

**FORESTRY, SOIL CONSERVATION AND OTHER
ACTS (AMENDMENT) ACT.**

New South Wales



ANNO VICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 26, 1972.

An Act to impose certain restrictions on the conversion under the Crown Lands Consolidation Act, 1913, or the Western Lands Act of 1901, of certain leases from the Crown to purchase-tenures; to reserve to the Crown profits à prendre in respect of timber and certain products on land converted to any such tenures; to require the holder of a license issued under the Forestry Act, 1916, removing timber or products from lands the subject of certain leases from the Crown, from certain purchase-tenures or from lands under the control of Pastures Protection Boards to pay to the lessees, the owners of the purchase-tenures or

the

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the Pastures Protection Boards a portion of the No. 26, 1972 royalties payable by him; to prohibit the destruction of trees on certain land except pursuant to an authority or permit granted by the Catchment Areas Protection Board constituted under the Soil Conservation Act, 1938; to validate certain matters; for these and other purposes to amend the Forestry Act, 1916, the Soil Conservation Act, 1938, the Crown Lands Consolidation Act, 1913, the Western Lands Act of 1901 and the Water Act, 1912; and for purposes connected therewith. [Assented to, 11th April, 1972.]

BE it enacted by the Queen'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:—

1. (1) This Act may be cited as the "Forestry, Soil Conservation and Other Acts (Amendment) Act, 1972". Short title and commencement.

(2) The several provisions of this Act shall commence upon such day or days as may be appointed in respect thereof by the Governor and notified by proclamation published in the Gazette.

2. (1) The Forestry Act, 1916, is amended— Amendment of Act No. 55, 1916.

(a) by inserting in section two next after the matter relating to Part II the following new matter :— Sec. 2. (Division of Act.)

PART IIA.—PROVISIONS APPLICABLE ON
CONVERSION OF CERTAIN LEASES FROM
THE CROWN TO FREEHOLD.

(b)

Forestry, Soil Conservation and Other Acts (Amendment).

No. 26, 1972
 Sec. 11.
 (Special powers of commission.)

(b) by inserting in subsection one of section eleven after the words "timber reserve," the words "or timber or products in respect of which the commission enjoys rights under a profit à prendre reserved under subsection one of section 25F of this Act,";

Subst. sec. 17, new sec. 17A.

(c) by omitting section seventeen and by inserting in lieu thereof the following sections : —

Classi-
 fication of
 forest
 lands.

17. (1) The commission shall take all reasonable and practicable steps to ensure that there shall be maintained in New South Wales an area of not less than eight million acres of land dedicated as State forests and that, of that land, there shall be not less than one and one-half million acres of land kept for the purposes of afforestation with trees of the exotic coniferous species.

(2) The commission shall carry on a continuing classification of the lands of the State for the purpose of determining which lands are suitable and desirable in the public interest to be permanently dedicated as State forests.

(3) In classifying lands of the State for the purpose of determining which lands should be dedicated as State forests the commission shall endeavour to ensure to such intent as to the commission seems proper that the selection of lands to be so dedicated will result in—

(a) the promotion of effective and economic control, utilisation and management of the forests for timber production and the facilitation of the economic marketing of the timber and other products of the forests;

(b)

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- (b) the establishment, maintenance or expansion of industry for the processing and treatment of the timber and other products of the forests; No. 26, 1972
- (c) the growth and harvesting of trees for timber and products of economic value; and
- (d) the continuing protection of necessary tree cover in the public interest,

and shall take into account—

- (e) the potentiality for economic timber production of any lands which are of an inferior character for the purposes of agriculture or grazing but which, by appropriate treatment of the soils, would be capable of sustaining the growth of suitable commercial species of trees in plantations; and
- (f) such other factors as the commission considers relevant to the establishment and proper management of State forests.

17A. The commission shall maintain a continuing review of the dedicated State forests for the purposes of— Review of
dedicated
State
forests.

- (a) determining whether or not any State forest or part of any State forest should continue to be dedicated as such; and
- (b) if not, recommending to the Minister the revocation of the dedication.

(d) by omitting subsection three of section eighteen;

Sec. 18.
(Dedication
of State
forests.)

(e)

Forestry, Soil Conservation and Other Acts (Amendment).

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New Part
IIA.

(e) by inserting next before Part III the following new Part :—

PART IIA.

PROVISIONS APPLICABLE ON CONVERSION OF
CERTAIN LEASES FROM THE CROWN TO FREEHOLD.Interpreta-
tion.

