
FORESTRY AMENDMENT ACT 1989

No. 27 of 1989

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FORESTRY AMENDMENT ACT 1989

No. 27 of 1989

AN ACT to amend the Forestry Act 1920.

[Royal Assent 18 April 1989]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the *Forestry Amendment Act* Short title. 1989.

2—This Act shall be deemed to have commenced on 1st July Commencement. 1988.

3—In this Act, the *Forestry Act 1920** is referred to as the Principal Act. Principal Act.

4—Section 4 of the Principal Act is amended as follows:— Amendment of section 4 of Principal Act (Interpretation).

(a) by inserting “(1)” before “In this Act”;

(b) by inserting after the definition of “forest produce licence” the following definition:—

“Fund” means the Forest Management Fund established under section 37;

* 11 Geo. V No. 60. For this Act as amended to 1st September 1977, see the continuing Reprint of Statutes. Subsequently amended by No. 117 of 1977, Nos. 19 and 95 of 1980, No. 18 of 1981, Nos. 29, 56, and 104 of 1984, No. 49 of 1985, No. 69 of 1986, and No. 18 of 1989.

(c) by adding the following subsection as subsection (2) of that section:—

(2) A reference in this Act to the functions and powers of the Commission includes a reference to the functions, duties, and powers of the Department that the Commission is authorized under section 9 to perform and exercise.

Amendment of section 7 of Principal Act (Forestry Department).

5—Section 7 of the Principal Act is amended by adding after subsection (2) the following subsection:—

(3) The Department shall, in a manner that is consistent with the use of State forests for the purposes of producing timber and performing its functions and exercising its powers, promote and encourage the use of State forests for the conservation of flora and fauna, and for recreational, scenic, and environmental purposes.

Amendment of section 8c of Principal Act (Power of Department to carry out certain services).

6—Section 8c of the Principal Act is amended by omitting subsection (2).

Amendment of section 8D of Principal Act (Power of Department to impose charges for transport of forest products, &c., on Departmental roads).

7—Section 8D of the Principal Act is amended by omitting subsection (2).

Amendment of section 12Q of Principal Act (Commission may render advice and assistance for tree planting).

8—Section 12Q of the Principal Act is amended by omitting subsection (3).

Substitution of Part V of Principal Act.

9—Part V of the Principal Act is repealed and the following Part is substituted:—

PART V

FINANCIAL PROVISIONS

Forest Management Fund.

37—(1) There shall be established in the Special Deposits and Trust Fund a fund to be known as the Forest Management Fund.

(2) There shall be paid into the Fund—

(a) all royalties and the proceeds of the sale of forest produce;

- (b) all fees, rents, and other charges payable under this Act;
 - (c) damages awarded for offences against this Act;
 - (d) all fees received in respect of Crown land under the *Forest Practices Act 1985*;
 - (e) money appropriated by Parliament for the purposes of this Act, other than money appropriated for the purposes of Part IIA or Part IIB;
 - (f) all money borrowed by the Commission under this Act;
 - (g) any money received by the Commission pursuant to section 12Q (2); and
 - (h) all other money received by the Commission or the Department, other than revenue received under Part IIA or section 12R.
- (3) There shall be paid from the Fund all money required—
- (a) subject to subsection (4), for the payment or discharge of the expenses, charges, and obligations incurred or undertaken by the Commission in the performance of its functions or the exercise of its powers under this or any other Act, other than its functions and powers under Part IIA and Part IIB; and
 - (b) in the payment of a dividend to the Consolidated Fund in accordance with section 40.
- (4) The Fund shall not be applied to meet any expenditure—
- (a) incurred by the Commission under Part IIA or Part IIB;
 - (b) incurred by the Assistant Commissioner (Private Forests) in the performance and exercise of his functions and powers relating to private commercial forestry; or
 - (c) incurred under the *Forest Practices Act 1985* in respect of land other than Crown land.

Borrowing
powers of
Commission.

38—(1) For the purpose of performing any of its functions or exercising any of its powers under this or any other Act, other than its functions and powers under Part IIA and Part IIB, the Commission may, with the approval of the Treasurer and subject to such terms and conditions as the Treasurer may determine, borrow money from such sources, and in such manner, as the Treasurer may approve.

