



ANNO TRICESIMO

ELIZABETHAE II REGINAE

A.D. 1981

No. 84 of 1981

An Act to amend the Forestry Act, 1950-1974.

[Assented to 3 December 1981]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Forestry Act Amendment Act, 1981". Short titles.
 (2) The Forestry Act, 1950-1974, 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, 1950-1981".

2. (1) This Act shall come into operation on a day to be fixed by proclamation. Commencement.

(2) The Governor may, in a proclamation made for the purposes of subsection (1), suspend the operation of any specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by a subsequent proclamation.

3. Section 2 of the principal Act is amended—

- (a) by striking out the definition of "the Conservator";
 (b) by striking out the definition of "forest reserve" and substituting the following definitions:

Amendment of
s. 2—
Interpretation.

"the Director" means the person for the time being holding or acting in the office of the Director of the Woods and Forests Department:

"forest reserve" means land declared by proclamation under this Act to be a forest reserve:

"forest warden" means a person for the time being holding or acting in the office of forest warden under this Act;:

- (c) by inserting after the definition of "the Minister" the following definition:

“native forest reserve” means a forest reserve, or part of a forest reserve, declared by proclamation under this Act to be a native forest reserve;:

and

(d) by inserting after its present contents as amended by this section (now to be designated as subsection (1)) the following subsection:

(2) A reference to the Conservator of Forests in any Act, regulation, rule, by-law, document or writing of any kind shall be read, where the context admits, as a reference to the Director.

Repeal of
ss. 2a, 2b
2c and 3 and
substitution
of new section.

4. Sections 2a, 2b, 2c and 3 of the principal Act are repealed and the following section is substituted:

Forest
reserves
and native
forest reserves.

3. (1) The Governor may, by proclamation—

(a) declare any Crown lands to be a forest reserve;

(b) for purposes relating to the conservation, development and management of land supporting native flora and fauna, declare a forest reserve, or part of a forest reserve, to be a native forest reserve;

or

(c) assign a name to a forest reserve, or native forest reserve.

(2) A proclamation declaring a forest reserve or part of a forest reserve to be a native forest reserve shall contain a statement of the purposes for which the native forest reserve is established.

(3) The Governor may, by subsequent proclamation, vary or revoke a proclamation under subsection (1).

(4) If, by virtue of a proclamation under this section—

(a) any land that constituted the whole or a part of a forest reserve would cease to be such a reserve or within such a reserve;

or

(b) any land that constituted the whole or a part of a native forest reserve would cease to be such a reserve or within such a reserve,

a copy of the proclamation and a statement of the reasons for the proclamation shall be laid before both Houses of Parliament.

(5) A proclamation to which subsection (4) applies shall not have effect—

(a) until fourteen sitting days of each House of Parliament have elapsed after a copy of the proclamation is laid before each House;

and

(b) if, within those fourteen sitting days a motion for disallowance of the proclamation is moved in either House of Parliament—unless and until that motion is defeated or withdrawn, or lapses.

(6) Land that ceases to be native forest reserve does not, by reason only of that fact, cease to be forest reserve, but if land ceases to be forest reserve it shall (if it was formerly native forest reserve) cease also to be native forest reserve.

(7) A proclamation in force under this Act immediately before the commencement of the Forestry Act Amendment Act, 1981, shall be deemed to be a proclamation under this section.

5. Section 6 of the principal Act is amended by striking out from subsection (2) the word "Conservator" and substituting the word "Director".

Amendment of
s. 6—
The Forestry
Board.

6. Section 7 of the principal Act is amended—

Amendment of
s. 7—
Officers.

(a) by striking out from subsection (1) the passage "a Conservator of Forests and such other" and substituting the word "such";

(b) by striking out from subsection (2) the passage "Conservator and other";

(c) by striking out from subsection (3) the word "Conservator" and substituting the word "Director";

and

(d) by striking out from subsection (5) the word "Conservator" and substituting the word "Director".

7. Section 8 of the principal Act is amended—

Amendment of
s. 8—
Power of
Minister to
delegate.