25c. In this Part—

“owner”, in relation to purchase-tenure land,
means—

- (a) where a Crown grant in respect of the land has not been registered under the Real Property Act, 1900—the holder or the owner, subject to mortgage, of the prescribed lease from the Crown immediately before the application for the conversion of the land was granted or confirmed under the Crown Lands Consolidation Act, 1913, or the Western Lands Act of 1901, as the case may be, or, where the title of that holder or owner has devolved or been transferred, any successor of that holder or owner, but does not include a mortgagee of the land; or
- (b) where a Crown grant in respect of the land has been registered under the Real Property Act, 1900—the registered proprietor of the land or, where the registered proprietor holds the land as mortgagee, the mortgagor, or any successor of the mortgagor, for the time being entitled to the equity of redemption;

“prescribed

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“prescribed lease from the Crown” means a conditional lease (not being a conditional lease applied for before the first day of January, one thousand nine hundred and ten), a settlement lease, a Crown-lease or a special lease under the Crown Lands Consolidation Act, 1913, a lease under the Western Lands Act of 1901, or a prickly-pear lease under the Prickly-pear Act, 1924, and any such tenure held as an additional tenure, but does not include any such lease of land having an area of five acres or less;

“prescribed officer” means—

- (a) in respect of any provision of this Part relating to prescribed leases from the Crown granted under the Crown Lands Consolidation Act, 1913, or the Prickly-pear Act, 1924—the Under Secretary of the Department of Lands or any officer of that Department authorised by that Under Secretary to act for the purposes of that provision; and
- (b) in respect of any provision of this Part relating to prescribed leases from the Crown granted under the Western Lands Act of 1901—the Western Lands Commissioner or any officer employed in the administration of the Western Lands Act of 1901, authorised by the Western Lands Commissioner to act for the purposes of that provision;

“purchase-tenure land” means land in respect of which an application has, after the commencement of section two of the Forestry, Soil Conservation and Other Acts (Amendment) Act, 1972, been granted or confirmed under

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under the Crown Lands Consolidation Act, 1913, or the Western Lands Act of 1901, for the conversion of a prescribed lease from the Crown to a conditional purchase.

Application
of provisions
of this Part.

25D. The Minister may, on the recommendation of the commission, by order published in the Gazette, declare that any Crown lands described in the order shall not be subject to the provisions of section 25E or section 25F or of both sections 25E and 25F of this Act, as may be specified in the order, and any such order shall have effect on and from the date on which it is so published.

Restriction
on granting
applications
to purchase
land subject
to prescribed
leases from
the Crown.

25E. (1) An application for the conversion of a prescribed lease from the Crown to a conditional purchase shall not be granted or confirmed if—

- (a) notice in writing of the application has not been given to the commission by a prescribed officer; or
- (b) where such a notice has been so given, the commission has, within a period of three months after the receipt of the notice or within such further period not exceeding three months as may, within that first-mentioned period of three months, have been notified by the commission to that prescribed officer, certified in writing to that prescribed officer that it objects to the granting or confirmation of the application.

(2) Where the commission has certified in writing to a prescribed officer that it objects to the granting or confirmation of an application, the application shall be deemed to have been refused.

(3)

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(3) If, within the prescribed period after No. 26, 1972 the commission has so certified, any land to which the certificate relates has not been dedicated as a State forest or flora reserve, the provisions of subsection one of this section do not apply to any application for the conversion of the prescribed lease from the Crown to a conditional purchase, being an application made in respect of the land or any part thereof within twelve months after the expiration of that prescribed period.

(4) Any land to which a certificate given by the commission under subsection one of this section relates shall not, during the prescribed period referred to in subsection three of this section, be disposed of except with the consent in writing of the commission, and a lease of any such land shall not, during that prescribed period, be granted or extended, except with such a consent.

(5) A failure to comply with the provisions of subsection one of this section does not affect the validity of any title granted or confirmed pursuant to an application referred to in that subsection.

(6) Subsection one of this section does not apply to an application for the conversion to a conditional purchase of a lease of lands held solely for the purpose of tree-farming.

25F. (1) Upon land becoming purchase-tenure land there is reserved to the Crown for the enjoyment of the commission, or, if a license is issued under this Act in respect of that land, for the enjoyment of the holder of that license, a profit à prendre conferring on the commission or that holder, as the case may be, the right, whether or not a Crown grant

Crown's
rights to
timber
and products
on purchase-
tenure land.

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grant in respect of that land is issued, to take timber and products from that land to the exclusion of any person who, but for this subsection, would be entitled to take the timber and products.

(2) Subject to section 251 of this Act, a profit à prendre reserved in respect of any land under subsection one of this section expires at the end of a period of ten years from the date on which the land became purchase-tenure land.

(3) Except as otherwise provided by this Act, the commission, or the holder of a license issued under this Act entitled to the enjoyment of a profit à prendre reserved under subsection one of this section, is not liable to make any payment in respect of the rights conferred thereby.

(4) Without derogating from the rights conferred by law on persons entitled to the enjoyment of profits à prendre, the commission, or holder of a license issued under this Act, entitled to the enjoyment of a profit à prendre reserved in respect of any land under subsection one of this section may, during the currency of the profit à prendre, either by itself or himself and with or without workmen or servants and animals, vehicles, machinery and equipment, enter upon and occupy the land affected by the profit à prendre for the purpose of removing, treating, processing or protecting the timber and products the subject of the profit à prendre and for the purpose of constructing roads, bridges, gates and ramps and incidental works that, in the opinion of the commission, are necessary to enable the timber and products to be removed from the land, but nothing in this subsection authorises the holder of a license to contravene any conditions or limitations of that license.

