

FORESTS.

No. 60 of 1976.

AN ACT to amend the Forests Act, 1918-1974.

[Assented to 16th September, 1976.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Forests Act Amendment Act, 1976*. Short title and citation.

(2) In this Act the Forests Act, 1918-1974 is referred to as the principal Act. Reprinted as approved for reprint 18th June, 1971 and amended by Acts Nos. 94 of 1972 and 77 of 1974.

(3) The principal Act as amended by this Act may be cited as the Forests Act, 1918-1976.

Commence-
ment.

2. The provisions of this Act shall come into operation on such day or days as is or are, respectively, fixed by proclamation.

Section 3
amended.

3. Subsection (1) of section 3 of the principal Act is amended by deleting the passage “any concession, lease, license, or permit granted, or”, in lines five and six.

Section 4
amended.

4. Section 4 of the principal Act is amended by deleting the passage “timber concession, timber lease, or sawmill permit, but subject to the second paragraph of section five of this Act”, in the last three lines of the interpretation “Crown land”, and inserting in lieu thereof the passage “permit, license, agreement, or forest lease”.

Section 5
amended.

5. Subsection (2) of section 5 of the principal Act is hereby repealed.

Section 7
amended.

6. Section 7 of the principal Act is amended—

(a) as to subsection (2), by deleting paragraph (e) and inserting in lieu thereof a paragraph as follows—

(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the conditions of permits, licenses, agreements, and forest leases and authorities granted under this or any Act hereby repealed or otherwise; ; and

(b) by adding subsections as follows—

(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. .

7. Section 9 of the principal Act is amended— Section 9
amended.

- (a) by adding after the word “property”, being the last word in subsection (1), the passage “, 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”; and
- (b) by adding a subsection as follows—

(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. .

8. Section 13 of the principal Act is amended Section 13
amended. by deleting the word “casual”, in line two of paragraph (b), and inserting in lieu thereof the word “other”.

Section 14
amended.

9. Section 14 of the principal Act is amended by deleting all that part of the section after the word "obtained", in line three, and inserting in lieu thereof the passage "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".

Section 15
amended.

10. Section 15 of the principal Act is amended by deleting the second paragraph.

Section 24
repealed.

11. Section 24 of the principal Act is hereby repealed.

Section 31
amended.

12. Section 31 of the principal Act is amended—

(a) as to subsection (2), by deleting the passage "concessions, leases and permits", in line two, and inserting in lieu thereof the passage "permits, licenses, agreements, or forest leases"; and

(b) as to subsection (3),—

(i) by deleting the word "and", immediately after paragraph (c); and

(ii) by deleting paragraph (d) and inserting in lieu thereof a passage as follows—

(d) the management priorities that are proposed to be applied to State forests; and

(e) such other matters as the Conservator may think fit.

Section 33
amended.

13. Subsection (2) of section 33 of the principal Act is amended—

(a) by deleting the passage "for growing fodder for cattle used in the exercise of the privileges conferred by the permit", in lines two, three, four and five of paragraph (a);

- (b) by inserting the word “and” immediately after paragraph (b);
- (c) by deleting the passage “area;”, at the end of paragraph (c) and inserting in lieu thereof the passage “area.”; and
- (d) by deleting paragraph (d).

14. Subsection (3) of section 34 of the principal Act is amended by deleting the passage “the quarter girth system, or such other”, in line four, and inserting in lieu thereof the word “such”.

Section 34
amended.

15. Subsection (1) of section 40 of the principal Act is amended—

Section 40
amended.

- (a) by inserting after the word “forest”, in line four, the passage “or within a timber reserve created pursuant to subsection (1) of section twenty-five of this Act”; and
- (b) by deleting the passage “, agriculture,”, in line five.

16. Section 41 of the principal Act is repealed and re-enacted as follows—

Section 41
repealed and
re-enacted.

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

Revenue
and
expenditure.

(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. .

17. Subsection (1) of section 42 of the principal Act is amended by deleting the word "September", in line three, and inserting in lieu thereof the word "November".

Section 42
amended.

18. Section 43 of the principal Act is amended—

Section 43
amended.

(a) by deleting subparagraph (a) of paragraph (14) and inserting in lieu thereof a subparagraph as follows—

(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) by deleting the words "or on any timber lease or concession or sawmill permit area", in lines seven, eight and nine of subparagraph (a) of paragraph (23) and inserting in lieu thereof the words "or on any sawmill permit area or any other area subject to an agreement or pursuant to any forest produce license";

(c) by deleting the words "a registration fee not exceeding the sum of twenty-five cents per annum", in lines four, five, and six of subparagraph (b) of paragraph (23), and inserting in lieu thereof the words "such registration fee as is prescribed";

- (d) by deleting the words "and hewers", in line two of subparagraph (d) of paragraph (23);
- (e) by deleting paragraph (25) and inserting in lieu thereof a paragraph as follows—
 - (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. ;
- (f) by deleting paragraph (27) and inserting in lieu thereof a paragraph as follows—
 - (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. ;
- (g) by deleting paragraph (31);
- (h) by deleting paragraph (38) and inserting in lieu thereof a paragraph as follows—
 - (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. ;

- (i) by deleting paragraph (39);
- (j) by deleting paragraph (41) and inserting in lieu thereof a paragraph as follows—
 - (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. ;
- (k) by deleting paragraph (42) and inserting in lieu thereof paragraphs as follows—
 - (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

(1) by deleting the last four lines of the section.

Section 50
amended.

19. Section 50 of the principal Act is amended by inserting before the word “offences”, in line three, the word “forest”.

Section 51
amended.

20. Section 51 of the principal Act is amended by deleting the word “an”, in line ten, and inserting in lieu thereof the words “a forest”.

Section 52
amended.

21. Section 52 of the principal Act is amended by repealing and re-enacting subsection (1) as follows—

(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 silvicultural operations, or other forest work, and preventing or suppressing fires.

22. Section 65 of the principal Act is repealed and re-enacted as follows—

Section 65 repealed and re-enacted.

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.

23. Section 68 of the principal Act is repealed and re-enacted as follows—

Section 68 repealed and re-enacted.

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 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.

Forest produce on parks and reserves.

(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. .

24. Section 70 of the principal Act is amended by deleting the passage “timber concessions, leases, permits, and licenses”, in lines five and six, and inserting in lieu thereof the passage “permits, licenses, agreements, and forest leases”.

Section 70 amended.

25. Section 74 of the principal Act is amended by deleting the words “timber lease or permit”, in lines four and five, and inserting in lieu thereof the passage “permit, license, agreement or forest lease”.

Section 74 amended.

Other
amendments.

26. The provisions of the principal Act set out in the Schedule to this Act are amended to the extent specified therein.

S.26.

SCHEDULE.

Provision Amended.	Amendment.
Section 43	Delete the word "two", in line two of the penultimate paragraph and insert in lieu thereof the word "five".
Section 45	Delete the words "four hundred", in the last line, and insert in lieu thereof the words "one thousand".
Section 46(1)	Delete the words "four hundred", in the last line, and insert in lieu thereof the words "one thousand".
Section 46(2)	Delete the words "one hundred", in line one, and insert in lieu thereof the words "two hundred and fifty".
Section 50	Delete the word "two", in line five, and insert in lieu thereof the word "five".
Section 51	Delete the word "forty", in the penultimate line, and insert in lieu thereof the words "one hundred".
Section 53(1)(a)	Delete the word "two", in line three, and insert in lieu thereof the word "five".