(a) by striking out from subsection (1) the word "Conservator" and substituting the passage "Director or any other specified officer";

and

(b) by striking out from subsection (3) the word "Conservator", twice occurring, and substituting, in each case, the passage "Director or other officer".

8. The following sections are inserted after section 8 of the principal Act:

Insertion of
new ss. 8a
to 8e.

8a. (1) The Minister may, by instrument in writing, appoint any person to be a forest warden under this Act.

Appointment
of forest
wardens.

(2) A forest warden shall be appointed for such term as may be specified in the instrument of his appointment.

(3) The Minister may, in the instrument of appointment, authorize the forest warden to exercise his powers in respect of the whole, or any specified portion, of the State.

(4) Where the authority of a forest warden is limited by the instrument of his appointment to any specified portion of the State, the powers conferred on him under this Act shall be exercisable only within that portion of the State.

(5) Every member of the police force shall, while holding office as such, be a forest warden competent to exercise his powers as such in any part of the State.

Identity
cards.

8b. (1) The Minister shall, subject to subsection (2), issue to every person appointed as a forest warden a card (referred to in this Act as an "identity card") stating the name of that person and the fact that he is a forest warden appointed pursuant to the provisions of this Act.

(2) The issue of an identity card is not required in the case of a forest warden who is a member of the police force.

Powers of
forest warden.

8c. (1) Subject to this section, a forest warden may for the purpose of the administration and enforcement of this Act—

(a) require any person whom he finds committing, or whom he suspects on reasonable grounds of having committed, an offence against this Act, to state his full name and usual place of residence;

(b) require any person whom he finds committing, or whom he suspects on reasonable grounds of having committed, an offence against this Act on forest reserve to leave that forest reserve;

(c) enter and search any land, building, structure, vehicle, vessel or place in which he suspects on reasonable grounds that there is anything that is likely to afford evidence of an offence against this Act and, for the purpose of making any such entry and search in relation to a vehicle or vessel, require the person in charge to stop the vehicle or vessel;

or

(d) require any person whom he suspects on reasonable grounds of having done any act for which that person is required to hold a permit under this Act to produce his permit.

(2) A forest warden shall not exercise the powers conferred by subsection (1) (c) except upon the authority of a warrant issued by a justice unless he believes upon reasonable grounds that in the circumstances of the case urgent action is required.

(3) A person shall not fail to comply with a requirement made of him by a forest warden under this section.

Penalty: Two hundred dollars.

(4) A person shall not hinder a forest warden in the exercise of his powers or functions under this Act.

Penalty: Two hundred dollars.

(5) A person shall not use abusive, threatening or insulting language to a forest warden acting in the exercise of his powers or functions under this Act.

Penalty: One hundred dollars.

(6) A person shall not assault a forest warden acting in the exercise of his powers or functions under this Act.

Penalty: Five hundred dollars or imprisonment for three months.

(7) A forest warden may arrest without warrant any person—

(a) who fails to comply with a requirement lawfully made of that person by a forest warden under subsection (1) (a) or (1) (b);

or

(b) who hinders or assaults a forest warden in the exercise of his powers or functions under this Act.

(8) Upon arresting any person in pursuance of this section, a forest warden shall forthwith convey him, or cause him to be conveyed, to the nearest police station.

(9) A forest warden shall upon demand by any person in relation to whom he is exercising or proposing to exercise his powers under this Act produce his identity card or, where the forest warden is a member of the police force not in uniform, his certificate of authority, for inspection by that person.

(10) A forest warden may, where he believes upon reasonable grounds that in the circumstances of the case he needs the assistance of another person and that it is not practicable to obtain the assistance of another forest warden, request any other suitable person to assist him in the exercise of his powers under this Act.

(11) A person, while assisting a forest warden in response to a request for assistance by the forest warden, shall have, and may exercise, all such powers of a forest warden under this Act as are reasonably necessary for the purpose.

8d. (1) A forest warden may seize anything that he suspects on reasonable grounds—

(a) has been used in the execution or furtherance, or intended execution or furtherance, of an offence against this Act;

or

(b) furnishes evidence of the commission of an offence against this Act.

Seizure and forfeiture of things used in or furnishing evidence of offences.

