

Approved for Reprint, 20th December, 1979.

WESTERN AUSTRALIA.

FORESTS.

No. 8 of 1919.¹

(Affected by Acts Nos. 27 of 1929, 15 of 1945, 53 of 1954, and 113 of 1965.)

[As amended by Acts:

No. 43 of 1954, assented to 8th December, 1954;
No. 6 of 1964, assented to 2nd October, 1964;
No. 92 of 1969, assented to 17th November, 1969;
No. 94 of 1972,² assented to 4th December, 1972;
No. 77 of 1974,³ assented to 10th December, 1974;
No. 60 of 1976,⁴ assented to 16th September, 1976;

and reprinted pursuant to the Amendments Incorporation Act, 1938.]

AN ACT to provide for the better Management and Protection of Forests.

[Assented to 3rd January, 1919.]

BE it enacted—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Forests Act, 1918-1976*.

Short title.
Amended by
No. 60 of
1976, s.1.

2. This Act is divided into Parts, as follows:—

Division
of Act.
Amended by
No. 77 of
1974, s.3.

PART I.—PRELIMINARY.

PART II.—THE FORESTS DEPARTMENT.

¹ Section 41 of No. 8 of 1919 was amended from time to time by Acts:—
No. 31 of 1924; No. 18 of 1925; No. 11 of 1926; No. 9 of 1927; No. 13 of 1928; No. 28 of 1930; No. 41 of 1931; No. 27 of 1933; No. 7 of 1934;
No. 9 of 1935; No. 17 of 1936 and No. 11 of 1937.

These Acts were repealed by Act No. 57 of 1965, Statute Law Revision Act, 1965.

² Metric Conversion Act, 1972. The relevant amendments included in this reprint effective from 1st July, 1973; see *Gazette* 25/5/73, p. 1622.

³ Came into operation on 7th February, 1975; see *Gazette* 7/2/75, p. 442.

⁴ Came into operation on 24th September, 1976; see *Gazette* 24/9/76, p. 3493.

PART III.—STATE FORESTS AND TIMBER RESERVES.

PART IV.—PERMITS, LICENSES, AND FOREST LEASES.

PART IVA.—CONTROL AND ERADICATION OF FOREST DISEASES.

PART V.—FINANCIAL PROVISIONS.

PART VI.—REGULATIONS.

PART VII.—OFFENCES, AND GENERAL PROVISIONS.

Repeal.
Amended by
No. 60 of
1976, s.3.

3. (1) The Acts mentioned in the Schedule to this Act are hereby repealed to the extent therein stated:

But, except as herein expressly provided, such repeal shall not affect any right acquired, or liability incurred, or any appointment made, or any other matter or thing done, under the repealed Acts or any of them.

(2) All regulations made under the Land Act, 1898, and in force at the commencement of this Act shall, *mutatis mutandis*, apply as if made under this Act, but may be repealed or amended by regulations under this Act.¹

Interpre-
tation.
Amended by
No. 43 of
1954, s.2;
No. 60 of
1976, s.4.

4. In this Act, unless the contrary intention appears—

“Cattle” includes bulls, cows, oxen, horses, mares, geldings, sheep, goats, pigs, and generally all domestic animals.

“Conservator” means The Conservator of Forests.

¹ Timber Regulations under 1898 Act repealed by Forest Regulations under this Act, now see Forest Regulations, 1957.

"Crown land" means land vested in Her Majesty and neither dedicated to any public purpose other than a common, nor lawfully contracted to be granted in fee simple. The term includes land of which pastoral leases are held under the Land Act, 1933, subject to the grazing rights of lessees, and land held as mining tenements under the Mining Act, 1904, and the regulations thereunder, subject to the mining rights of the holders. The term also includes land the subject of any permit, license, agreement, or forest lease.

"Department" means the Forests Department.

"Firewood" includes parts of trees of all species made up into bundles, billets, or loads, or cut up in the manner it is usual to cut wood for burning, and refuse wood generally.

"Forest offence" means the contravention of any provision of this Act or of any regulation.

"Forest officer" means any person appointed to be an officer of the Department.

"Forest produce" means and includes trees, timber, firewood, piles, pole wood, wattles, branch wood, slabs, chips, sawdust, plants, grass, reeds, rushes, bedding, creepers, fibres, leaves, moss, flowers, seeds, ferns, blackboys, grass trees, roots, bulbs, galls, bark, gum, kino, resin, sap, and charcoal; and in any State forest or timber reserve also includes stones and earth (except gold and other minerals, alluvial, and coal, as defined by the Mining Act, 1904), shells, indigenous animals and birds (not being game within the meaning of the Game Act, 1912-1913¹), honey, and bees-wax.

See Vic.
No. 2655, s.4.

"Minister" means the responsible Minister of the Crown or member of the Executive Council charged for the time being with the administration of this Act.

¹ Repealed by Fauna Conservation Act, 1950. (Now Wildlife Conservation Act, 1950.)

“Owner” includes any person holding land under any lease or license from the Crown or any person deriving title from, under, or through such lessee or licensee.

“Owner or occupier” includes the agent of or overseer for an owner or occupier, and also a joint owner or occupier.

“Regulations” means regulations made under this Act.

“Reserved trees” means trees declared by notification in the *Gazette* to be reserved trees within the meaning of this Act.

“State forest” means land dedicated under this Act as a State forest.

“Stream” includes all natural watercourses and artificial channels in which water flows permanently or intermittently.

Vic. No. 2655,
s.4.

“Timber” includes trees when they have fallen or have been felled, and whether sawn, hewn, split or otherwise fashioned.

“Timber reserve” means land reserved before or after the commencement of this Act for forestry purposes.

Vic. No. 2655,
s.4.

“Tree” includes not only timber trees, but trees, shrubs, and bushes, seedlings, saplings, and re-shoots of all kinds and of all ages.

“Working plan” means a detailed written scheme of the operations to be undertaken on a specified area of forest.

Preservation
of rights of
pastoral
lessees and
holders of
mining
rights.
Amended by
No. 60 of
1976, s.5.

5. (1) The rights conferred by the Land Act, 1933, on pastoral lessees to such timber as may be required for domestic purposes, for the construction of buildings, fences, stockyards, or other improvements on the land so occupied, and by the Mining Act, 1904, on holders of miners' rights to cut and remove timber for mining purposes on and from Crown land for their personal use, are hereby preserved.

(2) [*Repealed by No. 60 of 1976, s. 5.*]

6. [*Repealed by No. 43 of 1954, s. 2.*]

PART II.—THE FORESTS DEPARTMENT.

7. (1) There shall be a department of the public service called the Forests Department having, under the direction of the Minister, such powers, authorities, and duties as are provided for by this Act.

Forests
Department.
Amended by
No. 60 of
1976, s.6.
Vic. No. 2655,
s.5.

(2) The department shall have the exclusive control and management of—

See *ibid.*,
s.8.

- (a) all matters of forestry policy;
- (b) all State forests and timber reserves, and the forest produce of other Crown lands;
- (c) the planting or thinning of forests, and the making, laying out, and maintaining of plantations and nurseries, and the distribution of trees therefrom;
- (d) the granting of all permits, licenses, and forest leases under this Act;
- (e) the enforcement of the conditions of permits, licenses, agreements, and forest leases and authorities granted under this or any Act hereby repealed or otherwise;
- (f) the collection and recovery of all rents, fees, royalties, charges, and revenues of the department; and
- (g) the administration of this Act generally.

(3) The department—

- (a) may supply or obtain such services, equipment, or facilities as are necessary or convenient to be supplied or obtained for or in connection with the exercise of the powers and authorities of the department and the performance of its duties;

- (b) may undertake work in respect thereof on behalf of other departments of the public service, public statutory authorities, and other persons and organisations; and
- (c) may advise and assist persons in growing and managing forests.

(4) The Conservator in his corporate capacity may do all things necessary or convenient to be done for or in connection with the exercise of the powers and authorities of the department and the performance of its duties.

Conservator
of Forests.
Amended by
No. 43 of
1954, s.4;
No. 6 of
1964, s.2.