(5)

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(5) A profit à prendre reserved in respect No. 26, 1972 of any land under subsection one of this section does not confer the right to take from the land any trees which, in the opinion of the commission—

- (a) have been planted or established and have been maintained by careful tending and improvement as a woodlot or forest or for the purpose of tree-farming or have been planted or established as a windbreak or for the beautification of the land; or
- (b) are growing on land that has been substantially improved for farming purposes and which, subject to subsection six of this section, are necessary for shade or shelter or for the purpose of the farming, improvement or protection of the land.

(6) The restriction of a profit à prendre imposed by paragraph (b) of subsection five of this section extends only to trees selected by the commission and having a total timber content not exceeding fifty thousand superficial feet gross hoppelus, as determined by the commission.

(7) The reservation in respect of any land of a profit à prendre under subsection one of this section does not prevent the owner of that land from taking timber or products for the purpose of erecting fences on the land or, with the consent in writing of the commission, for building or other purposes on the land.

(8) Every estate or interest acquired by an agreement for the disposition of purchase-tenure land in respect of which a Crown grant has not been issued or by a transfer or conveyance of any such land shall, notwithstanding any other law, be subject to any rights under a profit à prendre affecting the land and reserved to the Crown under subsection one of this section.

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Commission
may sell
its rights
in timber
and products
on purchase-
tenure land.

25G. (1) The commission may, if it thinks fit, enter into an agreement, containing such terms and conditions as may be agreed upon, to sell to the owner of any purchase-tenure land the subsisting rights of the commission under a profit à prendre reserved in respect of that land under subsection one of section 25F of this Act.

(2) The price at which the subsisting rights of the commission under a profit à prendre may be agreed to be sold under subsection one of this section shall be such amount as the commission determines would have been received by the Crown by way of royalty if the timber and products the subject of those rights had been taken pursuant to a license issued under this Act.

Timber and
products to
be removed
in one
continuous
operation.

25H. Where the commission removes any timber or products pursuant to subsection one of section 25F of this Act or issues a license under this Act for the removal of any timber or products pursuant to that subsection it shall as far as is practicable remove, or it shall impose conditions requiring the holder of the license as far as is practicable to remove, the timber and products in one continuous operation or in one continuous programme of operations.

Commission
to execute
certificate
releasing
land from
profit
à prendre.

25I. (1) Where—

- (a) the commission is of the opinion that the timber and products the subject of a profit à prendre reserved in respect of any land under subsection one of section 25F of this Act have been substantially taken from that land before the expiration of the profit à prendre as referred to in subsection two of section 25F of this Act; or

(b)

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- (b) an agreement to sell the subsisting rights of No. 26, 1972 the commission under any such profit à prendre has been entered into under section 25G of this Act, and no license issued under this Act remains in force in respect of the land,

the commission shall execute a certificate, in the prescribed form, certifying that the land is freed from the profit à prendre and thereupon the Crown shall be deemed to have released the land from the burden of the profit à prendre.

(2) The Commission shall—

- (a) forthwith after the execution of any such certificate in respect of any land, furnish a copy of the certificate, where the land was, immediately before it became purchase-tenure land, held under a lease granted or confirmed under—
- (i) the Crown Lands Acts or the Prickly-pear Act, 1924—to the Under Secretary of the Department of Lands; or
 - (ii) the Western Lands Act of 1901—to the Western Lands Commissioner;
- (b) if a Crown grant has been issued in respect of the land, furnish to the Registrar-General in a form approved by him a copy of the certificate; and
- (c) upon application made by the owner of the land, furnish to him a copy of the certificate.

(3) Upon receipt of a copy of any such certificate the Registrar-General shall, in pursuance of subsection five of section thirty-two of the Real Property Act, 1900, record in the Register kept
under

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under that Act in such manner as he considers proper the release of the profit à prendre and shall make a corresponding recording on the grant or certificate of title upon its being produced to him

Ringbarking, etc., of trees subject to a profit à prendre prohibited except under permit.

25J. (1) The commission may grant to the owner of any land affected by a profit à prendre reserved under subsection one of section 25F of this Act a permit to ringbark or otherwise kill or destroy trees growing on the land and the provisions of subsection five of section thirty-one of this Act apply to the grant and renewals.

(2) A person who, otherwise than in pursuance of a permit granted to him under subsection one of this section, ringbarks or otherwise kills or destroys any tree growing on land affected by a profit à prendre reserved under subsection one of section 25F of this Act is liable to a penalty not exceeding five dollars in respect of each tree so ringbarked or otherwise killed or destroyed.

Sec. 26.
(Issue of general and special licenses; their effect.)

