



FORESTRY (ABOLITION OF BOARD) AMENDMENT ACT 1994

No. 34 of 1994

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ANNO QUADRAGESIMO TERTIO

ELIZABETHAE II REGINAE

A.D. 1994

No. 34 of 1994

An Act to amend the Forestry Act 1950.

[Assented to 2 June 1994]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Forestry (Abolition of Board) Amendment Act 1994*.
- (2) The *Forestry Act 1950* is referred to in this Act as "the principal Act".

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 2—Interpretation

3. Section 2 of the principal Act is amended—

- (a) by striking out from subsection (1) the definition of "the board" and substituting the following definition:

"Chief Executive Officer" means the person for the time being holding or acting in the office of Chief Executive Officer of the administrative unit responsible for the administration of this Act;;

- (b) by striking out from subsection (1) the definition of "the Director";

- (c) by striking out from subsection (1) the definition of "forest warden" and substituting the following definition:

"forest warden" means—

- (a) a person appointed to be a forest warden under this Act; or
- (b) a member of the police force;;

- (d) by striking out from subsection (1) the definition of "the Minister";

- (e) by striking out from subsection (2) "Director" and substituting "Chief Executive Officer".

Amendment of s. 3—Forest reserves and native forest reserves

4. Section 3 of the principal Act is amended by striking out subsection (4) and substituting the following subsection:

(4) If, by virtue of a proclamation under this section, land that constitutes the whole or a part of a native forest reserve ceases to be such a reserve or to be within such a reserve, the Minister must cause a copy of the proclamation and a statement of the reasons for making the proclamation to be laid before both Houses of Parliament.

Repeal of ss. 4, 5, 6 and 7

5. Sections 4, 5, 6 and 7 of the principal Act are repealed.

Substitution of s. 8

6. Section 8 of the principal Act is repealed and the following section is substituted:

Delegation

8. (1) The Minister may, by instrument in writing, delegate any of the Minister's powers and functions under this Act to the Chief Executive Officer.

(2) The Chief Executive Officer may, by instrument in writing, delegate any of the powers and functions (except this power of delegation) conferred or imposed on, or delegated to, the Chief Executive Officer under this Act—

- (a) to a particular person or body; or
 - (b) to the person for the time being occupying a particular position.
- (3) A delegation under this section—
- (a) may be absolute or conditional; and
 - (b) does not derogate from the power of the delegator to act in any matter; and
 - (c) is revocable by the delegator at will.

Amendment of s. 8a—Forest wardens

7. Section 8a of the principal Act is amended by striking out subsection (5).

Substitution of s. 8b

8. Section 8b of the principal Act is repealed and the following section is substituted:

Identity cards

8b. The Minister must issue to each person appointed by the Minister to be a forest warden under this Act an identity card stating the name of the person and that he or she is a forest warden under this Act.

Amendment of s. 8c—Powers of forest warden**9. Section 8c of the principal Act is amended—**

- (a) by striking out the penalty provision from subsection (3) and substituting the following penalty provision:

Penalty: Division 7 fine.;

- (b) by striking out the penalty provision from subsection (4) and substituting the following penalty provision:

Penalty: Division 7 fine.;

- (c) by striking out the penalty provision from subsection (5) and substituting the following penalty provision:

Penalty: Division 7 fine.;

- (d) by striking out the penalty provision from subsection (6) and substituting the following penalty provision:

Penalty: Division 5 fine or division 5 imprisonment.

Amendment of s. 8e—False representation**10. Section 8e of the principal Act is amended by striking out the penalty provision and substituting the following penalty provision:**

Penalty: Division 7 fine or division 7 imprisonment.

Insertion of s. 8f**11. The following section is inserted after section 8e of the principal Act:****Immunity from liability**

8f. (1) No personal liability attaches to a forest warden, or a person assisting a forest warden, for an act or omission in good faith and in the exercise or discharge, or the purported exercise or discharge, of powers or functions under this Act.

(2) A liability that would, but for subsection (1), lie against a forest warden or person assisting a forest warden lies instead against the Crown.