See W.A.,
1904,
No. 58, ss.2, 3.
Vic. No. 2655,
s.7.
N.S.W., 1916,
No. 55, s.5.

8. (1) There shall be a Conservator of Forests to be appointed by the Governor.

(1a) No person shall be appointed as Conservator of Forests unless he has obtained the degree or diploma of a forest school recognised by the Governor.

(2) Subject to the provisions of this Act, the Conservator—

- (a) shall be the permanent head of the Department;
- (b) shall hold office for a term of seven years from the date of his appointment and thereafter is eligible for re-appointment for such term, not exceeding seven years, as the Governor specifies at the time of his re-appointment, but if the person appointed to the office of Conservator held office as the Deputy Conservator immediately before he was so appointed, that person shall hold office as Conservator for any such term not exceeding seven years, as the Governor specifies at the time of his appointment as Conservator and is eligible for re-appointment for any such term not exceeding seven years, as the Governor specifies at the time of his re-appointment;

Vide s.35
Act No. 30
of 1918.

(c) shall be directly responsible to the Minister for the management and control of State forests, timber reserves, plantations, and nurseries, and the administration of the department generally; and

(d) subject to the Public Service Act, 1978, shall have control of all other officers and employees of the department.

(3) [*Repealed by No. 43 of 1954, s. 4.*]

9. (1) The Conservator shall be a body corporate by the name of "The Conservator of Forests" and by that name shall have perpetual succession and a common seal and shall have, and be deemed always to have had, power to acquire, hold, and dispose of real and personal property, and shall be, and be deemed always to have been, capable of doing and suffering all such acts and things as bodies corporate may lawfully do and suffer.

Conservator
a body
corporate.
Amended by
No. 43 of
1954, s.5;
No. 60 of
1976, s.7.
See N.S.W.,
1916, No. 55,
ss.7, 8.

(2) Judicial notice shall be taken of the common seal and signature of the Conservator.

(3) The Conservator has such powers, authorities, and duties as are provided by this Act, and may do all things necessary or convenient to be done for or in connection with the exercise of those powers and authorities and the performance of those duties.

10. (1) The Conservator shall receive such salary as may be fixed from time to time by the Governor:

Salary of
Conservator.
See N.S.W.,
1916, No. 55,
s.6.

(2) Such salary is hereby charged upon the Consolidated Revenue Fund which, to the extent required for the payment of such salary, is hereby permanently appropriated.

Suspension
and
removal of
Conservator.

See W.A.,
1904, No. 23,
s.13.

11. (1) The Conservator may be suspended from his office by the Governor—

- (a) for misbehaviour or incompetence; or
- (b) if he becomes bankrupt, or applies to take the benefit of any Act for the relief of insolvent debtors, or compounds with his creditors, or makes an assignment of his salary for their benefit; or
- (c) if he becomes incapable of performing his duties.

(2) The Minister shall cause to be forthwith laid before Parliament a full statement of the grounds of suspension, if Parliament is sitting, and, when Parliament is not sitting, within seven days after the commencement of the next session.

(3) The Conservator, when suspended under this section, shall not be restored to office unless each House of Parliament, within forty days from the time when such statement has been laid before it, declares by resolution that he ought to be restored to office.

(4) If each House of Parliament within such time so declares, the Conservator shall be restored by the Governor accordingly, but otherwise he may be removed from office.

(5) The Conservator shall not be removed from office except as hereinbefore provided.

Deputy
Conservator.
Repealed and
re-enacted
by No. 6 of
1904, s.3.

12. (1) The Governor shall, subject to the provisions of the Public Service Act, 1978, appoint a person having the qualifications referred to in subsection (1a) of section eight of this Act, to be the Deputy Conservator of Forests.

(2) When and as often as the Conservator is absent on leave, or in consequence of illness, or for any other reason is temporarily unable to perform the duties of his office or the office of Conservator is vacant, the Deputy Conservator shall act as Conservator for the period during which the Conservator is temporarily absent or unable to perform the duties of his office, or the office is vacant.

(3) The Deputy Conservator has and may exercise when acting as Conservator, all the powers, functions, privileges and duties conferred on the Conservator by this Act.

(4) The person holding the office of deputy for the Conservator immediately before the coming into operation of the Forests Act Amendment Act, 1964, shall be deemed to have been duly appointed Deputy Conservator under and subject to this Act.

(5) If a person appointed to the office of Conservator was, immediately before his appointment, an officer within the meaning of the Public Service Act, 1978—

- (a) he retains his existing and accruing rights;
- (b) for the purpose of determining those rights, his service as Conservator shall be taken into account as if it were service in the Public Service of the State; and
- (c) the appointment shall be without prejudice to the provisions of all other Acts applying to that person as such an officer, and does not prejudice his rights as such under any of those Acts.

13. The Governor may, subject to the provisions of the Public Service Act, 1978, appoint such other officers as may from time to time be necessary.

Other officers.
Amended by No. 60 of 1976, s.8.

Provided—

See N.S.W., 1916, No. 55, s.10(1).

- (a) that no such officer shall be appointed without reference to the Conservator;
- (b) that the Conservator may engage and dismiss other employees; and
- (c) that the Governor may exempt from the provisions of the said Act any officer or class of officers.

Qualification
of officers
of the
professional
division.
Amended by
No. 60 of
1976, s.9.

14. No person shall be appointed or promoted to an office in the professional division unless he has obtained a forestry degree or diploma recognised by the Governor, or such other tertiary qualification as the Conservator, with the approval of the Public Service Board, determines to be appropriate for the purposes of this Act.

Qualification
of officers
of the
general
division.
Amended by
No. 60 of
1976, s.10.

15. No person shall be appointed or promoted to an office in the general division unless he has passed such examination as may be prescribed as a qualification for such office.

See Vic. No.
2655, s.9.

Training
of forest
officers.

See N.S.W.,
1916, No. 35,
s.10(2).
Vic. No. 2655,
s.11.

16. (1) The Conservator may provide for the training of forest officers and may employ such youths as he may think fit as apprentices.

(2) At the expiration of the period of apprenticeship (which shall not exceed four years), any person who is certified by the Conservator as having fulfilled the conditions of his apprenticeship may be appointed to a position in the general division of the department prescribed as one for which such person is qualified.

Forest
officers
not to
trade in
timber, etc.

See Vic. No.
2655, s.46.

17. No forest officer shall hold or be interested in any permit, license, or forest lease under this Act, or in any timber lease, license, or saw-milling permit granted under any Act hereby repealed, or as principal or agent trade in, or be interested in any contract or agreement for the working or removal of any forest produce.

Auctioneers'
licences
not required
by forest
officer.

18. A forest officer may, in the performance of his duties, hold an auction of forest produce, and may submit permits to public auction, without a licence under the Auction Sales Act, 1973.

PART III.—STATE FORESTS AND TIMBER RESERVES.

Classification of Forest Lands.

19. (1) The Conservator shall, with the approval of the Minister, cause a classification of the forest lands of the State to be made for the purpose of determining which of the lands are suitable to be—

Classification of forest lands.

See N.S.W., 1916, No. 55, s.17.

- (a) permanently dedicated as State forests; or
- (b) reserved from sale as timber reserves.

(2) The Conservator shall cause plans to be prepared of the lands so classified showing the quantity of timber growing thereon, and indicating those portions which, in his opinion, do not carry or are not likely to produce marketable timber.

State Forests.

20. (1) The Governor may, by Order in Council, published in the *Government Gazette*, dedicate as a State forest any Crown land, including any area which may have been theretofore a timber reserve.

Dedication of State forests. Amended by No. 6 of 1964, s.4.

See W.A., 1904, No. 58, s.8; N.S.W., 1916, No. 55, s.18.

(1a) The Minister shall cause a copy of any Order in Council made under subsection (1) of this section, to be laid on the Table of each House of Parliament within the first six sitting days of the House after the publication of the Order in Council in the *Government Gazette*.

