

(Reprint No. 1)

**SOUTH AUSTRALIA**

**FORESTRY ACT, 1950**

*This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 1 July 1991.*

*It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.*

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# FORESTRY ACT, 1950

being

Forestry Act, 1950, No. 17 of 1950 [Assented to 2 November 1950]

as amended by

Forestry Act Amendment Act, 1956, No. 27 of 1956 [Assented to 15 November 1956]

Forestry Act Amendment Act, 1974, No. 119 of 1974 [Assented to 5 December 1974]<sup>1</sup>

Forestry Act Amendment Act, 1981, No. 84 of 1981 [Assented to 3 December 1981]<sup>2</sup>

*Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix.*

## **An Act to make further and better provision for the creation and management of State forests and matters incidental thereto.**

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

### **Short title**

1. This Act may be cited as the *Forestry Act, 1950*.

### **Interpretation**

2. (1) In this Act, unless the context otherwise requires, or some other meaning is clearly intended—

“the board” means The Forestry Board created by this Act:

\* \* \* \* \*

“Crown lands” means Crown lands as defined in the *Crown Lands Act, 1929-1974*:

“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:

“the Minister” means the Minister of Forests:

“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:

“property” means real and personal property.

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<sup>1</sup>Came into operation 29 May 1975: *Gaz.* 29 May 1975, p. 2083.

<sup>2</sup>Came into operation 21 January 1982: *Gaz.* 21 January 1982, p. 152.

(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.

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### 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.

### Administration

#### Administration by Minister

4. This Act shall, except as otherwise provided, be administered by the Minister.

### **Incorporation of Minister**

5. (1) The Minister shall by the name of "Minister of Forests" be a body corporate with perpetual succession and a common seal, and subject to this Act, shall have power in his corporate name to purchase, take, hold and dispose of property and may sue and be sued in his corporate name.

(2) The common seal of the Minister shall be judicially noticed and when it appears on a document shall be presumed to have been properly affixed thereto.

### **The Forestry Board**

6. (1) The Governor may appoint a board to be called "The Forestry Board".

(2) The board shall consist of such number of members being not less than three nor more than five as is from time to time determined by the Governor. The Director shall, by virtue of his office be a member of the board, and the other members shall be appointed on the nomination of the Minister for such period and on such terms and conditions as the Governor determines.

(3) The Governor shall appoint one of the members of the board to be the chairman of the board.

(4) Until other appointments are made under this section the members of the Forestry Board in office at the time of the passing of this Act shall constitute the board.

(5) Subject to this Act, the proceedings and business of the board shall be conducted in such manner as the board determines.

(6) Such number of members as the Minister from time to time determines shall be a quorum of the board.

### **Officers**

7. (1) The Governor may, in accordance with the *Public Service Act, 1967-1968*, appoint such officers as are required for the administration of this Act.

(2) The officers so appointed shall be subject to the *Public Service Act, 1967-1968*.

(3) The Director shall be a person holding a degree or diploma in forestry or some other qualification in forestry approved by the Public Service Board as adequate for the purposes of this Act.

(4) The Minister may appoint such other employees as are required for the administration of this Act.

(5) The Director shall be the principal administrative officer of the Minister for the purposes of this Act.

(6) All officers and employees employed at the commencement of this Act in connection with the administration of the *Woods and Forests Act, 1882-1935*, shall be deemed to have been appointed under this Act.

### **Power of Minister to delegate**

8. (1) The Minister may, by writing signed by him, delegate to the board or to the Director or any other specified officer any powers, authorities, duties and functions (except this power of delegation) conferred or imposed on him by this Act.

(2) A delegation under this section—

(a) shall be revocable at will;

(b) shall not prevent the exercise of any power, authority, duty or function by the Minister.

(3) Any reference in this Act to the Minister shall, in respect of matters as to which any powers, authorities, duties or functions are exercised by the board or the Director or other officer pursuant to a delegation under this section, be deemed to include a reference to the board or Director or other officer as the case may be.

#### **Appointment of forest wardens**

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

(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.

#### **Seizure and forfeiture of things used in or furnishing evidence of offences**

**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.

(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.

#### *Management of Forests and disposal of products*

#### **Control of forest reserves**

9. Subject to this Act, the Minister shall control and manage every forest reserve.

#### **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.

#### **Leases of forest reserves**

10. (1) The Minister, on the recommendation of the board, may grant a lease of the whole or any part of any forest reserve, being land which is not required for operations carried on by the Minister under this Act.

(2) Every such lease shall reserve such rent and contain such terms, covenants, and conditions as the Minister approves on the recommendation of the board.

#### **Licences and other interests in forest reserves**

11. (1) The Minister, on the recommendation of the board, may grant a licence, easement, profit *a prendre* or other interest in or over the whole or any part of any forest reserve: Provided that a licence for the use and occupation of any such land for grazing or agriculture may be granted by the Minister on the recommendation of the Director.

(2) Every such licence, easement, profit *a prendre*, and interest shall be granted on and be subject to any terms and conditions recommended by the board.

**Planting, milling and disposal of timber**

12. The Minister may—

- (a) plant any forest reserve with trees;
- (b) take any action necessary or convenient to be taken to protect any trees in a forest reserve and ensure their proper growth;
- (c) on the recommendation of the board establish, maintain, and operate mills, plant and machinery for the milling and treatment of such trees and timber.

