

(Reprint No. 2)

SOUTH AUSTRALIA

FORESTRY ACT 1950

*This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at **9 June 1994**.*

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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]¹
Forestry Act Amendment Act 1981 No. 84 of 1981 [Assented to 3 December 1981]²
Forestry (Abolition of Board) Amendment Act 1994 No. 34 of 1994 [Assented to 2 June 1994]³

¹ Came into operation 29 May 1975: *Gaz.* 29 May 1975, p. 2083.

² Came into operation 21 January 1982: *Gaz.* 21 January 1982, p. 152.

³ Came into operation 9 June 1994: *Gaz.* 9 June 1994, p. 1668.

NOTE:

- *Asterisks indicate repeal or deletion of text.*
- *For the legislative history of the Act see Appendix 1. Entries appearing in the Appendix in bold type indicate the amendments incorporated since the last reprint.*

An Act to provide for the creation and management of State forests and other related matters.

The Parliament of South Australia enacts 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—

"**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;

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"**Crown lands**" means Crown lands as defined in the *Crown Lands Act 1929*;

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

"**forest warden**" means—

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

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"**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.

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

Note: For definition of divisional penalties (and divisional expiation fees) see Appendix 2.

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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; or
- (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 must 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, 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.

(5) A proclamation to which subsection (4) applies does 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 will (if it was formerly native forest reserve) cease also to be native forest reserve.

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Administration

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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.

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 will be appointed for such term as may be specified in the instrument of appointment.

(3) The Minister may, in the instrument of appointment, authorise the forest warden to exercise 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 appointment to any specified portion of the State, the powers conferred on him or her are exercisable only within that portion of the State.

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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.

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 or she finds committing, or whom he or she suspects on reasonable grounds of having committed, an offence against this Act, to state his or her full name and usual place of residence; or
- (b) require any person whom he or she finds committing, or whom he or she suspects on reasonable grounds of having committed, an offence against this Act on forest reserve to leave that forest reserve; or
- (c) enter and search any land, building, structure, vehicle, vessel or place in which he or she 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 or she suspects on reasonable grounds of having done any act for which that person is required to hold a permit under this Act to produce the permit.

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

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

Penalty: Division 7 fine.

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

Penalty: Division 7 fine.

(5) A person must not use abusive, threatening or insulting language to a forest warden exercising powers or functions under this Act.

Penalty: Division 7 fine.

(6) A person must not assault a forest warden exercising powers or functions under this Act.

Penalty: Division 5 fine or division 5 imprisonment.

(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 powers or functions under this Act.

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

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

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

(11) A person, while assisting a forest warden in response to a request for assistance by the forest warden, has, 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 the warden 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) If a living animal is seized under this section, it may be released from captivity.

(3) If 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 have been so instituted, but the thing seized is not ordered to be forfeited to the Crown,

the person from whom it was seized is 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 suffered.

(4) A court, on 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 will be disposed of in such manner as the Minister may direct, and, if sold, the proceeds of the sale must be paid into the Consolidated Account.

False representation

8E. A person must not, by words or conduct, falsely represent that he or she is a forest warden.

Penalty: Division 7 fine or division 7 imprisonment.

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.

Management of Forests and disposal of products

Control of forest reserves

9. Subject to this Act, the Minister has the control and management of every forest reserve.

Management of native forest reserves

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

Leases of forest reserves

10. The Minister may grant, on such terms and conditions as the Minister thinks fit, 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.

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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.

Planting and milling 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) establish, maintain, and operate mills, plant and machinery for the milling and treatment of such trees and timber.

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.

Accommodation for employees

14. The Minister may—

- (a) build, take on lease or purchase houses and sell or let them to such Public Service employees or other persons for whom the Minister thinks it expedient to provide houses 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 any such employee or other person:
- (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 those employees and other persons.

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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) 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.

(1a) This section does not authorise the Minister to sell any forest reserve or any part of such a reserve.

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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) will be satisfied out of the Consolidated Account which is by virtue of this subsection, to the necessary extent, appropriated.

(4) Any sum paid by the Treasurer under subsection (3) must, when money is properly available for the purpose, be repaid by the Minister to the Treasurer for payment into the Consolidated Account.

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

Prevention of fire

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

(2) For the prevention of fire, an authorised 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) 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.

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

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

Injury 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 is guilty of an offence.

Penalty: Division 7 fine or division 7 imprisonment.

(2) If any such property is injured or destroyed by an animal, the owner of the animal will be taken to have injured or destroyed that property unless he or she 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 Minister may, on such terms and conditions as the Minister thinks fit, afford technical advice and assistance on forestry and allied operations and problems to any municipal or district council or 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 authorised to grant such a permit will be taken 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, if 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 will be taken to be proved in the absence of proof to the contrary.

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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 Public Service employees 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, not exceeding a division 9 fine, for contravention of the regulations.