(1b) If each House of Parliament passes a resolution, of which notice has been given within the first fourteen sitting days of the House after a copy of an Order in Council has been laid on the Table of the House pursuant to this section, that the Order in Council be disallowed, the Order in Council thereupon ceases to have effect but, subject to this Act and the regulations, the disallowance of the Order in Council does not affect or invalidate anything done in good faith by the Minister, or any officer exercising any powers or performing any duties under this Act relating to the land referred to in the Order in Council, before the passing of the resolution.

(2) Land so dedicated shall not be dealt with otherwise than in pursuance of this Act; and such dedication shall not be revoked or altered except under the authority of this Act.

Revocation
of
dedication.

See N.S.W.,
1916, No. 55,
s.19.

21. A dedication under this Act of Crown land as a State forest may be revoked in whole or in part, in the following manner:—

- (a) The Governor shall cause to be laid on the Table of each House of Parliament a proposal for such revocation.
- (b) After such proposal has been laid before Parliament, the Governor, on a resolution being passed by both Houses that such proposal be carried out, shall, by Order in Council, revoke such dedication.
- (c) On any such revocation the land shall become Crown land within the meaning of the Land Act, 1933.

Purchase or
resumption
of land.

See N.S.W.,
1916, No. 55,
s.15.

22. (1) The Governor, subject to the consent of Parliament, may, under the Public Works Act, 1902, purchase, acquire, resume, or appropriate land for the purpose of a State forest or to provide access thereto, and such purchase, acquisition, resumption, or appropriation shall be deemed to be an authorised work.

(2) Such land shall not be dealt with otherwise than in pursuance of this Act.

Exchange
of land.

See N.S.W.,
1916, No. 55,
s.17.

23. The Governor, subject to the consent of Parliament, may, on the recommendation of the Minister and with the concurrence of the Minister for Lands, acquire by exchange for Crown land any alienated land required for State forests or to provide access thereto.

24. [*Repealed by No. 60 of 1976, s. 11.*]

Timber Reserves.

25. (1) The Governor may, by Order in Council, reserve from sale any Crown land as a timber reserve; and may revoke in whole or in part any such reservation.

Reservation of timber reserves.
See N.S.W., 1916, No. 55, s.22.

(2) Where any reservation of land is so revoked, the land shall, unless otherwise declared by the Order in Council, become Crown land within the meaning of and may be dealt with under the Land Act, 1933.

(3) No reservation from sale of land as a timber reserve made before or after the commencement of this Act shall be revoked in whole or in part except under this Act, nor until a report of the Conservator on the proposal for such revocation has been obtained.

Ibid., s.23.

26. A lease or license to occupy land within a timber reserve shall not be granted, extended, or renewed under the Land Act, 1933, unless with the approval of the Conservator, and subject to such conditions as the Conservator thinks fit to impose.

Lease or license within timber reserve not to be granted without approval of Conservator.

See N.S.W., 1916, No. 55, s.24.

State Forest and Timber Reserves.

27. (1) A map of every State forest and timber reserve, certified under the hand of the Surveyor General, shall be deposited in the department, and shall be open to public inspection on payment of the prescribed fee.

Maps to be deposited in Department of Forests.

(2) Any land excised from or added to a State forest or timber reserve shall be indicated on such map and certified as aforesaid.

(3) All maps and plans certified under the hand of the Surveyor General to be copies of the original maps or plans or of portions thereof deposited in

the department, shall be admissible in evidence in any court of justice or before any person having by law or the consent of parties authority to hear, receive, and examine evidence, and shall be *prima facie* evidence for the same purpose and to the same extent as the originals thereof if they had been produced.

(4) Judicial notice shall be taken of the signature of the Surveyor General to any map or plan or certified copy of a map or plan or of a portion thereof.

Excluded areas may be surveyed after dedication.

28. When in the description of a State forest it is notified that areas of land, approximately specified, within the boundaries thereof, are excluded from the dedication, and it is impracticable at the time of the dedication to define such excluded areas by survey, such areas may be subsequently defined by survey under the direction of the Surveyor General with the approval of the Conservator, and plans thereof shall be deposited in the department with the maps deposited under the provisions of the last preceding section.

Existing holdings in State forests and timber reserves.

See N.S.W., 1916, No. 55, s.25.

29. The dedication of land as a State forest or the reservation of land as a timber reserve shall not, except as in this Act provided, affect any concession, permit, lease, or license from the Crown current and in force at the time of such dedication or reservation.

Provided that all pastoral leases of land situated within the boundaries of a State forest shall, at the expiration of six months from such dedication, and by force of this Act alone, be surrendered to the Crown; but every lessee shall during such period of six months have the option to acquire under this Act a forest lease of the land demised by the surrendered lease for the remainder of the term thereof, at the rent thereby reserved.

30. Land within a State forest or timber reserve shall be subject to the provisions of the Mining Act, 1904; but the exercise of any right thereunder shall be subject to such conditions and restrictions relating to forestry as may be prescribed:

Land subject to mining laws.

See N.S.W., 1916, No. 55, s.21.

Provided that the Minister, with the concurrence of the Minister for Mines, may, by notice in the *Gazette*, take the whole or any part of a State forest out of the operation of those provisions, and may revoke or alter any such notification.

Working Plans.

31. (1) The Conservator shall, from time to time, prepare working plans for each State forest and timber reserve.

Working plans. Amended by No. 60 of 1976, s.12.

(2) Such plans shall, subject to existing rights under permits, licenses, agreements, or forest leases, regulate the management of each State forest and timber reserve respectively for a period not exceeding ten years, to be stated on the plan.

(3) A working plan may specify—

- (a) the maximum area from which forest produce may be taken annually;
- (b) the maximum quantity of forest produce that may be disposed of annually;
- (c) the silvicultural operations necessary to assure the regeneration of the best species of forest produce on areas which have been cut over;
- (d) the management priorities that are proposed to be applied to State forests; and
- (e) such other matters as the Conservator may think fit.

(4) Every working plan shall be subject to the approval of the Governor, and when so approved shall have effect; and shall not be altered except on the recommendation of the Conservator.

PART IV.—PERMITS, LICENSES, AND FOREST LEASES.

Permits and
licenses.

See W.A.,
1904, No. 58,
ss.11, 13.
N.S.W., 1916,
No. 55, s.26.

32. (1) Subject to this Act and the regulations, the Conservator may grant permits and issue licenses to take, and contract for the sale of, forest produce on Crown land within a State forest, timber reserve or other Crown land.

(2) Licenses may be issued by any forest officer acting with the authority of the Conservator.

Form and
effect of
Permit.
Amended by
No. 43 of
1954, s.6;
No. 60 of
1976, s.13.

See W.A.,
1904, No. 58,
s.11.
N.S.W., 1916,
No. 55,
ss.28, 31.

33. (1) A permit shall be in the prescribed form, and subject to the conditions and limitations expressed therein, and to the regulations, shall confer on the holder the exclusive right to take and remove any forest produce therein specified on and from that portion of a State forest, timber reserve, or other Crown land therein defined.

(2) A permit may, subject as aforesaid, confer on the holder the right—

- (a) to occupy land as the site of a sawmill or for other buildings, as a timber depot, and for any other purpose approved by the Conservator;
- (b) to work a mill for sawing and treatment of timber; and
- (c) to make roads and construct and work tramways, and, with the approval of the Conservator, to extend such roads and tramways upon Crown lands beyond the boundaries of the permit area.
- (d) [*Deleted by No. 60 of 1976, s. 13.*]

(3) The term of a permit shall not exceed ten years, but may be renewed from time to time by the Conservator upon such terms and conditions,

and the payment of such fees and royalties, and for such period not exceeding in respect of any one renewal a period of ten years, as the Conservator determines and is hereby authorised to determine, generally, or in respect of a particular permit, class of permit, or classes of permits.

34. (1) Every permit shall be granted subject to the payment by the holder of royalties for all forest produce taken.

Royalty.
Amended by
No. 43 of
1954, s.7;
No. 113 of
1965, s.8;
No. 60 of
1976, s.14.

(2) Every permit shall, except as hereinafter provided, and subject to the regulations, be submitted to public auction or tender, and the royalties to be paid shall be thereby fixed:

See W.A.,
1904, No. 58,
s.15(5).