**Milling and sale of timber**

13. The Minister, on the recommendation of the board, may sell or otherwise dispose of any trees or timber produced in forests under the control of the Minister, and any mill products produced in the milling or treatment of such trees or timber:

Provided that no sale or contract for the sale of trees or timber shall be made unless the Director has certified that trees or timber for such sale are available or can properly be made available from the forests.

**Accommodation for employees**

14. The Minister may—

- (a) build, take on lease or purchase dwellinghouses and sell or let them to officers and employees of the Minister and to other persons for whom he deems it expedient to provide dwellinghouses in order to facilitate operations carried on under this Act;
- (b) enter into and carry out any other transactions or arrangements for providing living accommodation for such officers and employees and such other persons;
- (c) make grants of money or do any work or enter into and carry out any transactions or arrangements for the establishment, development and improvement of residential and shopping areas and recreation facilities for such officers and employees and other persons.

**Electricity**

15. The Minister may sell electricity generated at any mill established or maintained under this Act.

**Ancillary powers of Minister**

16. (1) Subject to this Act, the Minister may, for the purpose of carrying the other provisions of this Act into operation—

- (a) buy, take on lease or other tenancy, or hire any property;
- (b) sell, let or otherwise dispose of any property;
- (c) enter into any transaction and do or execute any act matter or thing which it is necessary or convenient to enter into, do or execute:

Provided that this section shall not authorize the Minister to sell any forest reserve or any part of any such reserve.

(2) A purported dealing in property that occurred before the commencement of the *Forestry Act Amendment Act, 1974*, that would apart from this subsection be invalid or of no effect shall for all purposes be deemed to be and always to have been as valid and effectual as it would have been had the proviso to subsection (1) of this section not been enacted.

#### **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.

#### **Prevention of fire**

**17.** (1) In this section "authorized person" means the Minister, or any person authorized by the Minister to take action under this section.

(2) For the prevention of fire, an authorized person may cut down, destroy or remove trees, scrub or inflammable material of any kind on any road adjoining a forest reserve.

(3) Before taking any action under subsection (2) of this section on a road within a municipality or district council district the authorized person shall give the council of that municipality or district council district notice of his intention to do so, and shall consider any representations made to him by the council within one month after the giving of the notice.

(4) Compensation shall not be payable to a council or any other person for any tree, scrub or material cut down, destroyed or removed under this section.

(5) The authorized person shall make good any damage caused by him to any fence or other property by anything done under this section, and shall remove from the road or otherwise dispose of any logs, branches or debris arising from action taken under this section.

#### **Injuries to forest reserves**

**18.** (1) A person who without the consent of the Minister injures, destroys or interferes with any property belonging to, or under the control or management of, the Minister or the board, shall be guilty of an offence and liable to a fine of not more than two hundred dollars.

(2) If any such property is injured or destroyed by any animal, the owner of the animal shall be deemed to have injured or destroyed that property unless he proves that the injury or destruction was caused by the wilful or negligent act of some other person.

(3) The court by which a person is convicted of an offence against this section may order that person to pay to the Minister compensation for the damage done.

*Miscellaneous***Technical advice and assistance**

19. The board or the Director, with the approval of the Minister, may, on terms and conditions approved by the Minister, afford technical advice and assistance on forestry and operations and problems allied therewith to any municipal or district council, or to any other public authority or to persons engaged or about to engage in production or commerce.

**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.

**Proceedings for offences**

20. Proceedings in respect of offences against this Act shall be disposed of summarily.

**Regulations**

21. The Governor may make regulations—

(a) with respect to the control, management and protection of forest reserves and all property of the Minister;

(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;

(b) prescribing any other matters which it is necessary or convenient to prescribe for the administration and operation of this Act;

(c) prescribing fines recoverable summarily and not exceeding two hundred dollars for breach of any regulation.

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## APPENDIX

## Legislative History

Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 4 of The Public General Acts of South Australia 1837-1975 at page 312.

Section 2:	redesignated as s. 2(1) by 84, 1981, s. 3(d) definition of "the Conservator" repealed by 84, 1981, s. 3(a) definition of "the Director" inserted by 84, 1981, s. 3(b) definition of "forest reserve" substituted by 84, 1981, s. 3(b) definition of "forest warden" inserted by 84, 1981, s. 3(b) definition of "native forest reserve" inserted by 84, 1984, s. 3(c)
Section 2(2):	inserted by 84, 1981, s. 3(d)
Sections 2a - 2c:	repealed by 84, 1981, s. 4
Section 3:	substituted by 84, 1981, s. 4
Section 6(2):	amended by 84, 1981, s. 5
Section 7(1):	amended by 84, 1981, s. 6(a)
Section 7(2):	amended by 84, 1981, s. 6(b)
Section 7(3):	amended by 84, 1981, s. 6(c)
Section 7(5):	amended by 84, 1981, s. 6(d)
Section 8(1):	amended by 84, 1981, s. 7(a)
Section 8(3):	amended by 84, 1981, s. 7(b)
Sections 8a - 8e:	inserted by 84, 1981, s. 8
Section 9a:	inserted by 84, 1981, s. 9
Section 11(1):	amended by 84, 1981, s. 10
Section 13:	amended by 84, 1981, s. 11
Section 16a:	inserted by 84, 1981, s. 12
Section 19:	amended by 84, 1981, s. 13
Section 19a:	inserted by 84, 1981, s. 14
Section 21:	amended by 84, 1981, s. 15
Section 22:	repealed by 84, 1981, s. 16