

SCHOOL FOREST AREAS ACT.

Act No. 20, 1936.

Edward VIII,
No. 20, 1936. An Act to authorise the Governor to set apart portions of State forests and Crown lands as school forest areas; to authorise the Minister to acquire by gift or devise lands for use as school forest areas; to provide for the constitution of school forest trusts and for the control and management of school forest areas; to provide for the application of moneys derived from the sale of timber and other products of school forest areas in the advancement of education; to amend the Forestry Act, 1916-1935, and certain other Acts; and for purposes connected therewith. [Assented to, 22nd June, 1936.]

BE

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

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PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "School Forest Areas Act, 1936." Short title and division into Parts.

(2) This Act is divided into Parts as follows:—

PART I—PRELIMINARY.

PART II—SCHOOL FOREST AREAS.

PART III—SCHOOL FOREST TRUSTS.

PART IV—DISTRICT COMMITTEES.

PART V—MISCELLANEOUS PROVISIONS.

2. (1) In this Act, unless the context or subject matter otherwise indicates or requires— Interpretation.

"Crown Lands" means lands vested in His Majesty and not permanently dedicated to any public purpose or granted or lawfully contracted to be granted in fee simple under the Crown Lands Consolidation Act, 1913, or any Act amending the same.

"Prescribed" means prescribed by this Act or by the regulations.

"Products" means products of growing or dead timber, trees, shrubs, or vegetable growth of economic value.

"Regulations" means regulations made under this Act.

"School" means a State School as defined in the Public Instruction (Amendment) Act, 1916.

"State forest" has the meaning ascribed thereto in the Forestry Act, 1916-1935.

"This Act" includes the regulations.

"Trust" means a school forest trust constituted under this Act. (2)

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(2) The powers, authorities, duties and functions conferred and imposed upon a school forest trust under this Act shall apply in respect of each school forest area to the school forest trust of that area.

PART II.

SCHOOL FOREST AREAS.

Governor
may
establish
school forest
areas.

3. (1) For the purpose of encouraging and enabling the pupils of a State school to engage in the study of scientific forestry and silviculture, the Governor may, by proclamation published in the Gazette, set apart, either by a general or a particular description, the whole or any part of a State forest or any area of Crown lands as a school forest area for that school.

(2) (a) A State forest or part thereof shall not be set apart under this section except with the concurrence of the Forestry Commission.

(b) An area of Crown lands shall not be set apart under this section except with the concurrence of the Secretary for Lands.

(3) Land set apart under this section as a school forest area shall not be dealt with otherwise than in pursuance of this Act, and such setting apart shall not be revoked except under the authority of subsection four of this section.

(4) The setting apart of land as a school forest area may be revoked by the Governor, on the recommendation of the Minister, by notification published in the Gazette.

Where the land set apart under this section comprised the whole or a part of a State forest, such land shall, upon the revocation of the setting apart, again become a State forest.

Where the land set apart under this section was an area of Crown lands, such land shall upon the revocation of the setting apart (unless otherwise declared by notification in the Gazette) become Crown lands within the meaning

meaning of and may be dealt with under the Crown Lands Consolidation Act, 1913, or the Western Lands Act of 1901, as the case may be, or any Act amending the same; and until so dealt with shall be reserved from sale or lease under any Act. No. 20, 1936.

4. (1) The Minister may acquire by gift or devise land for use as a school forest area. Minister may acquire land by gift or devise.

(2) For the purpose of acquiring and holding any such land, the person for the time being holding the office of the Minister is constituted a corporation sole under the name of the Minister, with perpetual succession and a seal of office, and may in that name sue and be sued, proceed and be proceeded against in all courts.

(3) Land acquired by the Minister under this section, and held by him shall pass and devolve to and vest in the successors of the Minister.

PART III.

SCHOOL FOREST TRUSTS.

5. A school forest trust shall be constituted in respect of each school forest area. School forest trust.

6. (1) Each trust shall consist of four members who shall be appointed by the Governor. Members of trust.

(2) One of such members shall be the person who for the time being holds the office of Inspector of Schools for the district in which the school is situated.

He shall by virtue of his office as Inspector of Schools be chairman of the trust.