(f) by inserting in subsection one of section twenty-six after the word "Crown" where secondly occurring the words "or on land affected by a profit à prendre reserved in respect thereof under subsection one of section 25F of this Act";

Sec. 30.
(Royalty for timber and products.)

(g) (i) by omitting from section thirty the words "to the Crown";
(ii) by inserting at the end of the same section the following new subsections :—

(2) Out of the balance of the royalties payable for timber and products taken after the commencement of this subsection in pursuance of any license issued under this Act whether before or after that commencement

from

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from land held under a lease specified in the No. 26, 1972 Second Schedule to this Act, from purchase-tenure land or from a travelling stock reserve, a camping reserve, or a public watering-place under the control of a Pastures Protection Board remaining after the deduction therefrom of the prescribed amount, the holder of the license shall pay to the lessee, the owner of the purchase-tenure land or the Pastures Protection Board, as the case may be—

(a) in the case of a lessee under a lease specified in Part 1 of that Schedule, not being a lease referred to in subparagraph (ii) of paragraph (b) of this subsection, or in the case of the owner of purchase-tenure land—an amount equal to one-third of that balance;

(b) in the case of—

(i) a lessee under a lease specified or described in Part 2 of that Schedule; or

(ii) a lessee under a lease specified or described in Part 1 of that Schedule in respect of which the commission has executed a certificate under subsection three of this section,

an amount equal to one-half of that balance; and

(c) in the case of a Pastures Protection Board—one-third of that balance.

(3) The commission, on the application of the lessee for the time being of any land held under a lease specified or described in Part 1 of the Second Schedule to this Act, may, if it

thinks

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thinks fit, certify that the timber and products on that land have been substantially taken therefrom at any time (whether before or after the commencement of this subsection) while it was held under a tenure so specified or described.

(4) For the purposes of subsection two of this section, where pursuant to section 25F of this Act the commission itself takes timber or products from purchase-tenure land—

- (a) such amounts as the commission determines would have been payable by way of royalty from time to time if the timber and products had been taken pursuant to a license issued under this Act shall be deemed to be royalties payable for the timber and products taken in pursuance of a license issued under this Act; and
- (b) the commission shall make the payments that it would have been required to make under that subsection if it had been the holder of that license.

(5) In this section—

“owner”, in relation to purchase-tenure land, has the meaning ascribed thereto in section 25C of this Act;

“prescribed amount”, in relation to any royalties payable under this Act, means the aggregate of—

- (a) the instalments, if any, which the holder of a license issued under this Act is, under a contract with the commission, entitled to deduct from those

royalties

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royalties in respect of the construction of roads, bridges, gates and ramps and incidental works constructed by him in connection with the taking of the timber or products in respect of which those royalties are payable; and

- (b) such part of those royalties as the commission is authorised under section twelve of this Act to pay to any organisation established for the promotion or improvement of the use or marketing of timber or products produced in New South Wales;

“purchase-tenure land” has the meaning ascribed thereto in section 25C of this Act.

(2) The Crown Lands Consolidation Act, 1913, is amended—

- (a) by inserting in paragraph (b) of subsection one of section fifty-seven after the words “local land board shall” the words “, subject to the provisions of section 25E of the Forestry Act, 1916,”;
- (b) by inserting in paragraph (f) of subsection one of section one hundred and eighty-four after the words “local land board” the words “of an application for a conversion under this section (which application the local land board may, subject to the provisions of section 25E of the Forestry Act, 1916, confirm)”;

(c)

Forestry, Soil Conservation and Other Acts (Amendment).

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Sec. 190.
(Conversion
of special
lease.)

(c) by inserting in subsection five of section one hundred and ninety after the words "the Minister may" the words ", subject to the provisions of section 25E of the Forestry Act, 1916,";

Sec. 193A.
(Conversion
of prickly-
pear leases.)

(d) by inserting in subsection five of section 193A after the words "local land board" the words "of an application for a conversion under this section (which application the local land board may, subject to the provisions of section 25E of the Forestry Act, 1916, confirm)";

Sec. 235.
(Reserva-
tions in
Crown
grants.)

(e) by inserting at the end of section two hundred and thirty-five the following new subsection :—

(5) On any Crown grant of land affected by a profit à prendre reserved to the Crown under section 25F of the Forestry Act, 1916, there shall be endorsed a statement that or to the effect that the land is so affected and any such endorsement shall have the same effect as if the grant included a reservation of that profit à prendre.

Sec. 307.
(Conversion
of existing
conditional
leases into
additional
conditional
purchases.)

(f) by inserting in paragraph (b) of subsection one of section three hundred and seven after the words "local land board shall" the words ", subject to the provisions of section 25E of the Forestry Act, 1916,".

Amendment
of Act No.
70, 1901.

(3) The Western Lands Act of 1901 is amended—

Sec. 1.
(Short title.)

(a) by omitting from section one the words "Western Lands Act of 1901" and by inserting in lieu thereof the words "Western Lands Act, 1901";

Sec. 28BB.
(Application
for con-
version of
leases after
commence-
ment of
Western
Lands
(Amend-
ment) Act,
1949.)