(2) Where a living animal is seized under this section, it may be released from captivity.

(3) Where anything has been seized under this section and—

(a) proceedings are not instituted for an offence against this Act that is related to the thing seized within three months of its seizure;

or

(b) proceedings having been so instituted, the thing seized is not ordered to be forfeited to the Crown,

the person from whom it was seized shall be entitled to recover it, or, if it has been destroyed or damaged or has deteriorated, to recover from the Minister, by action in any court of competent jurisdiction, compensation for the loss thereby suffered.

(4) A court convicting any person of an offence against this Act may, if it thinks fit, in addition to imposing any penalty, order that anything seized under this section that related to the commission of the offence be forfeited to the Crown.

(5) Anything forfeited to the Crown shall be disposed of in such manner as the Minister may direct, and, if sold, the proceeds of the sale shall be paid into the General Revenue of the State.

False representation.

8e. A person shall not, by words or conduct, falsely represent that he is a forest warden.

Penalty: Five hundred dollars or imprisonment for three months.

Insertion of new s. 9a.

9. The following section is inserted after section 9 of the principal Act:

Management of native forest reserves.

9a. Notwithstanding any other provision of this Act, the Minister shall manage a native forest reserve having regard to the purposes for which it was established and shall endeavour to ensure that no operations are undertaken on the reserve that are inconsistent with those purposes.

Amendment of s. 11—
Licences and other interests in forest reserves.

10. Section 11 of the principal Act is amended by striking out from subsection (1) the word "Conservator" and substituting the word "Director".

Amendment of s. 13—
Milling and sale of timber.

11. Section 13 of the principal Act is amended by striking out the word "Conservator" and substituting the word "Director".

Insertion of new s. 16a.

12. The following section is inserted after section 16 of the principal Act:

Borrowing by Minister.

16a. (1) The Minister may, with the consent of the Treasurer, borrow money from any person for the purposes of this Act.

(2) Any liability incurred with the consent of the Treasurer under subsection (1) is by virtue of this subsection guaranteed by the Treasurer.

(3) Any liability incurred by the Treasurer under a guarantee arising by virtue of subsection (2) shall be satisfied out of the General Revenue of the State which is by virtue of this subsection, to the necessary extent, appropriated.

(4) Any sum paid by the Treasurer under subsection (3) shall, when moneys are properly available for the purpose, be repaid by the Minister to the Treasurer and, when so repaid, shall form part of the General Revenue of the State.

(5) Any moneys borrowed by the Minister under this section shall be applied for the purposes of this Act.

Amendment of s. 19—
Technical advice and assistance.

13. Section 19 of the principal Act is amended by striking out the word "Conservator" and substituting the word "Director".

Insertion of new s. 19a.

14. The following section is inserted after section 19 of the principal Act:

Evidentiary.

19a. (1) In any proceedings for an offence against this Act, any permit under this Act and the conditions to which the permit is or was subject may be proved by production of a copy of the permit.

(2) In any proceedings for an offence against this Act, an apparently genuine document purporting to be a copy of a permit granted under this Act and to be signed by an officer authorized to grant such a permit shall be deemed to be a copy of such a permit in the absence of proof to the contrary.

(3) In any proceedings for an offence against this Act, where it is alleged—

(a) that a person was at the relevant time a forest warden;

or

(b) that the act or omission subject to the charge related to or took place on specified forest reserve land,

the matter alleged shall be deemed to be proved in the absence of proof to the contrary.

15. Section 21 of the principal Act is amended—

Amendment of
s. 21—
Regulations.

(a) by inserting after paragraph (a) the following paragraphs:

(aa) prohibiting or regulating access to, use of or conduct on forest reserve land;

(ab) providing for the grant by specified officers of permits to enter upon or use forest reserve land subject to conditions specified in the permits, for the variation of such conditions and for the revocation of such permits;

(ac) prescribing fees for permits which may vary according to specified factors;;

and

(b) by striking out from paragraph (c) the passage "one hundred dollars" and substituting the passage "two hundred dollars".

16. Section 22 of the principal Act is repealed.

Repeal of
s. 22.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

K. D. SEAMAN, Governor