He shall hold office as a member and as chairman of the trust while he continues to hold the office of Inspector of Schools for the district.

(3) One of such members shall be the person who for the time being holds the office of teacher of the school in respect of which the trust is constituted.

He shall by virtue of his office as teacher be deputy-chairman of the trust.

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He shall hold office as a member and as deputy-chairman while he continues to hold the office of teacher of the school.

(4) The remaining two members shall be persons nominated for appointment by the Parents and Citizens' Association formed in connection with the school.

The nominations shall be made in the manner prescribed.

Where no Parents and Citizens' Association has been formed in connection with the school, or where the Parents and Citizens' Association fails within a period prescribed to nominate a person or persons for appointment, the remaining two members shall be persons selected for appointment by the Governor.

The two members referred to in this subsection shall, subject to this Act, hold office as members for a period of two years and shall be eligible for reappointment if nominated by the Parents and Citizens' Association formed in connection with the school, or selected for appointment by the Governor, as the case may be.

Conditions
of appoint-
ment of
member of
trust.

7. (1) A member of a trust shall not be entitled to receive any remuneration for his services as a member.

(2) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to the appointment of a member of a trust.

Removal of
members—
filling of
vacancies.

8. (1) The Governor may at any time remove any member referred to in subsection four of section six of this Act, and may appoint a person to take the place of the member so removed.

(2) Any person appointed to fill a vacancy caused by the removal of a member of a trust or to fill any vacancy arising from death, resignation or otherwise shall hold office for the residue of his predecessor's term, and shall be eligible for reappointment.

(3) In case of the illness or absence of a member of the trust a deputy may be appointed by the Governor to act for such member during his illness or absence; and every such deputy shall, during the time he acts as deputy, have all the powers, authorities, duties and functions of such member.

9.

9. (1) The procedure for the calling of meetings of a trust, and for the conduct of business at such meetings shall, subject to any regulations in relation thereto, be as determined by the trust. No. 20, 1936.
Meetings
and
procedure.

(2) Two members of a trust, one of whom shall be the chairman or deputy-chairman shall form a quorum for a meeting, and any duly convened meeting at which a quorum is present shall be competent to transact any business of the trust and shall have and may exercise and discharge all the powers, authorities, duties and functions by this Act conferred or imposed upon a trust.

(3) At any meeting of a trust at which the voting on a question is equal, the chairman or in his absence the deputy-chairman, shall have a casting vote in addition to his deliberative vote.

(4) A trust may by resolution authorise the chairman or deputy-chairman to determine such matters as are specified in the resolution. Any such authority may from time to time be revoked or varied by resolution.

(5) No action or suit shall be brought or maintained against any person who is, or at any time has been, a member of a trust, for anything done or omitted by him pursuant to the duties imposed upon him by this Act.

(6) A trust shall cause minutes of its meetings and decisions to be kept.

10. A trust may for the purpose of obtaining information or advice in relation to the exercise and discharge of its powers, authorities, duties and functions, invite any person to be present at any meeting of the trust, and may permit such person to take part in the deliberations and discussions at the meeting; but in no case shall any such person vote upon any question arising at the meeting. Trust may
co-opt
advisory
members.

11. Any member of a trust who—

(a) is in any wise concerned or interested in any bargain or contract made or arranged by or on behalf of the trust; or

(b) in any wise participates or claims to be entitled to participate in the profit thereof or in any benefit or emolument arising from the same—

shall thereby vacate his office as a member of the trust and shall also be liable to a penalty not exceeding fifty pounds.

Disqualifica-
tion of
members.

No. 20, 1936. **12.** The control and management of each school forest area shall, subject to this Act, be vested in the trust constituted in respect of that area.

Control and management.

Arrangements with Forestry Commission for assistance.

13. (1) A trust may with the approval of the Minister make arrangements with the Forestry Commission—

- (a) for the provision of assistance by that Commission in the establishment, fencing, clearing, development and maintenance of a school forest area and in the taking and sale of timber and products thereof;
- (b) for the reimbursement by the trust, either in whole or in part and under such terms and conditions as may be specified in the arrangement, of any moneys expended by that Commission in the provision of such assistance.