Provided that a permit may be issued without being submitted to public auction or tender where the aggregate royalty payable in respect thereof does not exceed one hundred dollars.

(3) Royalty may be assessed on timber standing or in the log. The contents of timber cut for milling purposes and measured in the log shall be calculated on such system as the Conservator may from time to time determine.

35. (1) Licenses shall be in the prescribed form, and shall authorise the licensee, in common with other licensees, if any, to take and remove forest produce, to be therein specified, on Crown land within a State forest or timber reserve, or on other Crown land.

Form and
effect of
license.
Amended by
No. 43 of
1954, s.8.
See W.A.,
1904, No. 58,
s.13.

(2) Licenses may be granted subject to the payment of such fees, or such royalties on the forest produce acquired thereunder as the Conservator determines and is hereby authorised to determine.

36. No permit or license shall be transferable except with the consent in writing of the Conservator, or a forest officer acting with his authority.

Permit or
license
not to be
transferred
without
consent.
See N.S.W.,
1916, No. 55,
s.34.

Forest
produce to
be removed
during
currency
of permit
or license.

37. (1) All forest produce obtained under the authority of a permit or license shall be removed from the State forest, timber reserve, or other Crown land during the currency of the permit or license, unless the time for removal is extended by the Conservator on such conditions, if any, as he may think fit.

(2) Any forest produce not so removed from a State forest, timber reserve, or other Crown land shall be forfeited to the Crown and may be disposed of by the Conservator.

Forfeiture.
See N.S.W.,
1916, No. 53,
s.35.

38. Every permit and license shall be liable to forfeiture for default in payment of the royalty or fees payable thereunder, or on breach or non-observance by the holder of any of the provisions of this Act or the regulations relating thereto, or of the conditions expressed therein.

Timber, etc.,
on mining
and other
leases.

39. (1) Every lessee of a mining lease, or holder of a mining tenement, granted or held under the Mining Act, 1904, or the regulations thereunder, may, subject to the regulations under this Act and the payment of the prescribed royalty, if any, take from the land so demised or held such timber as may be required for mining purposes thereon.

Provided that no royalty shall be prescribed under this subsection except in respect of leases or tenements within the boundaries of a State forest or timber reserve, and that such royalty may, with the approval of the Governor, be credited to a special fund and expended in the work of improving the forests on such leases and holdings.

(2) Subject as aforesaid and to the regulations, the privileges conferred by permits and licenses under this Act shall extend to forest produce on pastoral and other leases which do not confer on the lessee the right to forest products, including forest leases, and on mining tenements, and a permit

holder or licensee, if so authorised by his permit or license, may, subject to the regulations, enter upon the land comprised in any such lease or mining tenement and take and remove forest produce therefrom.

40. (1) The Conservator may, with the approval of the Minister, grant on such conditions as he thinks fit, and for any term not exceeding twenty years, leases of land within a State forest or within a timber reserve created pursuant to subsection (1) of section twenty-five of this Act, for grazing and other purposes not opposed to the interests of forestry. Such leases are, in this Act, referred to as "forest leases".

Grant of forest leases. Amended by No. 60 of 1976, s.15.

See N.S.W., 1916, No. 55, s.33.

(2) No compensation shall be payable to a lessee under a forest lease, on the expiration thereof, for any improvements to the land comprised therein; but the lessee shall be entitled, at any time before the expiration of his lease, to remove any buildings or fences erected by him or to dispose of them to an incoming tenant.

PART IVA.—CONTROL AND ERADICATION OF FOREST DISEASES.

Heading added by No. 77 of 1974, s.4.

40A. The purposes of this Part are to identify the areas of public land in the prescribed part of the State in which trees may be, may become, or are infected with any forest disease and to control and eradicate such forest diseases as are detected in such areas.

Purposes of this Part. Added by No. 77 of 1974, s.4.

40B. (1) The provisions of and under this Part shall apply notwithstanding the provisions of or under any other Part of this Act or of or under any other Act.

Application of this Part. Added by No. 77 of 1974, s.5.

(2) The provisions of this Part and the regulations made under it bind the Crown.

Interpreta-
tion of this
Part.
Added by
No. 77 of
1974, s.6.

40C. In this Part and regulations made under it, unless the context requires otherwise—

“authorised person” means any member of the Police Force or any forest officer;

“disease area” means a forest disease area constituted under this Part;

“infected” means actually affected with forest disease, or liable, by reason of contact, to be so affected;

“infection” has a corresponding meaning to “infected”;

“owner” used in relation to a potential carrier, means the person to whom it belongs or the hirer, lessee, borrower, bailee, or mortgagee in possession thereof;

“potential carrier” means anything capable of carrying and transmitting forest disease and includes—

(a) soil, trees, timber, firewood, and forest products;

(b) tools;

(c) vehicles;

(d) machinery; and

(e) equipment or implements designed and used or capable of being used for forestry, the production of forest products, timber cutting, timber gathering, the cutting or gathering of firewood, or earth moving;

“prescribed part of the State” means all those portions of the State that are south of latitude 31° 40' and west of longitude 117° and includes all portions, wherever situated, of the municipal districts of the Shires of Plantagenet, Denmark and Albany;

“public land” means—

(a) State forests and timber reserves;

- (b) any other land vested in Her Majesty and not lawfully contracted to be granted in fee simple including—
 - (i) land of which pastoral leases are held under the Land Act, 1933;
 - (ii) land held as mining tenements under the Mining Act, 1904 and the regulations thereunder; and
 - (iii) land the subject of any timber concession, timber lease or sawmill permit; and
- (c) any other land reserved or dedicated pursuant to the Land Act, 1933 but vested in some person other than Her Majesty;

“risk area” means a forest disease risk area constituted under this Part;

“road” has the meaning assigned to it in section 6 of the Main Roads Act, 1930, but does not include a main road as defined in that section of that Act; and

“vehicle” includes—

- (a) every conveyance, not being a train, vessel or aircraft, and every object capable of being propelled or drawn on wheels or tracks, by any means;
- (b) an animal being driven or ridden.

40D. (1) Where the Conservator considers that earth, soil, or trees in any area of public land in the prescribed part of the State may be, or may become, infected with a forest disease and he gives notice in writing thereof to the Minister, the Minister, after consultation thereon with the Minister of the Crown for the time being administering the Mining Act, 1904, may recommend to the Governor that the area be constituted a forest disease risk area, and thereupon the Governor may, by proclamation wherein

Risk areas.
Added by
No. 77 of
1974, s.7.

the area and the forest disease is specified, constitute the area a forest disease risk area with such name as may be specified in the proclamation.

(2) Where pursuant to subsection (1) of this section the Conservator gives notice in respect of any area of public land that is not vested in Her Majesty or is not under the control and management of the department, the Conservator shall forthwith give a copy of the notice to the person in whom the area of public land is vested or who has the control and management thereof, as the case may be, and the Minister shall not make a recommendation pursuant to subsection (1) of this section unless and until he has given that person the opportunity to make a submission in writing on the matter within reasonable time of receiving the copy of the notice.

Disease
areas.
Added by
No. 77 of
1974, s.8.

40E. (1) Where the Conservator considers that earth, soil, or trees in any area of public land in the prescribed part of the State are infected with a forest disease and he gives notice in writing thereof to the Minister, the Minister, after consultation thereon with the Minister of the Crown for the time being administering the Mining Act, 1904, may recommend to the Governor that the area be constituted a forest disease area, and thereupon the Governor may, by proclamation wherein the area and the forest disease is specified, constitute the area a forest disease area with such name as may be specified in the proclamation.

(2) Where pursuant to subsection (1) of this section the Conservator gives notice in respect of any area of public land that is not vested in Her Majesty or is not under the control and management of the department, the Conservator shall forthwith give a copy of the notice to the person in whom the area of public land is vested or who has the control and management thereof, as the case may be, and the Minister shall not make a recommendation pursuant to subsection (1) of this section unless and until he

has given that person the opportunity to make a submission in writing on the matter within reasonable time of receiving the copy of the notice.

