorizing the preparation and approval of forest management plans in respect of Crown land that is both reserved land within the meaning of the National Parks and Wildlife Act 1970 that is set aside for a conservation purpose and land in a State forest or timber reserve or other area used for forestry operations, and for related matters.

[Royal Assent 19 December 1980]

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 Amendment Act 1980*. Short title.

2—This Act shall commence on the seventh day after the date of assent to this Act. Commencement.

3—In this Act, the *Forestry Act 1920** is referred to as the *Principal Act*. Principal Act.

* 11 Geo. V No. 60. For this Act, as amended to 1st September 1977, see the continuing Reprint of Statutes, Volume II. Subsequently amended by No. 117 of 1977.

Amendment of section 4 of Principal Act (Interpretation).

4—Section 4 of the Principal Act is amended by inserting the following definition after the definition of “forest lease”:

“forest management plan” means a forest management plan prepared under section 22B;

Amendment of section 22 of Principal Act (Working plans).

5—Section 22 (3) (c) of the Principal Act is amended by inserting “, subject to section 22G where the area of that forest land is also land to which a forest management plan applies,” after “shall”.

Insertion in Principal Act of new Part IIIA.

6—After section 22 of the Principal Act, the following Part is inserted:—

PART IIIA

FOREST MANAGEMENT PLANS

Interpretation.

22A—In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

“conservation land” means reserved land within the meaning of the *National Parks and Wildlife Act 1970* that is not, or does not form part of, a State reserve or game reserve within the meaning of that Act;

“Director” means the Director of the National Parks and Wildlife Service;

“forestry right” means a private right conferred by or under this Act and subsisting immediately before the commencement of the *Forestry Amendment Act 1980* or a private right conferred or to be conferred by or under any of the following Acts as in force immediately before that commencement—

(a) the *Wood-pulp and Paper Industry Encouragement Act 1926*;

(b) the *Florentine Valley Paper Industry Act 1935*;

(c) the *Associated Pulp and Paper Mills Act 1936*;

(d) the *National Park and Florentine Valley Act 1950*;

(e) the *Forestry Act 1954*;

(f) the *Huon Valley Pulp and Paper Industry Act* 1959;

(g) the *Wesley Vale Pulp and Paper Industry Act* 1961;

(h) the *Pulpwood Products Industry (Eastern and Central Tasmania) Act* 1968;

“ private right ” means an estate, interest, or right in or over Crown land (not being an interest arising under a contract for the grant of an estate in fee simple) pursuant to which its holder has the right to occupy or use that land, or to carry out any operations on it, or to take any products of that land, or materials in it, including materials beneath the surface of the land;

“ statutory power ” means a power under an enactment for the reservation or dedication of Crown land for any purpose, or for the alienation of, or the grant of private rights in or over, any such land, or for the carrying out of any works or other operations on any such land.

22B—(1) The Commission may, and shall, if so directed by the Minister in relation to a particular area of land, cause to be prepared, with a view to its or their being submitted to the Governor for his approval under section 22E, a plan or plans for the management of Crown land that is conservation land and that is, or forms part of—

Preparation
of forest
management
plans.

(a) a State forest;

(b) a timber reserve; or

(c) land subject to a forestry right.

(2) A forest management plan prepared under this section may be a plan that provides, in whole or in part, for the rescission, replacement, or alteration of a forest management plan that has been previously approved by the Governor under section 22E.

22C—(1) A forest management plan—

Contents of
forest manage-
ment plans.

(a) shall indicate the nature and location of forest operations to be carried out on the land to which it applies during the period referred to in paragraph (b);