(2) The provision of assistance to a trust under any such arrangement shall be deemed to be a purpose for which moneys carried to a special account in the Treasury in pursuance of subsection two of section thirteen of the Forestry Act, 1916-1935, may be set apart.

Sale of timber, etc.

14. A trust may take and sell the timber and products of a school forest area.

Application of moneys.

15. (1) All moneys received by a trust shall be applied by the trust for the following purposes:—

- (a) the payment of the costs and expenses incurred by the trust in the taking and sale of such timber and products;
- (b) the reimbursement of the Forestry Commission of moneys in accordance with any arrangement referred to in section thirteen of this Act expended by that Commission in granting assistance pursuant to such arrangement;
- (c) the payment of other costs and expenses incurred by the trust in carrying out the powers, authorities, duties and functions conferred and imposed by this Act.

(2) Where, after making payments referred to in subsection one of this section, any surplus moneys are held by the trust such surplus moneys may be applied for the following purposes or any of them—

- (a) the provision of school libraries, educational equipment, teaching aids, central conveyances, and

and generally for any educational purpose associated with the school in respect of which the trust has been constituted; No. 20, 1936.

- (b) the establishment of scholarships, including forestry scholarships, in accordance with the regulations;
- (c) any educational purposes other than those hereinbefore referred to, which are recommended by the trust and approved by the Minister.

16. Where a trust is constituted in respect of a school forest area, the trust shall as soon as practicable take such steps and give such directions as may be necessary for the planting of the area with forest trees and plants by the pupils and teachers of the school and to encourage and enable such pupils to engage in the practical study of scientific forestry and silviculture. Objects
of trust.

It shall be the duty of the trust to control, manage, maintain and develop the school forest area in accordance with any regulations made in that behalf.

PART IV.

DISTRICT COMMITTEES.

17. (1) Where two or more trusts (in this Part referred to as the "constituent trusts") are desirous of delegating to a district committee, either permanently or for a limited period, all or any of the powers, authorities, duties and functions conferred and imposed upon a trust by or under this Act, such trusts may, in accordance with the regulations, make application for the approval of the Minister to the constitution of a district committee. District
Committees.

(2) If the Minister approves of the proposal, a district committee shall be constituted, and shall consist of a chairman, who shall be the Inspector of Schools for the district, and one representative from each of the constituent trusts.

(3)

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(3) A district committee shall, when acting within the scope of the powers and authorities delegated to it, act in the place of each constituent trust.

(4) (a) The Minister may, at any time by notification published in the Gazette, dissolve the trust constituted in respect of any school forest area (whether such trust is or is not a constituent trust), and vest the control and management of that area in any district committee.

(b) Upon such publication the district committee specified in the notification shall take the place of the trust so dissolved.

Regulations. **18.** The regulations may make provisions for and in relation to—

- (a) the method of selecting the members of a district committee to act as representatives of the constituent trusts, the term of office of the members so selected, the circumstances in which a casual vacancy may arise amongst such members and the method of filling such vacancy;
- (b) the procedure for the calling of meetings of a district committee, the number of members who shall constitute a quorum for the purposes of any such meeting, and the conduct of business at such meetings;
- (c) the powers, authorities and duties of the chairman, and the appointment of a deputy chairman to act in the place of the chairman during his illness or absence;
- (d) any matter or thing necessary or convenient to give effect to this Part of this Act, and in particular, but without prejudice to the foregoing provisions of this section, any of the matters and things dealt with in this Act in relation to a trust.

PART V.

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MISCELLANEOUS PROVISIONS.

19. (1) If any person (other than a person authorised by the trust) on any school forest area— Offences.

- (a) cuts, strips, obtains, removes, destroys or damages any timber or tree; or
- (b) digs for, extracts, obtains, removes, destroys or damages any products; or
- (c) grazes any horse or cattle; or
- (d) occupies or uses the land within the area; or
- (e) causes or suffers any of the things aforesaid to be done,

he shall be liable to a penalty not exceeding twenty pounds, and in addition shall be liable for any loss or damage caused by the offence. Such loss or damage may be awarded by the court imposing the penalty and may be recovered in the same manner as the penalty.

