

FORESTRY (AMENDMENT) ACT.

Act No. 35, 1935.

George V.
No. 35, 1935.

An Act to make further provisions relating to forestry and kindred matters; to validate the appointment of an acting commissioner; to repeal the Forestry (Amendment) Act, 1933; to amend the Forestry Act, 1916-1933, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 11th April, 1935.]

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:—

PART I.

PRELIMINARY.

Short title,
citation,
commence-
ment, and
division
into Parts.

1. (1) This Act may be cited as the "Forestry (Amendment) Act, 1935," and shall be read and construed with the Forestry Act, 1916-1933.

(2) The Forestry Act, 1916-1933, is in this Act referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the Forestry Act, 1916-1935.

(4) This Act shall commence upon a date to be appointed by the Governor and notified by proclamation published in the Gazette.

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

PART I—PRELIMINARY.

PART II—COMMISSION AND OFFICERS.

PART III—FLORA RESERVES AND CATCHMENT RE-
SERVES.

PART IV—MISCELLANEOUS AMENDMENTS.

PART

PART II.

No. 35, 1935.

COMMISSION AND OFFICERS.

2. (1) The Principal Act is amended—

Amendment
of Act No.
55, 1916.

- (a) by inserting in section six after the words " per annum " the words " which shall be subject to the Public Service Salaries Act, 1931-1934 ";
- (b) by inserting after section nine the following new sections:—

Sec. 6.
(Salary of
Commissioner.)
New ss. 9A, 9B.

9A. There shall be a secretary to the commission who shall, under and subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts, be appointed by the Governor.

Secretary to
the Commission.

9B. (1) For the purposes of this Act the State shall be divided into not less than three inspectorial districts, the boundaries of which shall be determined by the Minister on the advice of the Commissioner and may on such advice as aforesaid be altered by him from time to time as he may deem necessary.

Inspectional
districts.

(2) There shall be a forest inspector for each such district.

Each forest inspector shall, under and subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts, be appointed by the Governor.

One of such inspectors shall in and by his appointment be the chief forest inspector:

Provided that in making appointments to the positions of secretary and chief forest inspector preference shall be given, other things being equal, to persons holding a degree or diploma of a recognised school of forestry:

Provided further that nothing in this subsection shall prevent the promotion or appointment to either of those positions of any officer or person employed in connection with the administration of this Act immediately before the commencement of the Forestry (Amendment) Act, 1935.

(2)

Forestry (Amendment) Act.**No. 35, 1935.**Validation of
appointment.

(2) The appointment by the Governor by executive minute dated the twenty-ninth day of March, one thousand nine hundred and thirty-four, of Stephen Murray Tout, Esquire, as acting commissioner shall be deemed always to have been a valid appointment of an acting commissioner pursuant to section 6A of the Principal Act, and notwithstanding anything to the contrary contained in the said executive minute or in the said section he shall be deemed to have been validly appointed as acting commissioner for a term expiring upon the date of the commencement of this Act.

Repeal of Act
No. 7, 1933.

(3) The Forestry (Amendment) Act, 1933, is repealed.

PART III.

FLORA RESERVES AND CATCHMENT RESERVES.

*Dedication of Reserves.*Further
amendment of
Act No. 55,
1916.

3. The Principal Act is further amended by inserting after section twenty-five the following new headings and sections:—

New ss.
25A, 25B.*Flora Reserves.*Flora
reserves.

25A. (1) The Governor may, by notice in the Gazette, dedicate any area of Crown lands or set apart the whole or a portion of any State forest other than a national forest as a flora reserve for the preservation of native flora.

(2) Crown lands shall not be dedicated under this section except with the concurrence of the Secretary for Lands.

(3) The setting apart under this section of the whole or a part of a State forest as a flora reserve shall not affect the dedication as a State forest of the area so set apart.

(4) A notice in the Gazette under this section shall not be revoked either wholly or in part otherwise than by Act of Parliament.

(5) (a) The commission shall, in respect of each flora reserve, cause to be drawn up a detailed written scheme of the operations which it is proposed to undertake on or in relation to the flora reserve.

(b)

(b) The object of the scheme shall be the preservation of native flora on the flora reserve.

(c) Such scheme shall be submitted to the Minister for his approval and if approved by him shall become the working plan for such flora reserve.

(d) No operations shall be undertaken on or in relation to a flora reserve unless such operations are in accordance with the working plan for the reserve.

(e) The working plan for a flora reserve may, with the approval of the Minister, be amended or altered from time to time.

(f) A working plan may contain provisions authorising the council of a municipality or shire within the boundary of which a flora reserve or part thereof is situate to participate to the extent specified in the working plan in the management of such reserve or in the undertaking of any operations authorised by the working plan to be undertaken on or in relation to such reserve; and in any such case the council concerned may expend out of its general fund any moneys necessary to meet the costs and expenses of exercising the authority conferred upon it by the working plan.