(b) by inserting in paragraph (b) of subsection four of section 28BB after the words "the Minister may" the words ", subject to the provisions of section 25E of the Forestry Act, 1916,".

(4)

Forestry, Soil Conservation and Other Acts (Amendment).

(4) Out of the balance of the royalties received by the commission in respect of timber or products taken on or after the first day of July, one thousand nine hundred and seventy-one, and before the commencement of this section in pursuance of a license issued under the Forestry Act, 1916, after deducting therefrom any deductions or payments validated by subsection two of section four of this Act, the commission shall pay to each person to whom the holder of the license would, had the amendments made by paragraph (g) of subsection one of this section been in force when those royalties became payable, have been liable under subsection two of section thirty of the Forestry Act, 1916, as inserted by subparagraph (ii) of that paragraph, to pay a portion of those royalties the portion of those royalties that would have been payable by that holder to that person had those amendments been so in force, reduced by any portion of the royalties paid or payable to that person by the holder of the license in accordance with the provisions of the Forestry Act, 1916, or the regulations thereunder or with the conditions or limitations of the license.

3. (1) The Forestry Act, 1916, is further amended—

Further
amendment
of Act No.
55, 1916.

(a) by inserting in subsection one of section eighteen after the word "fee-simple" the words "and not the subject of a tenure from the Crown (except a tenure specified or described in the First Schedule to this Act and having an area of more than five acres),";

Sec. 18.
(Dedication
of State
forests.)

(b) by inserting in subsection one of section 25A after the word "lands" the words "not being Crown lands the subject of a tenure from the Crown (except a tenure specified or described in the First Schedule to this Act and having an area of more than five acres)";

Sec. 25A.
(Flora
reserves.)

(c)

Forestry, Soil Conservation and Other Acts (Amendment).

No. 26, 1972

Sec. 26.

(Issue of general and special licenses; their effect.)

- (c) by inserting at the end of subsection one of section twenty-six the following new proviso :—

Provided further that any such license shall not apply to Crown lands the subject of a tenure from the Crown (except a tenure specified or described in the First Schedule to this Act and having an area of more than five acres) :

Provided further that a license may apply to lands the subject of a tenure from the Crown specified or described in the First Schedule to this Act and having an area of five acres or less if the holder of the tenure consents to the issue of the license.

(2) The amendments made by subsection one of this section do not affect any dedication of land as a State forest or flora reserve made under the Forestry Act, 1916, or any license issued under that Act, before the commencement of this section.

Further amendment of Act No. 55, 1916.

4. (1) The Forestry Act, 1916, is further amended—

New sec. 10A.

- (a) by inserting next after section ten the following new section :—

10A. (1) The commission may, by instrument in writing under seal, delegate—

(a) to an Assistant Commissioner; or

(b) to the secretary of the commission, or a forest inspector or other officer or person appointed under section ten of this Act,

the exercise or performance of such of the powers (other than this power of delegation), authorities, duties or functions conferred or imposed on the commission by or under this Act as may be specified in the instrument of delegation.

(2)

Forestry, Soil Conservation and Other Acts (Amendment).

(2) A power, authority, duty or function, No. 26, 1972 the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation by the delegate to whom the exercise or performance thereof has been delegated.

(3) A delegation under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the powers, authorities, duties or functions delegated, or as to time or circumstance as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation made under this section, the commission may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing done had been done or suffered by the commission.

- (b) by inserting at the end of section eleven the following new subsection :— Sec. 11.
(Special powers of commission.)

(4) The commission may enter into an agreement with the holder of a license issued under this Act for the construction by that holder of roads, bridges, gates and ramps that, and any incidental works that, in the opinion of the commission, are necessary to enable timber and products to be taken from the land in respect of which the license was issued and for the cost of the roads, bridges, gates and ramps and the incidental works, as specified in the agreement, to be deducted, in such manner as may be specified in the agreement, by the holder of the license from the royalties which, but for the deductions, he would be liable to pay.

(c)

Forestry, Soil Conservation and Other Acts (Amendment).

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Sec. 12.

(Receipt
of money.)

(c) by inserting at the end of section twelve the following new subsection :—

(3) The power of the commission under subsection two of this section to expend moneys in a special deposits account extends to empowering the commission, with the approval of the Treasurer, to make payments to any organisation established for the promotion or improvement of the use or marketing of timber or products produced in New South Wales of such part of the royalties paid by the holder of a license issued under this Act as is paid into that special deposits account for the purpose of making payments to that organisation.

(2) Any thing done by the commission before the commencement of this Act that would have been valid had the amendments made by paragraphs (b) and (c) of subsection one of this section been in force when that thing was done is hereby validated.

Further
amendment
of Act No.
55, 1916.New First
and Second
Schedules.Secs. 18,
25A and 26.

5. The Forestry Act, 1916, is further amended by inserting next after section forty-seven the following new Schedules :—

FIRST SCHEDULE.