(2) If any person other than a person authorised by the trust ringbarks or otherwise kills or destroys any tree in a school forest area, he shall be liable to a penalty not exceeding twenty pounds in respect of each tree so ringbarked or killed.

20. (1) Any member of the police force or person authorised by the trust in writing to act under this section— Seizure and forfeiture of timber and products.

- (a) may stop and detain any timber or products within the boundaries of a school forest area;
- (b) if he has reason to believe that any timber or products have been cut, removed, or otherwise dealt with contrary to the provisions of this Act or the regulations, or have been abandoned, may enter any land and any buildings thereon and seize such timber and products and place a distinctive mark thereon; and such timber and products shall thereupon become and remain the property of the trust until otherwise ordered by a court of petty sessions.

(2)

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(2) Where timber or products are seized as aforesaid—

- (a) the person making the seizure shall inform the person in possession of, or owning, or reasonably believed to own the timber or products of the fact of the seizure, or if such person is not known to him shall affix a notice of the seizure on such timber or products, and also at the nearest court of petty sessions;
- (b) if any person is convicted of the offence aforesaid, or if, in the case of a notice affixed as aforesaid, no one, within fourteen days after the fixing of such notice, claims to be the owner of the timber or products, a court of petty sessions shall either order that the same be forfeited to the trust, or make such order vesting the same in any person as may be thought just.

(3) Any timber or products forfeited in pursuance of this Act may be sold or otherwise disposed of as the trust may direct.

Penalties
for offence
against
officers, etc.

21. (1) Whosoever—

- (a) offers violence to or assaults, threatens, or attempts to intimidate any person acting under the authority of a trust while such person is acting in the exercise of his powers or the discharge of his duties under this Act or the regulations; or
- (b) gives or agrees to give or offers to any such person any gift or consideration as an inducement or reward for any act done or to be done or any forbearance observed or to be observed or any favour shown or to be shown by such person in or in relation to the exercise of such powers or the discharge of such duties as aforesaid,

shall be liable to a penalty not exceeding fifty pounds.

(2) A gift or consideration shall be deemed to be given as an inducement or reward if the receipt or any expectation thereof would be in any way likely to influence the person to do or leave undone something contrary to his duty.

22.

22. Any penalty or forfeiture under this Act or the regulations may be recovered and enforced in a summary way before a stipendiary or police magistrate, or any two justices in petty sessions. No. 20, 1936.
Recovery
of penalties.

An information or complaint for the recovery of any such penalty or forfeiture may be laid or made within twelve months from the time when the matter of the information or complaint arose.

23. (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are permitted or required to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act. Regulations.

(2) Without prejudice to the generality of the provisions of subsection one of this section the Governor may make regulations—

- (a) providing for the protection and preservation of school forest areas, and for the prevention of damage or injury thereto or to any trees, timber or products thereon;
- (b) regulating the calling of meetings of trusts, the conduct of the proceedings at any such meeting, and the manner and form in which minutes of proceedings at a meeting shall be kept;
- (c) providing for the keeping of accounts of all moneys received and expended by or on behalf of a trust and for the audit of such accounts at such period as may be specified;
- (d) prescribing the powers, authorities, duties and functions of a trust, and regulating the exercise and discharge of such powers, authorities, duties and functions;
- (e) authorising and regulating the employment of persons by a trust in connection with the establishment, maintenance and development of a school forest area;
- (f) requiring and authorising a trust to provide any facilities which may be necessary to enable the pupils of the school in respect of which the trust is constituted—
 - (i) to plant a school forest area with trees and plants; and
 - (ii)

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- (ii) to share in the development of the area;
and
- (iii) to engage in the practical study of scientific forestry and afforestation on the area;

(g) providing for giving effect to any arrangement made between the Minister and a municipal or shire council for the establishment of a school afforestation scheme upon land made available for the purpose by such council.

(3) The regulations may impose a penalty not exceeding five pounds for the breach of any provision thereof.

(4) A regulation may apply generally to all trusts, school forest areas and schools or may apply to any particular trust, area or school, or to trusts, areas or schools within any specified portion of the State.

(5) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of such publication or from a later date to be specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is then in session, and, if not, then within fourteen sitting days after the commencement of the next session.

(6) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.