40F. (1) A risk area or a disease area—

- (a) may be extended in the manner in which it was constituted; or
- (b) may be reduced by proclamation made on the recommendation of the Minister,

Extension,
reduction,
or abolition
of risk and
disease
areas.
Added by
No. 77 of
1974, s.9.

and the area as so extended or reduced is then constituted as the risk area or the disease area as the case may be in substitution for the former area but with the same name or such other name as may be specified in the proclamation extending or reducing the area.

(2) A risk area or a disease area may be abolished by proclamation.

40G. (1) Where land held as a mining tenement under the Mining Act, 1904, and the regulations thereunder is in a risk area or a disease area and the holder of the tenement intends to explore or exploit a part of it he shall, at least three months before the date on which he intends to do so, give to the Minister notice in writing thereof wherein the part of the tenement and that date are specified.

Mining
tenements.
Added by
No. 77 of
1974, s.10.

(2) Where pursuant to subsection (1) of this section the holder of a mining tenement gives notice, the Minister shall give him written authority to explore or exploit, as the case may be, the part specified in the notice on and after the date so specified unless the Minister, after consultation with the Minister of the Crown for the time being administering the Mining Act, 1904, has good and sufficient reason to the contrary, but the holder may do so only—

- (a) by entering that part by a route described in the written authority; and

- (b) subject to such conditions as are specified in the written authority.

Regulations
under this
Part.
Added by
No. 77 of
1974, s.11.

40H. (1) The Governor may make such regulations as are necessary or expedient for the purposes of this Part.

(2) Without limiting the generality of subsection (1) of this section, regulations made under this section may—

- (a) prohibit, restrict, or regulate the admission to risk areas or disease areas, and the use or movement therein, of potential carriers or classes of potential carriers;
- (b) prescribe the persons or classes of persons in charge of potential carriers who may be admitted with them to risk areas or disease areas;
- (c) regulate the conduct of persons in respect of potential carriers in risk areas or disease areas;
- (d) require a person or a class of persons to have the written authority of a forest officer to take a potential carrier into a risk area or to have it, move it, or use it therein;
- (e) provide that any written authority required under the regulations may be subject to such conditions as are specified therein, may be revoked at any time, and shall determine forthwith upon any breach of those conditions and that any breach of those conditions constitutes an offence;
- (f) provide for the notification, and the manner of notification, of any occurrence, or suspected occurrence, of infection and requiring persons to give all information within their power in respect of any such occurrence or suspected occurrence;
- (g) confer power on an authorised person to stop and examine any potential carrier and

to signpost and barricade roads for that purpose;

- (h) provide for the quarantine of infected carriers, or of potential carriers;
- (i) prescribe the manner in which infected earth, soil, or trees be treated, or potential carriers entering or in a risk area, or in or leaving a disease area, or a potential carrier that has become infected, may be cleansed and disinfected;
- (j) provide for the establishment and maintenance of quarantine stations or areas for the treatment of infected earth, soil, or trees and the period of treatment, and for the cleansing and disinfecting of infected carriers, or potential carriers entering or in a risk area, or in or leaving a disease area;
- (k) prescribe, in respect of an alleged breach of the regulations or any condition, involving a potential carrier, the circumstances under which the owner of the potential carrier is deemed to be the person in charge of the potential carrier at the time of the offence;
- (l) prescribe the circumstances under which an authorised person may detain, control the further movement of, or remove, a potential carrier that is in a risk area or a disease area;
- (m) provide that an authorised person may remove from a risk area all persons guilty of any breach of a regulation or any condition, and prohibit the obstruction of an authorised person;
- (n) require any person in a risk area or a disease area to give his name and address whenever asked to do so by an authorised person; and

- (o) prescribe all necessary forms and the manner of, and time for, their completion and require any information supplied pursuant to the regulations to be verified by a statutory declaration.

(3) Regulations made under this section—

- (a) may be limited in their application to time, place, or circumstance; and
- (b) may provide that any act or thing shall be done with the approval or to the satisfaction of a specified person or class of persons and may confer a discretionary authority.

(4) Regulations made under this section may provide minimum penalties, not exceeding one hundred dollars, and maximum penalties, not exceeding one thousand dollars, for offences against this Part or the regulations or any condition and may provide daily penalties not exceeding ten dollars for every day that such an offence continues after the offender is convicted.

Revenue
and
expenditure.
Repealed and
re-enacted by
No. 60 of
1976, s.16.

41. (1) All revenue of the department shall be paid into the Consolidated Revenue Fund.

(2) The funds available to the Conservator for carrying into effect this Act shall be moneys from time to time appropriated by Parliament for the purposes of this Act, and such moneys as the Conservator lawfully borrows or receives by way of grants or otherwise for those purposes.

(3) The moneys referred to in subsection (2) of this section shall be paid into and be placed to the credit of an account at the Treasury to be called "Forestry Fund".

(4) All expenditure incurred by the Conservator for the purposes of carrying into effect this Act, including the repayment of moneys borrowed by or advanced to the Conservator in accordance with this Act and the payment of interest and charges on such moneys shall be paid from the Forestry Fund.

(5) The Conservator shall have power to borrow money upon the guarantee of the Treasurer of the State for the purposes of carrying out his powers and functions under this Act.

(6) The Conservator is authorised with the prior approval in writing of the Treasurer to borrow money upon such terms and conditions only as the Treasurer approves.

(7) The Treasurer is hereby authorised to so approve and to give the guarantee, including the guarantee of interest and charges, in subsection (5) of this section, for and on behalf of the Crown in right of the State.

(8) Any moneys borrowed by the Conservator under this section may be raised as one loan or as several loans and in such manner as the Treasurer may approve, but the amount of the moneys so borrowed shall not in any one year exceed in the aggregate such amount as the Treasurer approves.

(9) Before a guarantee is given by the Treasurer under this section, the Conservator shall give to the Treasurer such security as the Treasurer may require and shall execute all such instruments as may be necessary for the purpose.

(10) The Conservator shall use all moneys borrowed under the power conferred by this section for the purposes of carrying into effect this Act.

(11) Where any money standing to the credit of the Forestry Fund is not immediately required for the purposes of this Act the Conservator, subject to the approval of the Treasurer, may invest it in any investments authorised by law as those in which trust funds may be invested.

Annual Report.

Annual Report.
Amended by
No. 60 of
1976, s.17.
See Vic.
No. 2655,
s.12.

42. (1) The Conservator shall prepare for the Minister, not later than the thirtieth day of November in each year, an annual report to the preceding thirtieth day of June of all proceedings under this Act.

(2) Such annual report shall contain a statement in detail of the revenue and expenditure of the department, and shall be laid before both Houses of Parliament.

PART VI.—REGULATIONS.

Regulations.
Amended by
No. 43 of
1954, s.10;
No. 113 of
1965, s.8;
No. 60 of
1976, ss.18
and 26.

See W.A.,
1904, No. 58,
s.15.
Vic. No. 2655,
s.55.
N.S.W., 1916,
No. 55, s.41.

43. The Governor, on the recommendation of the Conservator, may make regulations for all and any of the following purposes:—

- (1) The qualifications and duties of officers of the department.
- (2) The nature and standard of the examinations to be passed to qualify for an appointment or promotion to positions in the department, and the classes of persons who may present themselves for examination.
- (3) The terms and conditions under which persons may be employed as apprentices, and the positions to which persons who have served as apprentices may be appointed.
- (4) The organisation of a system of education and training in scientific forestry.
- (5) The organisation and establishment of a forest produce research laboratory, and for the publication of scientific information emanating therefrom.