Conditional Lease, Conditional Purchase Lease, Special Conditional Purchase Lease, Settlement Lease, Crown-lease, Residential Lease, Special Lease, Snow Lease, Annual Lease, Occupation License, Preferential Occupation License, Permissive Occupancy, Western Lands Lease, Special Western Lands Lease, Prickly-pear Lease, and any such tenure held as an additional tenure, whether or not in the case of any such lease that is a perpetual lease, a grant has been issued.

Sec. 30.

SECOND SCHEDULE.

PART 1.

Conditional Lease, Conditional Purchase Lease, Special Conditional Purchase Lease, Settlement Lease, Crown-lease, Residential Lease,

Special

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Special Lease, and any such lease held as an additional lease, No. 26, 1972 whether or not in the case of any such lease that is a perpetual lease, a grant has been issued.

PART 2.

Western Lands Lease, Special Western Lands Lease, Prickly-pear Lease, and any such lease held as an additional lease, whether or not in the case of any such lease that is a perpetual lease, a grant has been issued.

6. The Soil Conservation Act, 1938, is amended—

Amendment
of Act No.
10, 1938.

- (a) by inserting in section two next after the matter relating to Part IV the following new matter :—

Sec. 2.
(Division
into Parts.)

DIVISION 1.—*Declaration of Proclaimed Works and Constitution of Catchment Areas—*ss. 19–21.

DIVISION 2.—*Protected Land—*ss. 21A–21E.

DIVISION 3.—*Preservation of Proclaimed Works—*s. 22.

- (b) (i) by inserting in section three next after the definition of “Assessment Board” the following new definition :—

Sec. 3.
(Defini-
tions.)

“Catchment Areas Protection Board” means the Catchment Areas Protection Board constituted under this Act.

- (ii) by inserting in the same section next after the definition of “Commissioner” the following new definition :—

“Crown lands” means Crown lands within the meaning of the Crown Lands Consolidation Act, 1913.

- (iii) by inserting at the end of the same section the following new definition :—

“Tree” includes sapling.

(c)

Forestry, Soil Conservation and Other Acts (Amendment).

- No. 26, 1972
Sec. 6.
(Experimental and research work.)
- (c) by inserting in subsection one of section six after the words "catchment areas" the words "and proclaimed works";
- Sec. 17.
(Areas of erosion hazard.)
- (d) by omitting from subsection eight of section seventeen the words "within the meaning of the Crown Lands Consolidation Act, 1913,";
- Part IV.
New sub-heading.
- (e) by inserting next after the heading to Part IV the following new subheading :—
- DIVISION 1.—Declaration of Proclaimed Works and Constitution of Catchment Areas.*
- Subst. sec. 19.
- (f) by omitting section nineteen and by inserting in lieu thereof the following section :—

Proclaimed works.

19. (1) The Governor may, by proclamation published in the Gazette, declare—

- (a) any work or proposed work for the storage, regulation or conservation of water; or
- (b) any work or proposed work for or in connection with any one or more of the following—
- (i) preventing or mitigating the inundation of land or the overflow of water thereon;
 - (ii) defining or changing the course of a stream or river;
 - (iii) maintaining or improving the banks or foreshores of a stream, river or harbour; or
 - (iv) deepening or maintaining the depth of a stream or river,

to be a work to which this Part of this Act applies.

Forestry, Soil Conservation and Other Acts (Amendment).

(2) Any work proclaimed in pursuance of No. 26, 1972 subsection one of this section is in this Act referred to as a "proclaimed work".

- (g) by omitting subsection three of section twenty; Sec. 20.
(Catchment area.)
- (h) by inserting next after section twenty-one the following new Division and headings :— New Division 2, Part IV.

DIVISION 2.—*Protected Land.*

21A. In this Division, "protected land" means Definition.
land shown in a distinctive manner as referred to in subsection one of section 21B of this Act on a map prepared in accordance with that subsection a copy of which has been deposited in the office of the person holding office as the District Soil Conservationist which is nearest the land to which the map relates, but does not include—

- (a) land shown in any such manner on such a map if that map has endorsed on it, in accordance with subsection two of that section, a date that is earlier than the date so endorsed on another such map on which that land is shown;
- (b) any State forest, national forest, timber reserve or flora reserve under the Forestry Act, 1916;
- (c) any national park, state park or historic site under the National Parks and Wildlife Act, 1967, or nature reserve under the Fauna Protection Act, 1948;
- (d) any parcel of land on any part of which a banana plantation or orchard was established at the commencement of this section or any land which at that commencement was in the same ownership as that parcel and adjoined that parcel; or

(e)

Forestry, Soil Conservation and Other Acts (Amendment).

No. 26, 1972

(e) any land on the surface of which open-cut mining operations or quarrying were or was being carried on at the commencement of this section.

Catchment Areas Protection Board to prepare maps showing protected land.