(g) A working plan may also contain provisions authorising the representative or representatives of any local committee or public body or organisation to participate, to the extent specified in the working plan, in the management of the flora reserve or in the undertaking of any operations authorised by the working plan to be undertaken on the reserve.

Catchment reserves.

25B. (1) The Governor may by notice in the Gazette dedicate any area of Crown lands or set apart the whole or a portion of any State forest other than a national forest as a catchment reserve for the protection of water supply catchment areas and for the prevention of erosion.

Catchment
reserves.

(2) Crown lands shall not be dedicated under this section except with the concurrence of the Secretary for Lands, which concurrence shall not be given except upon the recommendation of the Catchment Areas Board constituted under section 34A of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts.

(3) The setting apart under this section of the whole or a part of a State forest as a catchment reserve shall not affect the dedication as a State forest of the area so set apart.

(4) A notice in the Gazette under this section shall not be revoked either wholly or in part otherwise than by Act of Parliament.

(5) (a) The commission shall, in respect of each catchment reserve, cause to be drawn up a detailed written scheme of the operations which it is proposed to undertake on or in relation to the catchment reserve.

(b) The objects of such scheme shall be the prevention or mitigation of erosion and silting of reservoirs by the preservation of native timber cover, the afforestation of portions of the catchment reserve which bear no timber cover or bear inadequate timber cover, or by any other means specified in the scheme.

(c) Such scheme shall be submitted to the Minister for his approval, and if approved by him shall become the working plan of such catchment reserve. Before approving of any such scheme the Minister shall give consideration to any report or recommendation in relation thereto made by the Catchment Areas Board constituted under section 34A of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts.

(d) No operations shall be undertaken on or in relation to a catchment reserve unless such operations are in accordance with the working plan for the reserve.

(e)

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(e) The working plan for a catchment reserve may, with the approval of the Minister, be amended or altered from time to time.

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Amendments consequential on section three.

1. The Principal Act is further amended—

Further amendment of Act No. 55, 1916.

(a) (i) by inserting in section four after the words “requires another meaning” the following definition:—

Sec. 4.
(Definition.)

“Catchment reserve” means land dedicated or set apart under this Act as a catchment reserve.

(ii) by inserting in the same section after the definition of “Exclusive rights” the following definition:—

“Flora reserve” means land dedicated or set apart under this Act as a flora reserve.

(iii) by inserting in the same section after the definition of “Tree” the following definition:—

“Working plan” means a detailed written scheme, as approved by the Minister, of the operations to be undertaken on or in relation to a particular flora reserve or catchment reserve.

(b) by inserting in section nine after the words “timber reserves” the words “and also of flora reserves and catchment reserves”;

Sec. 9.
(Control and management by director.)

(c) by inserting in subsection one of section eleven after the words “timber reserve” the words “and also (but only in accordance with the provisions of the working plan for the flora reserve or catchment reserve) dispose of timber and products on a flora reserve or catchment reserve”;

Sec. 11.
(Disposal of timber and products.)

(d) by inserting in section twenty after the words “State forest” the words “flora reserve or catchment reserve”;

Sec. 20.
(Leases and licenses.)

(e)

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Sec. 21.

(Land sub-
ject to
mining law.)

(e) (i) by inserting in section twenty-one after the words "State forest" wherever occurring the words "flora reserve or catchment reserve";

(ii) by inserting in the same section after the word "forestry" the words "or the purposes of the reserve, as the case may be";

Sec. 25.

(Existing
leases and
licenses.)

(f) by inserting in subsection one of section twenty-five after the words "State forest" the words "or the dedication or setting apart of land as a flora reserve or catchment reserve";

Sec. 26.

(Special
license.)

(g) by inserting after subsection one of section twenty-six the following new subsection:—

(1A) A special license may, with the approval of the Minister, be issued, authorising the holder, subject to the regulations, to the conditions and limitations of the license, and to the provisions of the working plan, to take timber or products or any specified description thereof on land within a flora reserve or catchment reserve, whether such land is or is not under lease or license from the Crown.

Sec. 27.

(Taking of
products.)

(h) by inserting in section twenty-seven after the words "timber reserve" the words "flora reserve or catchment reserve";

Sec. 31.

(Permits.)

(i) (i) by inserting in subsection three of section thirty-one after the words "timber reserve" the words "or flora reserve or catchment reserve";

(ii) by inserting at the end of the same section the following new subsection:—

(6) A permit under this section shall not be granted in respect of land within a flora reserve or catchment reserve except with the approval of the Minister and in accordance with the working plan for the reserve.

Sec. 32.

(Using
land.)