Amendment of s. 10—Leases of forest reserves**12. Section 10 of the principal Act is amended—**

- (a) by striking out from subsection (1) ", on the recommendation of the board, may grant" and substituting "may grant, on such terms and conditions as the Minister thinks fit,";

- (b) by striking out subsection (2).

Substitution of s. 11

13. Section 11 of the principal Act is repealed and the following section is substituted:

Licences and other interests in forest reserves

11. The Minister may grant, on such terms and conditions as the Minister thinks fit, a licence, easement or any other interest in or over the whole or any part of a forest reserve.

Amendment of s. 12—Planting and milling of timber

14. Section 12 of the principal Act is amended by striking out from paragraph (c) "on the recommendation of the board".

Substitution of s. 13

15. Section 13 of the principal Act is repealed and the following section is substituted:

Sale of timber

13. (1) Subject to subsection (2), the Minister may sell or otherwise dispose of any trees or timber produced in forests under the control and management of the Minister and any mill products produced in the milling or treatment of those trees or timber.

(2) The Minister cannot enter into any contract or agreement for the sale of trees or timber from the forests except on a recommendation of the Chief Executive Officer.

(3) Before making such a recommendation to the Minister, the Chief Executive Officer must consult with a person—

- (a) who is a corporate member, or is eligible to be a corporate member, of the Institute of Foresters of Australia Incorporated; and
- (b) who has, in the Chief Executive Officer's opinion, appropriate expertise,

on the question of whether any trees or timber can, or should, be made available for sale from the forests.

Repeal of s. 15

16. Section 15 of the principal Act is repealed.

Amendment of s. 16—Ancillary powers of Minister

17. Section 16 of the principal Act is amended by striking out from subsection (1) paragraph (c) and substituting the following paragraphs:

- (c) form bodies corporate, or acquire, hold, deal with and dispose of shares or other interests in, or securities issued by, any body corporate, whether within or outside the State;
- (d) enter into any partnership or joint venture arrangement with another person, whether within or outside the State;
- (e) enter into such other agreements or arrangements or exercise such other powers as may be necessary or expedient.

Amendment of s. 18—Injury to forest reserves

18. Section 18 of the principal Act is amended—

- (a) by striking out from subsection (1) "or the board, shall be guilty of an offence and liable to a fine of not more than two hundred dollars" and substituting "is guilty of an offence";
- (b) by inserting at the foot of subsection (1) the following penalty provision:

Penalty: Division 7 fine or division 7 imprisonment.

Amendment of s. 19—Technical advice and assistance

19. Section 19 of the principal Act is amended by striking out "The board or the Director, with the approval of the Minister, may, on terms and conditions approved by the Minister" and substituting "The Minister may, on such terms and conditions as the Minister thinks fit".

Repeal of s. 20

20. Section 20 of the principal Act is repealed.

Amendment of s. 21—Regulations

21. Section 21 of the principal Act is amended by striking out paragraph (c) and substituting the following paragraph:

- (c) prescribing fines, not exceeding a division 9 fine, for contravention of the regulations.

Transitional provision

22. The assets and liabilities of the Minister of Forests are vested in the Minister.

SCHEDULE

Statute Law Revision Amendments

Provision Amended	How Amended
Long title	Strike out "make further and better provision" and substitute "provide".
	Strike out "matters incidental thereto" and substitute "other related matters".
Section 2(1) definition of "Crown lands"	Strike out " <i>Crown Lands Act, 1929-1974</i> " and substitute " <i>Crown Lands Act 1929</i> ".
Section 2(2)	Strike out "shall" and substitute "is to".
Section 3(2)	Strike out "shall" and substitute "must".
Section 3(5)	Strike out "shall" and substitute "does".
Section 3(6)	Strike out "shall" and substitute "will".
Section 3(7)	Strike out this subsection.
Section 8a(2)	Strike out "shall" and substitute "will".
	Strike out "his".
Section 8a(3)	Strike out "his".
Section 8a(4)	Strike out "his".
	Insert "or her" after "him".
	Strike out "under this Act shall be" and substitute "are".
Section 8c(1)	Insert "or she" after "he" (wherever occurring).
Section 8c(1)(a)	Insert "or her" after "his".
Section 8c(1)(d)	Strike out "his" and substitute "the".
Section 8c(2)	Strike out "shall not" and substitute "cannot".
	Insert "or she" after "he".
Section 8c(3)	Strike out "shall" and substitute "must".
	Insert "or her" after "him".
Section 8c(4)	Strike out "shall" and substitute "must".
	Strike out "his".