- (b) shall specify the period during which the plan is to remain in force; and
 - (c) shall state that the plan may, within the period referred to in paragraph (b), be altered by another forest management plan approved by the Governor under section 22E.
- (2) A forest management plan—
 - (a) may, in so far as those purposes are not required to be indicated in the plan in pursuance of subsection (1) (a), indicate the purposes for which, or the manner in which, the land to which it relates or any part of that land is to be used, developed, or managed; and
 - (b) may contain any other provisions that are authorized by this Act to be contained in the plan.
- (3) A forest management plan may prohibit or restrict the exercise of any statutory powers in relation to the land to which the plan applies.
- (4) Before and during the preparation under section 22B of a forest management plan in respect of an area of conservation land, the Commission shall consult the Director about the proposed plan and shall, by written notice given to the Director, request him to provide it with written recommendations on any aspect of the plan including the Director's recommendations for the inclusion in the plan of provisions that he considers are necessary or desirable for the preservation of that area as conservation land and, without limiting the generality of the foregoing provisions of this subsection, to provide it with written recommendations for the inclusion in that plan of any restriction on the exercise of a statutory power the inclusion of which the Director considers to be necessary or desirable.
- (5) Where the Commission considers that an Act administered in or by means of a department or State instrumentality or authority will or may be affected by a restriction on the exercise of a statutory power that it is proposed to include in a forest management plan, being a statutory power the right to exercise which is conferred on—
 - (a) the responsible officer of the department, instrumentality, or authority;

- (b) a person employed in the department or employed by or in the instrumentality or authority (not being the responsible officer of the department, instrumentality, or authority);
- (c) the instrumentality or authority, in the case of an Act administered in or by means of a State instrumentality or authority; or
- (d) the Minister responsible for the administration of the department, instrumentality, or authority,

the Commission shall, by written notice given to the responsible officer of the department, instrumentality, or authority, request him to provide it with written representations stating whether or not the officer considers the inclusion of the restriction in the plan to be necessary or desirable and giving his reasons for making the representations.

(6) For the purposes of subsection (5), “responsible officer” means—

- (a) in relation to a department, the permanent head of the department for the purpose of the *Public Service Act* 1973 or, if there is no permanent head, the principal officer of the department; and
- (b) in relation to a State instrumentality or authority, the president, chairman, or other principal or presiding member of the instrumentality or authority or, if the instrumentality or authority comprises a single person, that person.

(7) The Commission may, in a notice given by it for the purposes of subsection (4) or (5), specify a time, being not less than 30 days after the date of the receipt of the notice by the person to whom it is given, in which—

- (a) in the case of a notice under subsection (4), the Commission shall be provided with recommendations for the purposes of that subsection; or
- (b) in the case of a notice under subsection (5), the Commission shall be provided with representations for the purposes of that subsection.

(8) Where a notice is given for the purposes of subsection (4), the notice may specify a time, being not less than 30 days after the date of the receipt of the notice by the person to whom it is given, in which a consultation shall take place for the purposes of that subsection.

(9) A notice given for the purposes of subsection (4) or (5) may be sent by post, or delivered personally, to the person to whom it is directed.

(10) For the purposes of this section, “restriction”, in relation to a restriction imposed on the exercise of a statutory power, means a restriction specifying a condition subject to which the power may be exercised or specifying the circumstances in which it may or may not be exercised.

(11) For the purposes of subsection (10), “condition”, in relation to a condition imposed on the exercise of a statutory power, means a condition requiring—

- (a) the carrying out, or designed to facilitate or promote the carrying out, of works and other operations during or after the exercise of that power; or
- (b) the entering into of contracts or the making of any other arrangements designed to secure the carrying out of those works or operations.

22D—(1) Where a forest management plan has been prepared under section 22B in respect of conservation land, the Minister—

- (a) shall furnish the National Parks and Wildlife Advisory Council with a copy of the plan; and
- (b) shall cause to be published in at least 3 newspapers circulating in the State a notice—
 - (i) stating that it is proposed to submit a forest management plan in respect of that land to the Governor for his approval;

Publicity required to be given to forest management plans before their submission to the Governor.

- (ii) containing a description of that land;
- (iii) specifying the place at which the plan may be inspected and copies of it obtained; and
- (iv) stating that representations with respect to the plan may be made to the Minister before such date as is specified in the notice, being not earlier than 30 days after the publication of the notice.

(2) Where a notice has been published under subsection (1) in respect of a forest management plan, the Commission shall, on the request of any person and on payment by him of such charges (if any) as the Minister may fix, furnish that person with a copy of the plan.

22E—(1) Subject to this section, the Minister shall submit a forest management plan to the Governor for his approval after the Minister—

Submission of forest management plans for Governor's approval.