21B. (1) The Catchment Areas Protection Board may, from time to time, cause to be prepared maps on which is shown, in some distinctive manner, land (being land within a catchment area) the surface of which generally has, in the opinion of the Board, a slope in excess of eighteen degrees from the horizontal.

(2) Every map prepared in accordance with subsection one of this section shall have endorsed on it the date on which it was so prepared.

(3) The Board may cause a copy of any map prepared in accordance with subsection one of this section to be deposited in the office of the person holding office as the District Soil Conservationist which is nearest to the land to which the map relates and in such other Government offices as the Board thinks fit.

(4) Any person may, during ordinary office hours, inspect, without payment of any fee, a copy of any map deposited in any office referred to in subsection three of this section.

Destruction of trees on protected land prohibited except under authority.

21c. (1) A person shall not ringbark, cut down, fell, poison or otherwise destroy or cause to be ringbarked, cut down, felled, poisoned or otherwise destroyed any tree on any protected land, except in accordance with an authority relating to the land and issued under section 21D of this Act and in accordance with any conditions to which the authority is subject.

(2)

Forestry, Soil Conservation and Other Acts (Amendment).

(2) Subsection one of this section does not ^{No. 26, 1972} apply so as to prevent the doing of anything referred to in that subsection by, or under the authority of—

- (a) the Commissioner, or an officer, employee or agent of the Commissioner authorised in that behalf;
- (b) any person in accordance with any project under section ten of this Act or pursuant to any agreement made under, or any requirement imposed by or under, this Act;
- (c) a person who is required or authorised to do so by or under any Act or by any license, permit, authority or consent granted or issued under any Act; or
- (d) a person who is the owner or occupier of the land on which the tree is growing where that land was, at the commencement of this section, established as a forest or woodlot for the production of timber.

(3) Subsection one of this section does not apply so as to prevent a person who is the owner or occupier of any protected land from ringbarking, cutting down, felling, poisoning or otherwise destroying in any period of one year—

- (a) not more than three trees on any area of one acre of the land; or
- (b) the trees growing on not more than five acres of the land.

(4) Any person who contravenes the provisions of subsection one of this section is guilty of an offence against this Act and liable for a first offence to a penalty not exceeding two hundred dollars and for any subsequent offence to a penalty not exceeding five hundred dollars.

(5)

Forestry, Soil Conservation and Other Acts (Amendment).

No. 26, 1972

(5) An information in respect of any offence referred to in subsection four of this section may be laid at any time within twelve months after the commission of the offence or within six months after the commission of the offence comes to the knowledge of the Commissioner.

Authority
to destroy
timber on
protected
land.

21D. (1) Subject to this section, the Catchment Areas Protection Board may issue to any owner or occupier of protected land, an authority authorising the ringbarking, cutting down, felling, poisoning or destruction in any other manner of any trees on that land.

(2) An application for an authority under this section shall be made in the prescribed form and shall be accompanied by the prescribed fee.

(3) An authority under this section shall be in the prescribed form and may be issued subject to any one or more of the following conditions—

- (a) requiring such proportion of the trees on the land to which the authority relates as may be specified in the authority to be retained during any period specified in the authority;
- (b) requiring trees to be retained on that land so that the maximum spacing between the trees does not exceed the spacing specified in the authority;
- (c) requiring that groups or belts of trees specified or described in the authority or requiring trees of such size or dimensions as may be specified not to be destroyed during any period specified in the authority;

(d)

Forestry, Soil Conservation and Other Acts (Amendment).

- (d) requiring that any trees, or the logs thereof taken in accordance with the authority shall not be removed from that land except in the manner and by the route specified in the authority; No. 26, 1972
- (e) requiring that any debris resulting from the taking of any trees in accordance with the authority shall be stacked or windrowed or otherwise disposed of in such manner as may be specified in the authority;
- (f) prohibiting the burning of fallen trees or any debris referred to in paragraph (e) of this subsection or, subject to the provisions of the Bush Fires Act, 1949, prohibiting the burning of fallen trees or any such debris except at times specified in the authority;
- (g) such other conditions as to the Board seem proper.

(4) The Catchment Areas Protection Board may, at any time, by notice in writing given to the owner or occupier of the land to which an authority relates, revoke the authority, vary the conditions subject to which the authority was issued or impose new conditions to which the authority shall be subject.

(5) An authority issued under this section has effect notwithstanding that the person to whom it was issued has ceased to be the owner or occupier of the land to which the authority relates and a reference in subsection four of this section or in an authority to the owner or occupier of land extends to any subsequent owner or occupier of the land.

(6) The power of the Catchment Areas Protection Board under this section (other than this subsection) may be exercised by any person authorised in writing by that Board to do so.

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Evidence
that land
is protected
land.

21E. A certificate purporting to be signed by the Chairman or the Deputy Chairman of the Catchment Areas Protection Board and certifying that any land specified therein was at any time so specified protected land shall be received in evidence and shall be prima facie evidence of the matters so certified.

DIVISION 3.—Preservation of Proclaimed Works.

