



SOFTWOOD FORESTRY

No. 65 of 1978

ANALYSIS

1. Short title.
2. Execution of agreement authorized.
3. Power to borrow.
4. Payment of interest and repayment of principal and of advances.



AN ACT to authorize the execution on behalf of the State of an agreement between the Commonwealth and the State in connection with softwood forestry, and to authorize the borrowing and repayment of money and the payment of interest thereon for the purposes of the agreement.

[20 December 1978]

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 *Softwood Forestry Act 1978*.

Short title.

Execution of
agreement
authorized.

2 The execution, on behalf of the State, of an agreement substantially in accordance with the form set out in the Schedule is authorized.

Power to
borrow.

3 The Treasurer may borrow moneys from the Commonwealth for the purposes of the agreement executed in pursuance of this Act and may apply those moneys as provided in that agreement.

Payment of
interest and
repayment of
principal and
of advances.

4 The fund created under section 39 of the *Forestry Act* 1920 may be expended in payment of interest as provided in the agreement executed in pursuance of this Act, in the refunding of advances made to the State thereunder, and in the repayment of principal moneys as provided therein.

THE SCHEDULE

(Section 2)

AN AGREEMENT made the _____ day of _____ One
thousand nine hundred and seventy-
between—

THE COMMONWEALTH OF AUSTRALIA (in this agreement called "the Commonwealth") of the one part; and

THE STATE OF TASMANIA (in this agreement called "the State") of the other part.

WHEREAS—

- (A) in pursuance of agreements between the Commonwealth and the State authorized by the *Softwood Forestry Agreements Act* 1967, the *Softwood Forestry Agreements Act* 1972 and the *Softwood Forestry Agreements Act* 1976, the Commonwealth has provided financial assistance to the State to meet part of its expenditure on planting softwoods during the eleven years commencing on the 1st July 1966, being planting carried out by or on behalf of the State in order to establish softwood plantations on land not planted with softwoods before that date;
- (B) the Commonwealth considers that financial assistance should be provided to the State for the purpose of tending during the five years commencing on the 1st July 1977 the softwoods planted by the State in consequence of the financial assistance provided by the Commonwealth pursuant to those agreements;
- (C) the State wishes to have financial assistance for tending the said plantings and is prepared to apply the financial assistance for that purpose; and

- (D) in order that financial assistance may be so provided to the State, the Parliament of the Commonwealth has authorized the execution on behalf of the Commonwealth of an agreement with a State in the form of this agreement and the grant of financial assistance on the terms and conditions contained in the agreement so made:

NOW IT IS HEREBY AGREED as follows:

Definitions

1. (1) In this agreement, unless the contrary intention appears—
 - “ financial year ” and “ year ” means a period of twelve months ending on the thirtieth day of June;
 - “ planting ” means planting of softwoods carried out by or on behalf of the State for the purpose of establishing softwood plantations during the previous period;
 - “ tending planting ” means, in relation to planting—
 - (a) weeding;
 - (b) cleaning;
 - (c) fertilising;
 - (d) non-commercial thinning;
 - (e) coppicing;
 - (f) pruning;
 - (g) protecting against disease, pests and fire;
 - (h) maintaining necessary fencing and roads,
 and such other activities as are approved by the Commonwealth Minister;
 - “ the Acts ” means the Softwood Forestry Agreements Act 1967, the Softwood Forestry Agreements Act 1972 and the Softwood Forestry Agreements Act 1976 of the Parliament of the Commonwealth;
 - “ the Commonwealth Minister ” means the Minister of the Commonwealth for the time being administering the Acts and the Act by which this agreement is authorized;
 - “ the Minister for Finance ” means the Minister for Finance of the Commonwealth;
 - “ the previous period ” means the period commencing on the 1st July 1966 and ending on the 30th June 1977; and
 - “ the State Treasurer ”, means the Treasurer of the State.
- (2) In this agreement—
 - (a) a reference to a Minister includes a Minister of the Commonwealth or of the State who is for the time being acting for or on behalf of that Minister;
 - (b) a reference to a clause is, unless the reference otherwise indicates, to the designated clause of this agreement; and
 - (c) a reference to a sub-clause is, unless another clause is indicated, to the designated sub-clause of the clause in which the reference appears.

Financial Assistance

2. (1) Subject to compliance by the State with the provisions of this agreement, the Commonwealth will, in accordance with and subject to the provisions of this agreement, provide financial assistance to the State of amounts calculated in accordance with this clause to assist the State in meeting expenditure on tending planting during the years commencing on the first day of July in the years 1977, 1978, 1979, 1980 and 1981 (in this agreement called "the five financial years").

