

## FORESTS.

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No. 77 of 1974.

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### AN ACT to amend the Forests Act, 1918-1972.

[Assented to 10th December, 1974.]

**B**E 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, 1974*.

Short title  
and citation.

(2) In this Act the Forests Act, 1918-1972, is referred to as the principal Act.

Approved  
for reprint,  
18th June,  
1971 and  
amended by  
Act No. 94  
of 1972.

(3) The principal Act as amended by this Act may be cited as the Forests Act, 1918-1974.

Commence-  
ment.

2. This Act shall come into operation on a date to be fixed by proclamation.

Section 2  
amended.  
(Division of  
Act.)

3. Section 2 of the principal Act is amended by adding after the passage "PART IV.—PERMITS, LICENSES, AND FOREST LEASES.", in lines six and seven, the passage "PART IVA.—CONTROL AND ERADICATION OF FOREST DISEASES."

Section 40A  
added.

4. The principal Act is amended by adding after section 40 the following heading and section—

PART IVA.—CONTROL AND ERADICATION OF  
FOREST DISEASES.

Purposes of  
this Part.

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. .

Section 40B  
added.

5. The principal Act is amended by adding a section as follows—

Application  
of this Part.

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.

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

Section 40C  
added.

6. The principal Act is amended by adding a section as follows—

Interpreta-  
tion of this  
Part.

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  $31^{\circ} 40'$  and west of longitude  $117^{\circ}$ , 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.

Section 40D  
added.

7. The principal Act is amended by adding a section as follows—

Risk  
areas.

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 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. .

8. The principal Act is amended by adding a section as follows—

Section  
40E added

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.

Disease  
areas.

(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. .

Section 40F  
added.

9. The principal Act is amended by adding a section as follows—

Extension,  
reduction,  
or abolition  
of risk and  
disease  
areas.

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,

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. .

Section 40G  
added.

10. The principal Act is amended by adding a section as follows—

Mining  
tenements.

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.

(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. .

11. The principal Act is amended by adding a section as follows—

Section 40H added.

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

Regulations under 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. .

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