Sec. 31.
(Protection
of Minister,
Commissioner,
and
officers,
etc.)

- (i) by inserting in section thirty-one after the word “Commissioner” wherever occurring the words “or the Catchment Areas Protection Board”;

Sec. 32.
(Catchment
Areas
Protection
Board.)

- (j) (i) by omitting from paragraph (c) of subsection one of section thirty-two the word “or” where firstly occurring and by inserting in lieu thereof the word “of”;
- (ii) by omitting from paragraph (d) of the same subsection the words “Under Secretary” and by inserting in lieu thereof the word “Director-General”;
- (iii) by omitting from paragraph (e) of the same subsection the words “Under Secretary, Department of Works and Local Government” and by inserting in lieu thereof the words “Director of Public Works, Department of Public Works”;
- (iv) by inserting next after paragraph (g) of the same subsection the following new paragraphs :—
- (h) the person for the time being holding the office of Director of National Parks and Wildlife, or an officer of the National Parks and Wildlife Service nominated by him;

(i)

Forestry, Soil Conservation and Other Acts (Amendment).

- (i) two persons appointed by the Minister who are recognised by him as being representative of rural interests in New South Wales. No. 26, 1972
- (v) by inserting at the end of the same section the following new subsection :—
- (7) The members of the Board appointed pursuant to paragraph (i) of subsection one of this section—
- (a) shall be appointed to hold office for a period of three years and shall be eligible for reappointment; and
- (b) shall be entitled to receive such fees for attending meetings or carrying out the functions of the Board and such travelling expenses as may from time to time be fixed by the Governor.
- (k) by omitting section thirty-three; Sec. 33.
(Regulations relating to destruction of timber, etc.)
- (l) by omitting from subsection one of section thirty-four the words “, subject to section thirty-three of this Act,”; Sec. 34.
(Regulations.)
7. The Water Act, 1912, is amended— Amendment of Act No. 44, 1912.
- (a) by omitting from subsection two of section 26D the words “Forestry Commission of New South Wales” and by inserting in lieu thereof the words “Catchment Areas Protection Board constituted under the Soil Conservation Act, 1938”; Sec. 26D.
(Destruction of trees in rivers and lakes.)

(b)

Forestry, Soil Conservation and Other Acts (Amendment).

No. 26, 1972

(b) by omitting subsection three of the same section and by inserting in lieu thereof the following subsections :—

(3) An application for a permit under this section shall be made in the prescribed form and shall be accompanied by the prescribed fee.

(3A) A permit under this section shall not be issued except to the owner or occupier of the land to which the application for the permit relates.

(3B) The Catchment Areas Protection Board may refuse any application for a permit under this section on such grounds as to it seem proper.

(3C) A permit under this section shall be in the prescribed form and may be issued subject to such conditions as to the Catchment Areas Protection Board seem proper.

(3D) The Catchment Areas Protection Board may at any time by notice in writing given to the owner, occupier or mortgagee in possession of the land to which a permit relates revoke the permit, vary the conditions subject to which the permit was issued or impose new conditions to which the permit shall be subject.

(3E) A permit issued under this section has effect notwithstanding that the person to whom it was issued has ceased to be the owner or occupier of the land to which the permit relates and a reference in subsection (3D) of this section or in a permit to the owner or occupier of the land extends to any subsequent owner or occupier of the land.

(3F)

Forestry, Soil Conservation and Other Acts (Amendment).

(3F) The power of the Catchment Areas Protection Board under this section (other than this subsection) may be exercised by any person authorised in writing by that Board to do so. No. 26, 1972

- (c) by omitting from subsection four of the same section the words "liable to a penalty not exceeding two hundred and fifty dollars" and by inserting in lieu thereof the words "guilty of an offence against this Act and liable for a first offence to a penalty not exceeding two hundred dollars and for any subsequent offence to a penalty not exceeding five hundred dollars";
- (d) by omitting subsection five of the same section and by inserting in lieu thereof the following subsection :—

(5) An information in respect of any offence under this section may be laid at any time within twelve months after the commission of the offence or within six months after the commission of the offence comes to the knowledge of the Commissioner of the Soil Conservation Service appointed under the Soil Conservation Act, 1938.

- (e) by inserting in subsection six of the same section next after the definition of "bed" the following new definitions :—

"Catchment Areas Protection Board" means the Catchment Areas Protection Board constituted under the Soil Conservation Act, 1938.

"Owner"

Forestry, Soil Conservation and Other Acts (Amendment).

No. 26, 1972

“Owner” includes every person who jointly or severally, whether at law or in equity—

- (a) is entitled to the land for any estate of freehold in possession;
 - (b) is a person to whom the Crown has lawfully contracted to grant the fee simple under the Crown Lands Acts or any other Act relating to the alienation of lands of the Crown;
 - (c) is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits thereof, whether as beneficial owner, trustee or mortgagee in possession; or
 - (d) is the holder of any lease granted under the Crown Lands Acts or any other Act relating to the disposition of lands of the Crown.
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