- (6) The protection under patent rights of any discovery or invention the outcome of the research laboratory.
- (7) The management of State forests, timber reserves, and forests on Crown lands, and the regulation of the cutting, removal, hewing, and sawing of timber, and the cutting, hewing, stripping, tapping, and removal of other forest produce.
- (8) The protection of trees in parks and reserves under the control and management of a board under the Parks and Reserves Act, 1895; and regulating, restricting, or prohibiting the cutting or removal of such trees and other forest produce.
- (9) Prescribing such annual cutting sections as may be deemed necessary under a working plan.
- (10) Prescribing the forms of permits, licenses, and forest leases, and regulating the manner of applying for, granting, and issuing the same, and the terms and conditions under which the same shall be held, determined, cancelled, or withdrawn.
- (11) Prescribing the procedure for the sale by auction or by tender of forest produce, and enabling upset prices or minimum royalties to be fixed.
- (12) Prescribing the fees or deposits to be paid with any application or tender.
- (13) Prescribing the rate or amount of rents, royalties, fees, dues, and charges payable in respect of permits, licenses, and forest leases.
- (14) (a) Regulating the exercise of the powers conferred by permits, licenses, agreements and forest leases under this Act,

or by any lease, license or permit granted under any repealed Act or regulation including the protection and preservation of trees, and the cutting, marking, and removing of timber and other forest produce; and

- (b) providing for the making of declarations or statements in writing as to the quantity and description of timber and forest produce obtained, held, removed, hewn, sawn, or otherwise treated, consigned or exported, and as to the place where any timber or forest produce was obtained and as to the place to which it was or is intended to be consigned, and prescribing the time within which such declarations or statements shall be made, and imposing penalties for refusing or neglecting to make any such declaration or statement, or for making an untrue declaration or statement.
- (15) Providing for the inspecting of timber and other forest produce for export and for local use, and prescribing the forms and certificates to be used, the fees to be paid, and the brands or marks to be used.
- (16) Prescribing rules for the grading of timber for export and for local use.
- (17) Regulating or prohibiting the export of certain species of timber or other forest produce.
- (18) Prohibiting the cutting of reserved trees.
- (19) Prescribing the kinds, sizes, and quantities of any forest produce which may be cut or removed in or from any State forest or timber reserve, and prohibiting the removal of any forest produce until branded by a forest officer, if so prescribed.

- (20) Prescribing the mode in which any forest produce is to be branded or marked, and the mode in which such brands or marks shall be registered in the department.
- (21) Prohibiting the counterfeiting, defacing, or obliterating of brands and marks placed on forest produce by forest officers.
- (22) Prohibiting any person from having in his possession any instrument which might be used for counterfeiting brands or marks placed on forest produce by forest officers.
- (23)
 - (a) Requiring the names and addresses of all persons (except mill hands, navvies, and general labourers) engaged or employed in the timber industry, or in the cutting or removal of forest produce, in any State forest or timber reserve, or on other Crown land, or on any sawmill permit area or any other area subject to an agreement or pursuant to any forest produce license, to be registered in the department in the prescribed form; and
 - (b) providing for the annual renewal of such registration and the suspension or cancellation thereof and requiring the payment of such registration fee as is prescribed; and
 - (c) prohibiting the employment of any person in such industry, except as aforesaid, whose name and address are not so registered; and
 - (d) requiring in the case of fallers the brands used by them to mark timber to be registered.
- (24) Prescribing the form of registration for timber workers, except as aforesaid, and the mode of applying for the same.

- (25) Requiring the holder of any permit, license or agreement under this Act to produce for inspection by the Conservator, or any person acting with his authority, all books of account, mill returns, and other documents to enable the royalties payable to be ascertained; but such regulations shall prescribe that the information so obtained shall not be disclosed otherwise than in the performance by an officer of his official duties.
- (26) Regulating or prohibiting the burning off of forest produce and the lighting and use of fires within any State forest or timber reserve or within any specified portion thereof.
- (27) Regulating or prohibiting the carrying or use of fire ignition sources and firearms and regulating the use of vehicles and machines and generally for the protection of State forests and timber reserves from damage by fire.
- (28) Regulating traffic through State forests and timber reserves, and for the prevention of trespass in any portion of a State forest or timber reserve which is the subject of planting or regeneration.
- (29) Enabling forest officers to give directions regarding the road or track in or by which any forest produce may be removed or taken through any part of a State forest or timber reserve, and requiring such directions to be observed.
- (30) Reserving any area of a State forest or timber reserve from the operation of any permit, license, or forest lease.
- (31) [*Deleted by No. 60 of 1976, s. 18.*]

- (32) Prohibiting, except under permit, the depasturing of cattle within and regulating the passage of cattle through a State forest or timber reserve.
- (33) Prohibiting, except under a forest lease or other lawful authority, the making of temporary clearings in State forests or timber reserves, for any description of cultivation.
- (34) Regulating and for the temporary prohibition of grazing over specified areas of a State forest or timber reserve to preserve young trees and seedlings.
- (35) Regulating or prohibiting the destruction, shooting, hunting, pursuing or snaring of indigenous animals and birds (subject to the provisions of the Game Act, 1912-1913¹) in State forests or timber reserves.
- (36) Enabling forest officers to stop or detain any forest produce within the boundaries of any State forest or timber reserve, or on any public highway within or abutting on any State forest or timber reserve.
- (37) Regulating the establishment of Government timber depots, and prescribing the terms and conditions for the use of same.
- (38) Requiring the holders of sawmilling permits, forest produce licenses, or agreements and all owners of private forest to register in the Conservator's Office and retain the use of a brand or to adopt such other means of identification as may be required whereby timber cut in or proceeding from their holdings may be distinguished from any other timber.

¹ Repealed by Fauna Conservation Act, 1950. (Now Wildlife Conservation Act, 1950.)

- (39) [*Deleted by No. 60 of 1976, s. 18.*]
- (40) Enabling the Governor to extend the term of sawmill permits, subject to a revision of royalties, so far as holders may not have fully exercised their rights on the basis of provision for ten years' cutting.
- (41) Conferring on the holders of permits, licenses, agreements, or forest leases the right for a period not exceeding six months after the expiration of such permits, licenses, agreements, or forest leases to remove their buildings, machinery, plant, and effects, including timber acquired.
- (42) Making provisions in respect of the supplying and obtaining of such services, equipment, or facilities as are necessary or convenient to be supplied or obtained for or in connection with the exercise of the powers and authorities of the department and the performance of its duties, including provisions in respect of the terms and conditions thereof.
- (43) Making provisions in respect of work undertaken in respect thereof on behalf of other departments of the public service, public statutory authorities, and other persons and organisations, including provisions in respect of the terms and conditions thereof.
- (44) Making provisions in respect of advice and assistance given to persons in growing and managing forests, including provisions in respect of the terms and conditions thereof.
- (45) Generally for carrying into effect the objects of this Act.

- (46) In respect of all or any of those matters—
- (a) making provisions that are limited in their application to time, place or circumstance; and
 - (b) making provisions that any act or thing shall be done with the approval or to the satisfaction of a specified person or class of persons, or that confer a discretionary authority.

And may, by any such regulations, impose a penalty not exceeding five hundred dollars for any breach of the same, or for any contravention or failure to comply with any provision or condition contained in any permit, license, or authority granted in pursuance of this Act.

44. [Repealed by No. 43 of 1954, s. 11.]

PART VII.—OFFENCES, AND GENERAL PROVISIONS.

45. Any person who, without lawful authority, fells, cuts, injures, destroys, obtains, or removes in, on, or from any State forest, timber reserve, or other Crown land any forest produce shall be guilty of a forest offence, and liable, on conviction, to imprisonment for not exceeding one year, or to a penalty not exceeding one thousand dollars.

Unlawful cutting, etc. Amended by No. 43 of 1954, s.12; No. 113 of 1965, s.8; No. 60 of 1976, s.26.

See Land Act, 1933, s.164. Vic. No. 2655, s.52(h). N.S.W., 1916, No. 55, s.27.

46. (1) If any person—

- (a) lights, kindles, or assists to light or kindle, or aids or abets another person in lighting or kindling, any fire within the boundaries or within twenty metres of any boundary of a State forest or timber reserve; or
- (b) leaves, without taking due precaution against its spreading or causing injury, a fire lighted or kindled by him as aforesaid, or in the lighting or kindling of which he has aided or abetted,

Penalty for unlawfully lighting fires. Amended by No. 43 of 1954, s.13; No. 113 of 1965, s.8; No. 94 of 1972, s.4; No. 60 of 1976, s.26.