(2) Subject to sub-clause (3), the amount of financial assistance to be provided by the Commonwealth to the State in respect of each year of the five financial years shall be the amount (which amount is for the purposes of sub-clause (4) referred to as "the eligible expenditure" of the State) that bears to expenditure in that year on tending planting the same proportion as the total area of the planting for which financial assistance was provided to the State in accordance with the Acts bears to the total area of planting of the State during the previous period.

(3) Except as provided in sub-clause (4) and (5), the amount of the financial assistance to be provided by the Commonwealth to the State in respect of the first of the five financial years shall not exceed the amount set out in the second column of the Schedule to this agreement opposite the reference to the State in the first column of the Schedule.

(4) In the event that, in respect of the first of the five financial years—

(a) the total sum of the amounts of financial assistance payable to States, including the State, under agreements authorized by the legislation referred to in recital (D) of this agreement, otherwise than by virtue of the equivalent in each agreement of this sub-clause, is less than Four million two hundred thousand dollars (\$4,200,000); and

(b) the eligible expenditure of the State is in excess of the amount referred to in sub-clause (3),

the amount which the financial assistance to which the State is entitled under sub-clause (2) is not to exceed by virtue of sub-clause (3) shall be increased by adding to the amount referred to in sub-clause (3) the additional amount calculated in accordance with sub-clause (5).

(5) The additional amount for the purposes of sub-clause (4) shall be the amount which bears the same proportion to the amount by which the total sum referred to in paragraph (a) of sub-clause (4) is less than 4,200,000 dollars as the excess referred to in paragraph (b) of that sub-clause bears to the total of that excess and any excesses of the States under the equivalent of this clause in the agreements with other States referred to in paragraph (a) of sub-clause 4.

Payments by Commonwealth

3. (1) The Commonwealth will, from time to time, at the request of the State and subject to the provisions of this agreement, make payments to the State of amounts of financial assistance to be provided under this agreement.

(2) The State will furnish to the Minister for Finance such documents and other evidence in support of each request by the State for a payment to it by the Commonwealth under sub-clause (1) as the Minister for Finance may from time to time reasonably request, whether the request by the Minister for Finance is made before or after the Commonwealth has made a payment pursuant to the request by the State.

(3) Any statement of expenditure by the State forwarded to the Commonwealth in connection with a request for payment in accordance with sub-clause (1) shall be certified as to its correctness by the Auditor-General of the State.

Advances

4. (1) The Minister for Finance may, at such times as he thinks fit, make advances of such amounts as he thinks fit to the State on account of an amount that may become payable to the State under clause 3.

(2) An amount or part of an amount advanced by the Minister for Finance under this clause may be deducted by the Commonwealth from amounts to be paid subsequently under clause 3, or, if there are no further amounts to be paid under that clause, shall be refunded by the State to the Minister for Finance at his request.

Use of Payments and Advances

5. The State shall ensure that an amount, or any part of an amount, paid to the State under this agreement is not used or applied except for the purpose of meeting expenditure on tending planting during the five financial years.

Interest

6. (1) Interest at the rate provided in this clause shall accrue in respect of each payment or advance made to the State under clause 3 or clause 4 on and from the date on which the payment or advance was made and shall be calculated on so much of the payment or advance as for the time being has not been repaid by the State under clause 7 or, in the case of an advance, refunded to the Commonwealth under clause 4.

(2) The amount of the interest that has accrued under this clause (including interest that has accrued under sub-clause (3)) shall be calculated as at each fifteenth day of January and fifteenth day of July.

(3) Interest at the rate provided in this clause shall accrue in respect of each amount calculated as provided in sub-clause (2) to which paragraph (a) of sub-clause (4) applies as from the date at which the amount was calculated and shall be calculated on so much of the amount as for the time being has not been paid by the State to the Commonwealth under clause 7.

(4) An amount of interest calculated under this clause shall be payable as follows:

- (a) an amount that is calculated before the end of the deferment period in respect of the payment or advance to which the interest relates shall be payable by the State to the Commonwealth as if the amount were a payment which was made by the Commonwealth under this agreement on the date on which that payment or advance was made and is repayable by the State in accordance with clause 7; and
- (b) an amount of interest that is calculated after the end of the deferment period in respect of the payment or advance to which the interest relates shall be payable by the State to the Commonwealth upon the day at which the amount is calculated.

(5) The rate at which interest accrues under this clause shall be the rate that is equivalent to the rate of yield to maturity of the loan of the longer or longest term of the last loan raising by the Commonwealth in Australia for public subscription prior to the date on which the relevant payment or advance was made or the amount in respect of which the interest has accrued was calculated, as the case may be.