- Section 8c(5) and (6) Strike out "shall" (twice occurring) and substitute, in each case, "must".
- Strike out "acting in the exercise of his" (twice occurring) and substitute, in each case, "exercising".
- Section 8c(7)(b) Strike out "his".
- Section 8c(8) Strike out "shall" and substitute "must".
- Strike out "him" (first occurring) and substitute "the person".
- Insert "or her" after "him" (second occurring).
- Section 8c(9) Strike out "shall" and substitute "must,".
- Strike out "he" and substitute "the warden".
- Strike out "his" (first occurring).
- Insert "or her" after "his" (second and third occurring).
- Section 8c(10) Strike out "where he" and substitute "if he or she".
- Strike out "he needs".
- Insert "is needed" after "person" (first occurring).
- Strike out "him" and substitute "the warden".
- Strike out "his".
- Section 8c(11) Strike out "shall have" and substitute "has".
- Section 8d(1) Strike out "he" and substitute "the warden".
- Section 8d(2) Strike out "Where" and substitute "If".
- Section 8d(3) Strike out "Where" and substitute "If".
- Section 8d(3)(b) Strike out "having" and substitute "have".
- Insert "but" after "instituted,".
- Section 8d(3) Strike out "shall be" and substitute "is".
- Strike out "thereby".
- Section 8d(4) Insert ", on" after "court".
- Section 8d(5) Strike out "shall" (first occurring) and substitute "will".
- Strike out "shall" (second occurring) and substitute "must".
- Strike out "General Revenue of the State" and substitute "Consolidated Account".

- Section 8e Strike out "shall" and substitute "must".
- Insert "or she" after "he".
- Section 9 Strike out "shall control and manage" and substitute "has the control and management of".
- Section 9a Strike out "shall" (twice occurring) and substitute, in each case, "must".
- Section 10(1) Redesignate to read as section 10.
- Section 14(a) Strike out "dwellinghouses" (twice occurring) and substitute, in each case, "houses".
- Strike out "officers and employees of the Minister and to other persons for whom he deems" and substitute "such Public Service employees or other persons for whom the Minister thinks".
- Section 14(b) Strike out "such officers and employees and such other persons" and substitute "any such employee or other person".
- Section 14(c) Strike out "such officers and" and substitute "those".
- Section 16 proviso Strike out the proviso at the foot of subsection (1) and substitute:
- (1A) This section does not authorise the Minister to sell any forest reserve or any part of such a reserve.
- Section 16(2) Strike out this subsection.
- Section 16a(3) Strike out "shall" and substitute "will".
- Strike out "General Revenue of the State" and substitute "Consolidated Account".
- Section 16a(4) Strike out "shall" (first occurring) and substitute "must".
- Strike out "moneys are" and substitute "money is".
- Strike out "and, when so repaid, shall form part of the General Revenue of the State" and substitute "for payment into the Consolidated Account".
- Section 16a(5) Strike out "moneys" and substitute "money".
- Strike out "shall" and substitute "will".

- Section 17(3) Strike out this subsection and substitute:
- (3) Before taking any action under subsection (2) on a road within the area of a council, the authorised person must give the council notice of intention to do so, and must consider any representations made to him or her by the council within one month after the giving of the notice.
- Section 17(4) Strike out "shall not be" and substitute "is not".
- Section 17(5) Strike out "shall" (twice occurring) and substitute, in each case, "must".
- Insert "or her" after "him".
- Section 18(2) Strike out "shall be deemed" and substitute "will be taken".
- Insert "or she" after "he".
- Section 19 Strike out "problems allied therewith" and substitute "allied problems".
- Strike out ", or to any" and substitute "or".
- Section 19a(2) Strike out "shall be deemed" and substitute "will be taken".
- Section 19a(3) Strike out "where" and substitute "if".
- Strike out "shall be deemed" and substitute "will be taken".
- Section 21(ab) Strike out "officers" and substitute "Public Service employees".

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

ROMA MITCHELL Governor