See Vic. No. 2655, s.34.

and in either case any forest produce is burnt or injured, or is in danger of being burnt or injured, such person shall be guilty of a forest offence, and

liable, on conviction, to imprisonment for not exceeding one year, or to a penalty not exceeding one thousand dollars.

(2) A reward of not exceeding two hundred and fifty dollars may be paid by the department to any person, not being a forest officer, who shall give such information as may lead to a conviction under this section.

A forest officer may call for assistance to extinguish fires.
Amended by No. 94 of 1972, s.4.

47. (1) In the event of a fire occurring in or adjacent to any State forest or timber reserve, a forest officer may call upon any person residing or working within a radius of eight kilometres of the outbreak to assist in extinguishing the fire.

(2) All persons who in response to such call shall render the assistance required shall be remunerated at the prescribed rate.

Setting fire to bush or grass without notice to forest officer.

48. Any person who sets fire in the open air to any tree, wood, bush or grass on any land contiguous to a State forest or timber reserve, without giving notice of his intention to a forest officer so as to allow such officer to be present at the firing, commits a forest offence.

Unlawful occupation of forest land.
See N.S.W., 1916, No. 55, s.32.

49. Any person who, in any State forest or timber reserve, except in pursuance of a permit, license, or forest lease under this Act, or of a grant, lease, license, or other authority from the Crown,—

- (a) depastures any cattle;
- (b) hunts, shoots, or destroys or sets snares for the purpose of capturing any indigenous animals or birds; or
- (c) occupies, clears, or breaks up any land for cultivation, or any other purpose,

commits a forest offence.

50. Any person who commits or attempts to commit or aids or abets any person who commits or attempts to commit any of the following forest offences shall be liable to imprisonment for not exceeding one year or to a penalty not exceeding five hundred dollars—

Other offences.
Amended by
No. 43 of
1954, s.14;
No. 113 of
1965, s.8;
No. 60 of
1976, ss.19
and 26.

See Vic.
No. 2655, s.52.

- (a) counterfeits upon or unlawfully affixes to any forest produce a mark used by forest officers to indicate that such produce is the property of the Crown, or that it may be lawfully cut or removed, or that it has been inspected and passed as suitable for export;
- (b) without due authority makes or causes to be made, or uses or causes to be used, or has in his possession, a brand or stamp which resembles or purports to be a brand or stamp such as is usually used by forest officers;
- (c) counterfeits or without due authority issues any license, permit, or order for the cutting, removal, or sale of forest produce;
- (d) unlawfully alters, obliterates, defaces, pulls up, removes, or destroys any boundary mark, or any stamp, mark, sign, license, permit or order used or issued by the department or any forest officer;
- (e) unlawfully cuts, breaks, throws down or in any way destroys or damages any building, fence, or gate, in or enclosing any State forest or timber reserve, or who unlawfully cuts through or breaks down or otherwise destroys the bank, dam, or wall of any part of any natural or artificial reservoir or pond of water within or partly within and adjoining any State forest or timber reserve;
- (f) exercises compulsion upon any forest officer by violence or threats, or corrupts or attempts to corrupt by promises, offers, gifts or presents any forest officer for the purpose of obtaining a favourable report, recommendation, certificate, valuation, or royalty assessment whether in respect of

any place, employment, sale, auction, permit, license, lease, authority, or any other benefit whatsoever, or for the purpose of obtaining abstention on the part of any forest officer from any act which forms part of his duties, or refuses or fails to comply with any lawful direction of a forest officer;

- (g) being a forest officer accepts any bribe or receives any gift or present in connection with the performance of the functions of his office;
- (h) without a permit or license therefor does or causes to be done any act, matter, or thing for which a permit or license may be issued under the provisions of this Act;
- (i) without the written authority of a forest officer removes from any land, within any State forest or timber reserve, any forest produce without previously paying the proper royalty or fee due thereon;
- (j) knowingly furnishes a forest officer with a false or incorrect statement of any forest produce felled, cut, split, sawn, or removed by him or by any agent or employee of his on which royalties, fees, or charges are payable to the Crown;
- (k) knowingly makes, or causes to be made, in any book, return, declaration or statement required by the regulations to be kept or made, any entry or writing which is false in any material particular.

N.S.W., 1910,
No. 55, s.45.

Unlawful
possession
of forest
produce.
Amended by
No. 43 of
1954, s.15;
No. 113 of
1965, s.8;
No. 60 of
1976, ss.20
and 26.

51. Any person found within any State forest or timber reserve, or on any road in the vicinity thereof, and having in his possession any forest produce, who on being thereunto required by a forest officer having the authority in writing of the Conservator to exercise the power conferred by this section, refuses or fails to give an account to the satisfaction of such officer of the manner in which he became possessed of such forest produce, shall

be guilty of a forest offence, and shall be liable to a penalty of not exceeding one hundred dollars, and the forest produce shall be forfeited.

52. (1) The Conservator and any forest officer acting with his authority may enter upon the land held or occupied by virtue of a permit, license, agreement, or forest lease under this Act for the purpose of making inspections, carrying out sylvicultural operations, or other forest work, and preventing or suppressing fires.

Power to enter and inspect land.
Amended by No. 60 of 1976, s.21.

(2) Any person who obstructs or hinders the Conservator or any forest officer in the exercise of his powers under this section shall be guilty of a forest offence.

53. (1) Any person who commits a forest offence—

(a) shall, if no penalty is specified for the offence, be liable on summary conviction to a penalty not exceeding five hundred dollars, or to imprisonment for not exceeding six months; and

(b) in any case shall, on conviction, be liable for any loss or damage caused by the offence in addition to the penalty for the offence, and such loss or damage may be awarded by the court in fixing the penalty, and may be recovered in the same manner as a pecuniary penalty.

General penalty.
Amended by No. 43 of 1954, s.16; No. 113 of 1965, s.8; No. 60 of 1976, s.26.
See W.A., 1914, No. 23, ss.30, 31.
N.S.W., 1916, No. 55, s.32.

(2) The minimum pecuniary penalty for any forest offence shall be one-twentieth of the maximum, and no court shall have power to reduce such minimum.

54. (1) Whoever aids, abets, counsels, or procures, or by any act or omission is in any way directly or indirectly concerned in the commission of a forest offence, shall be deemed to have committed that offence, and shall be punishable accordingly.

Aiding and abetting offences.
See Com., 1908, No. 3, s.85.

Receiving
forest
produce
unlawfully
obtained.

(2) Whoever receives any forest produce, knowing the same to have been unlawfully obtained commits a forest offence.

Seizure of
forest
produce.

See N.S.W.,
1916, No. 55,
s.43.

55. (1) When there is reason to believe that an offence has been committed in respect of any forest produce, such produce may be seized by a forest officer, and stamped or marked with a distinctive mark, and shall thereupon become and remain the property of the Crown until the title of a lawful owner is established.

Sale of
seized
timber.
Ibid. (3).

(2) Any forest produce seized under this section may be sold or otherwise disposed of as the Conservator may direct, and the proceeds of any such sale shall be paid into the Treasury, and carried to the Consolidated Revenue Fund as revenue of the department, subject to the claim to such proceeds of any lawful owner of the forest produce.

Timber
presumed
to be
property of
Crown until
contrary
proved.

See Vic.
No. 2655,
s.44.

56. When in any proceeding under this Act a question arises as to whether any forest produce is the property of the Crown, such forest produce shall be presumed to be the property of the Crown until the contrary is proved.

Forest
officer may
conduct
prosecutions.

57. (1) Any forest officer may make complaints and conduct prosecutions for forest offences, and the Conservator may sue for and recover royalties, fees, and charges due and payable under this Act.

(2) In any such prosecution or proceeding no proof shall be required of the appointment of any forest officer or of any authority, whether general or special, of such officer to prosecute or to take any proceedings or to sue.

58. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes a forest offence, or for being liable under such other law to any higher punishment or penalty than that provided by this Act, but no person shall be punished twice for the same offence.