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APPENDIX 1

LEGISLATIVE HISTORY

Transitional Provisions

(Transitional provision from Forestry (Abolition of Board) Amendment Act 1994, s. 22)

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

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.
- Legislative history since 3 February 1976 (**entries in bold type indicate amendments incorporated since the last reprint**) is as follows:

Long title:	amended by 34, 1994, Sched.
Section 2:	redesignated as s. 2(1) by 84, 1981, s. 3(d) definition of "the board" repealed and definition of "Chief Executive Officer" inserted in its place by 34, 1994, s. 3(a) definition of "the Conservator" repealed by 84, 1981, s. 3(a) definition of "Crown lands" amended by 34, 1994, Sched. definition of "the Director" inserted by 84, 1981, s. 3(b); repealed by 34, 1994, 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); substituted by 34, 1994, s. 3(c) definition of "the Minister" repealed by 34, 1994, s. 3(d) definition of "native forest reserve" inserted by 84, 1981, s. 3(c) inserted by 84, 1981, s. 3(d); amended by 34, 1994, s. 3(e), Sched.
Section 2(2):	
Sections 2A - 2C:	repealed by 84, 1981, s. 4
Section 3:	substituted by 84, 1981, s. 4
Section 3(2):	amended by 34, 1994, Sched.
Section 3(4):	substituted by 34, 1994, s. 4
Section 3(5) and (6):	amended by 34, 1994, Sched.
Section 3(7):	repealed by 34, 1994, Sched.
Sections 4 and 5:	repealed by 34, 1994, s. 5
Section 6:	amended by 84, 1981, s. 5; repealed by 34, 1994, s. 5
Section 7:	amended by 84, 1981, s. 6; repealed by 34, 1994, s. 5
Section 8:	amended by 84, 1981, s. 7; substituted by 34, 1994, s. 6
Section 8A:	inserted by 84, 1981, s. 8
Section 8A(2) - (4):	amended by 34, 1994, Sched.
Section 8A(5):	repealed by 34, 1994, s. 7
Section 8B:	inserted by 84, 1981, s. 8; substituted by 34, 1994, s. 8
Section 8C:	inserted by 84, 1981, s. 8
Section 8C(1) and (2):	amended by 34, 1994, Sched.
Section 8C(3):	amended by 34, 1994, s. 9(a), Sched.
Section 8C(4):	amended by 34, 1994, s. 9(b), Sched.
Section 8C(5):	amended by 34, 1994, s. 9(c), Sched.
Section 8C(6):	amended by 34, 1994, s. 9(d), Sched.
Section 8C(7) - (11):	amended by 34, 1994, Sched.
Section 8D:	inserted by 84, 1981, s. 8; amended by 34, 1994, Sched.
Section 8E:	inserted by 84, 1981, s. 8; amended by 34, 1994, s. 10, Sched.
Section 8F:	inserted by 34, 1994, s. 11
Section 9:	amended by 34, 1994, Sched.
Section 9A:	inserted by 84, 1981, s. 9; amended by 34, 1994, Sched.

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Section 10(1):	amended and redesignated as s. 10 by 34, 1994, s. 12(a), Sched.
Section 10(2):	repealed by 34, 1994, s. 12(b)
Section 11:	amended by 84, 1994, s. 8; substituted by 34, 1994, s. 13
Section 12:	amended by 34, 1994, s. 14
Section 13:	amended by 84, 1981, s. 11; substituted by 34, 1994, s. 15
Section 14:	amended by 34, 1994, Sched.
Section 15:	repealed by 34, 1994, s. 16
Section 16(1):	amended by 34, 1994, s. 17
Section 16(1a):	inserted by 34, 1994, Sched.
Section 16(2):	repealed by 34, 1994, Sched.
Section 16A:	inserted by 84, 1981, s. 12
Section 16A(3) - (5):	amended by 34, 1994, Sched.
Section 17(3):	substituted by 34, 1994, Sched.
Section 17(4) and (5):	amended by 34, 1994, Sched.
Section 18(1):	amended by 34, 1994, s. 18
Section 18(2):	amended by 34, 1994, Sched.
Section 19:	amended by 84, 1981, s. 13; 34, 1994, s. 19, Sched.
Section 19A:	inserted by 84, 1981, s. 14
Section 19A(2) and (3):	amended by 34, 1994, Sched.
Section 20:	repealed by 34, 1994, s. 20
Section 21:	amended by 84, 1981, s. 15; 34, 1994, s. 21, Sched.
Section 22:	repealed by 84, 1981, s. 16

APPENDIX 2

DIVISIONAL PENALTIES AND EXPIATION FEES

At the date of publication of this reprint divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	-	\$500	\$100
10	-	\$200	\$75
11	-	\$100	\$50
12	-	\$50	\$25

Note: This appendix is provided for convenience of reference only.