- (a) has consulted generally the Ministers who respectively administer the *National Parks and Wildlife Act* 1970 and any Act that the Minister considers will or may be affected by a restriction on the exercise of a statutory power included in the plan; and
- (b) has considered any representations with respect to the plan made to him—
 - (i) by the National Parks and Wildlife Advisory Council within 30 days after the Council has been furnished with a copy of the plan or within such further time as the Minister may authorize; and
 - (ii) by any other person in response to a notice published in respect of the plan under section 22D (1).

(2) A forest management plan submitted for the Governor's approval under subsection (1) may be an unaltered plan or a plan containing such alterations as, subject to subsection (3), the Minister thinks desirable, having regard to the consultations made by him, and the representations made to him, that are referred to in subsection (1).

(3) The Minister shall not make alterations to a forest management plan, being alterations that will affect a restriction on the exercise of a statutory power included in the plan, unless those alterations have been the subject of a previous consultation between him and the Minister administering the Act under which that statutory power is exercised.

(4) Where a forest management plan submitted for the Governor's approval under subsection (1) contains alterations pursuant to subsection (2), the Governor shall not approve the plan unless he is satisfied—

(a) that the Commission has complied with the provisions of this Part in relation to the plan; and

(b) on a certificate under the common seal of the Commission, that each of those alterations—

(i) does not materially and adversely affect any existing forestry rights in respect of the land to which the plan applies; or

(ii) has been consented to by the person whose existing forestry rights in respect of that land may be so affected.

(5) The Governor shall not approve a forest management plan that is an unaltered plan unless the Commission has complied with the provisions of this Part in relation to the plan.

Notification
and taking
effect of
approved
forest manage-
ment plans.

22F—(1) The Minister shall, forthwith after the Governor has approved a forest management plan under section 22E, cause notice of the approval of the plan to be published in the *Gazette*.

(2) A forest management plan takes effect on the seventh day after the date of notice of its approval has been published as required by subsection (1).

(3) When notice of the approval of a forest management plan has been published under subsection (1), the Commission—

(a) shall, on the request of any person and without the payment of a fee, permit that person to inspect the plan; and

- (b) if it is practicable, shall, on the request of any person and on payment by him of such charge (if any) as the Minister may fix, furnish that person with a copy of the plan.

22G—(1) Where, immediately before the date on which a forest management plan takes effect as provided in section 22F (2), a working plan in force in respect of an area of land that is, or forms part of, land to which the forest management plan relates contains a provision in respect of that area that is inconsistent with a provision in the forest management plan, the last-mentioned provision shall prevail on and after that date and, on and after that date, the first-mentioned provision shall, to the extent of the inconsistency, have no effect during the period for which the forest management plan remains in force.

Provisions in forest management plans to prevail over inconsistent provisions in working plans.

(2) In this section, “working plan” means a working plan under section 22 or a working plan under any other enactment.

7—(1) Section 60 (1) (zd) of the Principal Act is amended as follows:—

Amendment of section 60 of Principal Act (Regulations).

- (a) by omitting from subparagraph (i) “forest;” and substituting “forest or land to which a forest management plan applies;”;
- (b) by inserting in subparagraph (ii) “or in land to which a forest management plan applies” after “State forest”;
- (c) by omitting from subparagraphs (iv), (v), (vii), and (viii) “reserves;” and substituting, in each case, “reserves or lands to which forest management plans apply;” and
- (d) by inserting in subparagraph (vi) “or lands to which forest management plans apply” after “reserves”.

(2) Section 60 (1) (ze) of the Principal Act is amended by omitting “or other land within a State forest” and substituting “, other land within a State forest, or land to which a forest management plan applies”.

(3) Section 60 (2) of the Principal Act is amended by omitting paragraph (b) and substituting the following paragraph:—

(b) may apply generally to forest reserves, other lands within State forests, or lands to which forest management plans apply or to a specified forest reserve or other land within a State forest or to land to which a specified forest management plan applies.

(4) Section 60 (2B) of the Principal Act is amended by omitting “or contract of sale” and substituting “contract of sale, forest management plan, or working plan”.