Penalties under Act not substituted for others.

59. (1) Unbranded timber in course of conveyance without a permit in writing from a forest officer may be seized and detained by a forest officer pending inquiry, and no damages shall be recoverable with regard to such seizure or detention should it afterwards appear that such timber has not been removed in contravention of the provisions of this Act.

Unbranded timber liable to seizure.

(2) All such unbranded timber in course of conveyance without a permit as aforesaid shall be deemed to be the property of the Crown in the absence of proof to be furnished by the person in charge of such timber that the said timber is private property.

Unbranded timber deemed Crown property in absence of proof to contrary.

60. All forest produce cut or obtained, upon which any royalty dues or charges are payable under this Act or the regulations, shall, until the payment thereof, remain the property of the Crown, and may be seized and detained or removed by any forest officer until such dues and charges have been paid; and in default of payment within ten days of seizure may be disposed of.

Forest produce the property of Crown till royalty paid.

See Vic. No. 2655, s.42.

61. On the complaint on oath of any forest officer stating his belief that forest produce liable to the payment of any royalty, dues, or charges, is secreted in any place other than a State forest, or timber reserve, any justice may issue a warrant to search for such produce.

Search warrant for secreted forest produce.

See Vic. No. 2655, s.45.

Presence, removal or disposal of buildings, etc., within State forest or timber reserve.

See Vic. No. 2655, s.38.

62. (1) When any building, hut, tramline, fence, dam, weir, erected or constructed after the commencement of this Act, or standing crop is found within a State forest or timber reserve, and—

(a) the owner thereof does not on demand produce any lease, license, permit, or authority therefor; or

(b) after reasonable inquiries made by a forest officer the owner thereof cannot be found,

then on the hearing of the complaint of a forest officer acting with the authority in writing of the Conservator, any court of petty sessions may fix a time within which such building, hut, tramline, fence, dam, weir, or crop shall be removed.

(2) If such removal is not effected within the time so fixed, such building, hut, tramline, fence, dam, weir, or crop shall become the property of the Crown and may be disposed of as the Conservator may direct.

(3) In any case where after such inquiries an owner has not been found, it shall be sufficient service of the notice of removal if a copy thereof is posted on some conspicuous part of the land on which the building, hut, tramline, fence, dam, weir, or crop is found.

Cattle may be impounded.

63. State forests and timber reserves shall be deemed "land" within the meaning of that word as applied in the provisions of the Cattle Trespass, Fencing, and Impounding Act, 1882,¹ relating to trespass, and for the purposes of those provisions the Conservator shall be deemed the owner of State forests and timber reserves, and forest officers shall be deemed his agents.

Unbranded cattle the property of the Crown.

See Vic. No. 2655, s.51.

64. All unbranded cattle above the age of twelve months at any time depasturing in any forest or timber reserve, and having no reputed or apparent

¹ Now see Local Government Act, 1960, Part XX.

owner, shall be and be deemed and taken to be the property of the Crown, and it shall be lawful for the Conservator to cause the same to be sold or otherwise disposed of.

65. No liability shall attach to the Conservator, or the department, or officers, employees, or agents thereof for any act or omission by all or any of them, in good faith and in the exercise or purported exercise of the powers or authorities of any or all of them, or in the discharge or purported discharge of the duties of any or all of them under this Act.

Immunity of Conservator, department, and officers, employees and agents thereof.
Repealed and re-enacted by No. 60 of 1976, s.22.

66. (1) The Governor may, by notification in the *Gazette*, declare that certain species or classes of timber to be therein specified shall not be exported until after such timber has been inspected and the permission of the Conservator to the exportation thereof has been obtained.

Export of certain timber prohibited except under permit.
Amended by No. 43 of 1954, s.17; No. 113 of 1965, s.8; No. 94 of 1972, s.4.

(2) Any person who exports any such timber which does not bear a mark or brand, to be affixed by a forest officer, indicating that such permission has been given, shall be liable to a fine of forty dollars per cubic metre of timber exported.

67. The Governor may order that the forest produce on any catchment area now or hereafter vested in or controlled by the Minister of Water Supply, Sewerage, and Drainage or other statutory authority shall be placed under the management or control of the Conservator, subject to such conditions as the Governor may think fit; and thereupon such areas shall be deemed Crown land for the purposes and within the meaning of this Act.

Timber on catchment areas may be placed under control of Conservator.

68. (1) Notwithstanding anything contained in any other Act relating to parks or reserves or regulations under such an Act, no license, permit, or any other authority to cut or remove forest produce in

Forest produce on parks and reserves.
Repealed and re-enacted by No. 60 of 1976, s.23.

any park or reserve to which the Governor may, by notice in the *Gazette*, apply this section, shall be granted by any person having the control of a park or reserve, without the authority of the Conservator.

(2) The revenue to be derived from any such license, permit, or other authority shall, if the Governor so directs, be apportioned between the body having the management and control of the park or reserve concerned and the department.

Timber on roads.

69. Roads within State forests and timber reserves, and such other roads as the Governor may by notice in the *Gazette* declare that this section shall apply to, shall for the purposes of this Act be deemed Crown land; and, notwithstanding section one hundred and forty-five of the Roads Act, 1911,¹ the timber thereon shall not vest in the board of the road district² in which such roads are situated:

Provided that the road board² may fell timber in the process of clearing such roads, and may sell and dispose of the timber so felled, and may fell timber growing on roads within its district for use by the board in the construction and repair of buildings, bridges, culverts, fences, and other works.

Rights of way over alienated land within forests. Amended by No. 60 of 1976, s.24.

70. On the grant or demise by conditional purchase lease or otherwise, under the Land Act, 1933, of land within a State forest or timber reserve, adequate provision shall be made to secure to the holders of permits, licenses, agreements, and forest leases the right of way over such land, and means of ingress and egress, and the right to construct and use roads and tramways for the conveyance of forest produce, and of access to waterholes and streams, and to construct, repair, and maintain pipe lines, and the reasonable use of water.

¹ Now Local Government Act, 1960.

² Now Council of a Shire, see Local Government Act, 1960, s. 4.

71. When any area of land of not less than four hectares in extent is planted, after the commencement of this Act, with forest trees approved of by the Conservator as being suitable for commercial purposes, the number of trees not being less than 1 200 to the hectare, then in computing the value of such area of land as rateable property within the meaning of any Act relating to local government, the increase in the value of such area of land by reason of the trees so planted shall not be taken into consideration.

The increased value of areas of land planted with forest trees shall not be taxed.
Amended by No. 94 of 1972, s.4.
See Vic. No. 2635, s.54.

72. A day shall be set apart in every year for the planting of trees in the several land divisions of the State, and such day shall be called "Arbor Day".

Arbor Day.

73. (1) On the disposal of land under the conditional purchase provisions of the Land Act, 1933, it shall be a condition that the purchaser shall use an area of not less than two per centum of the area of the holding acquired by him for the growth of timber or other forest produce.

Trees to be planted by Conditional Purchase holders.
Amended by No. 94 of 1972, s.4.

(2) The planting of trees, approved by the Conservator, on not less than two hectares of any land acquired under the conditional purchase provisions of the Land Act, 1933, shall be deemed an improvement within the meaning of that Act, and the conservation and improvement, to the satisfaction of the Conservator, of indigenous timber already growing on any portion of land acquired under the conditional purchase provisions of the Land Act, 1933, may, with the approval of the Minister for Lands be deemed an improvement within the meaning of that Act.

74. The administration of this Act in regard to the area comprised within the boundaries of the Greenbushes State forest, excepting any area within such boundaries the subject of any permit, license, agreement or forest lease shall be carried out subject to the concurrence of the Minister for Mines.

Administration of Act within area of Greenbushes State forest.
Amended by No. 60 of 1976, s.25.

Section 3.

THE SCHEDULE.

Date of Act.	Short Title.	Extent of repeal.
No. 37 of 1898	The Land Act, 1898	Part XI.
No. 58 of 1904	The Land Act Amendment Act, 1904	The whole.
No. 3 of 1915	The Land Act Amendment Act, 1914	The whole.