(6) For the purposes of sub-clause (5) the expression "the rate of yield to maturity" means the rate per annum, as determined by the Minister for Finance to the nearest cent in accordance with sound actuarial practice, that the yield from the interest payable by the Commonwealth in respect of the relevant loan represents having regard to the issue price and the period to maturity of the loan.

(7) For the purposes of this clause and of clause 7 "the deferment period" in respect of a payment or advance shall be the period of fifteen years commencing on the date on which the payment or advance was made and in relation to an amount referred to in paragraph (a) of sub-clause (4) that date shall for the purposes of sub-clause (1) of clause 7 be the date upon which the payment or advance to which the amount relates was made.

Repayments by State

7. (1) Subject to sub-clause (2), the State shall repay to the Commonwealth the amount of each payment made to the State under clause 3 (including an amount referred to in paragraph (a) of sub-clause 6 (4)) and of each advance made to the State and not refunded under clause 4 by forty equal half-yearly instalments, the first instalment to be paid in each case on the first fifteenth day of July which occurs after the end of the deferment period in respect of the payment (or amount) or advance and subsequent instalments on each succeeding fifteenth day of January and fifteenth day of July until the payment (or amount) or advance, has been paid in full.

(2) The State may at any time, after giving to the Minister for Finance notice of at least one month of its intention so to do, pay to the Commonwealth so much of an amount that is payable by the State under this clause as has not been paid, together with the interest on the amount so paid accrued to the date of payment in accordance with clause 6.

Tending of Planting

8. The State shall ensure that tending planting during each of the five financial years is carried out efficiently and in conformity with sound forestry and financial practices and shall ensure that environmental factors relating to tending planting have been considered.

Information, Consultation and Statements

9. The State shall—

- (a) from time to time at the request of the Commonwealth Minister furnish to him such information as he may reasonably require for the purpose of or in relation to this agreement;
- (b) prior to the commencement of each of the last four of the five financial years, consult with the Commonwealth on the programme proposed by the State for tending planting in the forthcoming year; and
- (c) prepare and furnish to the Minister for Finance not later than the thirtieth day of April in each year a statement showing the estimated expenditure on tending planting during the next of the five financial years and estimates of the amounts that the State will request the Commonwealth to pay to the State under this agreement in respect of that financial year.

Financial Statements

10. The State shall—

- (a) keep full accounts and records of all financial transactions, work done, and plant, stores, materials and equipment used or disposed, in connection with tending planting under this agreement; and
- (b) furnish to the Minister for Finance, as soon as possible after the completion of each of the five financial years, financial statements showing expenditure on tending planting during that year.

Audit

11. (1) The accounts, books, vouchers, plans, documents and other records of the State relating to tending planting shall be subject to audit by the Auditor-General of the State.

(2) A report on the audits and on the financial statements in respect of each of the five financial years shall be furnished by the Auditor-General of the State to the Minister for Finance as soon as possible after the completion of financial year, indicating *inter alia*—

- (a) whether the financial statements are based on proper accounts and records and are in agreement with those accounts and records; and
- (b) whether the expenditure of moneys was for the purpose of meeting the cost of tending planting,

and including reference to such other matters arising out of the audits and financial statements as the Auditor-General of the State considers should be reported to the Minister for Finance.

Notices

12. Any notice, request or other communication to be given or made under this agreement by the Commonwealth, the Minister for Finance or the Commonwealth Minister to the State shall be deemed sufficiently given or made if it is in writing signed by the Minister for Finance or the Commonwealth Minister, as appropriate, or by any person thereunto authorized in writing by either of them and any notice, application, request or other communication to be given or made by the State to the Commonwealth, the Minister for Finance or the Commonwealth Minister shall be deemed sufficiently given or made if it is in writing signed by the State Treasurer or any person thereunto authorized in writing by him.

THE SCHEDULE

<i>State</i>	<i>Amount Allocated</i>
	\$
New South Wales	1,643,600
Victoria	743,400
Queensland ..	675,400
South Australia	229,300
Western Australia	458,700
Tasmania	449,600
TOTAL	4,200,000

IN WITNESS WHEREOF this agreement has been signed for and on behalf of the parties hereto on the day and year first above written.

SIGNED for the Prime Minister of THE COMMONWEALTH OF AUSTRALIA by the Right Honourable JOHN DOUGLAS ANTHONY, the Deputy Prime Minister of the Commonwealth, in the presence of B. S. VIRTUE.

SIGNED for and on behalf of THE STATE OF TASMANIA by the Honourable DOUGLAS ACKLEY LOWE, Premier of the State, in the presence of