(j) by inserting in section thirty-two after the words "timber reserve" wherever occurring the words "flora reserve or catchment reserve";

(k)

- (k) by inserting in section thirty-six after the words "timber reserve" the words "flora reserve or catchment reserve"; No. 35, 1935.
Sec. 36.
(Impounding.)
- (l) (i) by inserting in paragraphs (o) and (p) of section forty-one after the words "State forests" wherever occurring the words "flora reserves, catchment reserves"; Sec. 41.
(Regulations.)
- (ii) by inserting after paragraph (u) of the same section the following new paragraph:—
- (v) providing for the management and control of flora reserves and catchment reserves and for all matters relating to such reserves;
- (m) by inserting in paragraph (a) of subsection one of section forty-three after the words "timber reserve" the words "flora reserve or catchment reserve." Sec. 43.
(Seizure and forfeiture of timber and products.)

PART IV.

MISCELLANEOUS AMENDMENTS.

5. (1) The Principal Act is further amended—

- (a) by inserting in subsection two of section thirteen after the word "licenses" the words "forest leases"; Further amendment of Act No. 55, 1916.
Sec. 13 (2).
(Correction.)
- (b) by inserting at the end of section thirteen the following new subsection:— Sec. 13.
New sub-sec. (4).
- (4) No scheme of afforestation with exotic species of timber shall be undertaken or extended after the commencement of this Act except with the written approval of the Minister, which approval shall not be given unless evidence as prescribed has been adduced

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to the Minister satisfying him that the soil, site and climate are such as to render the carrying out of the scheme desirable in the interests of the public.

Sec. 15.
(Resump-
tion of
land.)

- (c) by inserting in section fifteen after the words "authorised work" the words "and the Minister for Public Works shall be the constructing authority. The said Minister shall notify that the land is vested in His Majesty. Thereupon the land shall vest in His Majesty for the purposes of this Act";

Sec. 19 (b).
(Correc-
tion.)

- (d) by inserting at the end of paragraph (b) of section nineteen the words " and until so dealt with shall be reserved from sale or lease under any Act ";

Sec. 22.
(Correc-
tion.)

- (e) by inserting at the end of section twenty-two the words " and until so dealt with shall be reserved from sale or lease under any Act " ;

New s. 19A.

- (f) by inserting after section nineteen the following new section:—

National
forests.

19A. The Governor may from time to time by notification published in the Gazette, declare that any State forest or part thereof specified in the notification shall be a national forest. The provisions of section nineteen of this Act shall not extend to or in respect of any national forest.

The dedication as a State forest of any national forest shall not be revoked otherwise than by Act of Parliament.

Sec. 32.
(Use of
State
forest or
reserve.)

- (g) (i) by omitting from subsection one of section thirty-two the words " horses or cattle " and by inserting in lieu thereof the word " animal " ;
- (ii) by inserting in subsection two of the same section after the words " each tree so ring-barked " the words " or otherwise killed or destroyed " ;

(h)

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(h) by omitting paragraph (iii) of section forty-two and by inserting in lieu thereof the following paragraph:—

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Sec. 42.
(Publica-
tion of
regula-
tions.)

(iii) be laid before both Houses of Parliament within fourteen sitting days after such publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

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.

(2) The Principal Act is further amended—

Further
amendment
of Act No. 55,
1916.

(a) (i) by omitting from paragraph (b) of subsection one of section eleven the words “sawn timber or any other” and by inserting in lieu thereof the words “or hewn”;
(ii) by omitting paragraphs (c) and (e) of the same subsection;

Sec. 11 (1).
(Special
powers of
commis-
sion.)

(b) by omitting from subsection two of section thirteen the words “otherwise than under paragraph (e) subsection one of section eleven.”

Sec. 13.
(Conse-
quential.)

(3) The Principal Act is further amended—

Further
amendment
of Act No.
55, 1916.
Sec. 11.

(a) by inserting at the end of section eleven the following new subsection:—

New subsec.
3.
(Kilns.)

(3) The commission may with the approval of the Minister—

(a) construct, maintain and manage kilns which shall be used solely for conducting experiments in or in relation to the drying of timber;

(b) purchase any land necessary to enable it to exercise the powers conferred by paragraph (a) of this subsection.

(b)

Friendly Societies (Amendment) Act.**No. 35, 1935.**Sec. 13.
(Expendi-
ture.)

(b) by inserting in subsection two of section thirteen after the word "reserves" the words "for the purposes of subsection three of section eleven of this Act."

Amendment
of Act No.
35, 1934.
Sec. 41 (3).
(Control of
travelling
stock and
camping
reserves.)

(4) The Pastures Protection Act, 1934, is amended by inserting in subsection three of section forty-one, immediately before the words "Timber felled" the words—

"In any case where concurrence, as aforesaid, has been given in the ringbarking, felling or destruction of timber on such reserves, the board may, notwithstanding anything to the contrary contained in the Forestry Act, 1916-1935, sell such timber, and all moneys received as a result of any such sale shall form part of the Reserves Improvement Fund for the district, save as aforesaid."