(2) Any money borrowed by the Commission under subsection (1) may be secured by the issue of such securities as the Treasurer may approve.

(3) The Commission shall make such provision as the Treasurer may require for the establishment of a sinking fund for the purpose of repaying money borrowed by the Commission under subsection (1).

(4) For the purposes of this section, without affecting the generality of section 60, regulations under that section may make provision for or with respect to—

- (a) the form of securities that may be issued under this section;
- (b) the manner of issuing, selling, transferring, redeeming, and repurchasing securities;
- (c) the keeping and inspection of and the taking of copies of or extracts from any register or ledger relating to securities;
- (d) lost or defaced securities; or
- (e) any other matter considered necessary or convenient for the exercise by the Commission of its powers under this section.

Guarantees.

39—(1) The Treasurer may execute a guarantee, either alone or jointly with some other person, for the repayment of, and payment of interest on, any loan made to the Commission under section 38 or for the payment of any liability incurred by the Commission in performing its functions or exercising its powers under this or any other Act, other than its functions and powers under Part IIA and Part IIB.

(2) A guarantee executed under subsection (1) may be subject to such terms and conditions as the Treasurer may determine.

(3) The amount of any liability incurred under a guarantee executed under this section is a charge on the Consolidated Fund and is payable out of that fund without further appropriation than this subsection.

40—(1) There shall be paid to the Consolidated Fund from the Fund a dividend calculated on the public equity in the Commission at a rate, or being an amount, agreed between the Minister and the Treasurer. Payment of dividend to Consolidated Fund.

(2) For the purposes of subsection (1), the public equity in the Commission is the amount for the time being by which the value of the assets of the Commission exceed the value of the liabilities of the Commission.

(3) For the purposes of subsection (2), the value of the assets and liabilities of the Commission shall be determined in a manner approved by the Treasurer.

40A—(1) The Commission shall, not later than 15th April in each year, submit to the Minister for approval an estimate of the probable expenditure and revenue of the Commission during the financial year beginning on the next following 1st July, in or in connection with the performance and exercise of any of its functions and powers, other than its functions and powers under Part IIA and Part IIB. Annual estimate of expenditure and revenue.

(2) On receipt of an estimate submitted under subsection (1), the Minister, with the approval of the Treasurer, shall—

(a) approve the estimate without variation; or

(b) approve the estimate subject to such variation as he considers appropriate.

(3) Before varying an estimate under subsection (2) (b), the Minister shall notify the Commission in writing of the proposed variation, and the Commission may, within 7 days of receiving notification of the proposed variation, make representation to the Minister objecting to that variation.

(4) The Commission shall not, without the consent of the Minister and the Treasurer, exceed the estimate of the total expenditure approved by the Minister under subsection (2).

40B—(1) The Commission shall cause to be kept proper accounts and records in relation to all of its operations and shall prepare a statement of accounts in a form approved by the Treasurer, exhibiting a true and correct view of the financial position and the transactions of the Commission with respect to each financial year. Accounts of Commission.

(2) The Commission shall, not later than 1st September in each year, submit the statement of accounts referred to in subsection (1) to the Auditor-General for audit.

Audit.

40C—The accounts of the Commission are subject to the *Audit Act 1918*.

Annual report.

40D—(1) The Commission shall, not later than 30th November after the end of each financial year or such later date as is approved by the Minister, submit to the Minister, in relation to that financial year—

- (a) a report of its affairs and activities;
- (b) a copy of the statement of accounts referred to in section 40B; and
- (c) a copy of the Auditor-General's report with respect to those accounts if such a report is received by the Commission by that date.

(2) The Minister shall cause a copy of the report and accounts of the Commission, together with a copy of the Auditor-General's report with respect to those accounts, to be laid on the table of each House of Parliament within 14 sitting days of that House after receipt by him of the report and accounts.

Amendment of section 56 of Principal Act (Sale of timber seized).

10—Section 56 of the Principal Act is amended by omitting “, and the proceeds of any such sale shall be paid into the Treasury as revenue of the Department”.

Amendment of section 56A of Principal Act (Imposition of penalties by Commission in certain cases).

11—Section 56A of the Principal Act is amended by omitting subsection (4).