

FORESTS.

9° GEO. V., No. XXXVIII.

No. 8 of 1919.

AN ACT to provide for the better Management and Protection of Forests.

[Assented to 3rd January, 1919.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Forests Act*, 1918. Short title.

2. This Act is divided into Parts, as follows:— Division of Act.

PART I.—PRELIMINARY.

PART II.—THE FORESTS DEPARTMENT.

PART III.—STATE FORESTS AND TIMBER RESERVES.

PART IV.—PERMITS, LICENSES, AND FOREST LEASES.

PART V.—FINANCIAL PROVISIONS.

PART VI.—REGULATIONS.

PART VII.—OFFENCES, AND GENERAL PROVISIONS.

3. (1.) The Acts mentioned in the Schedule to this Act Repeal. are hereby repealed to the extent therein stated:

But, except as herein expressly provided, such repeal shall not affect any concession, lease, license, or permit granted, or any right acquired, or liability incurred, or any appointment made, or any other matter or thing done, under the repealed Acts or any of them.

(2) All regulations made under the Land Act, 1898, and in force at the commencement of this Act shall, *mutatis mutandis*, apply as if made under this Act, but may be repealed or amended by regulations under this Act.

Interpretation.

4. In this Act, unless the contrary intention appears—

“Cattle” includes bulls, cows, oxen, horses, mares, geldings, sheep, goats, pigs, and generally all domestic animals.

“Conservator” means the Conservator of Forests.

“Crown land” means land vested in His Majesty and neither dedicated to any public purpose other than a common, nor lawfully contracted to be granted in fee simple. The term includes land of which pastoral leases are held under the Land Act, 1898, subject to the grazing rights of lessees, and land held as mining tenements under the Mining Act, 1904, and the regulations thereunder, subject to the mining rights of the holders. The term also includes land the subject of any timber concession, timber lease, or sawmill permit, but subject to the second paragraph of section five of this Act.

“Department” means the Forests Department.

“Firewood” includes parts of trees of all species made up into bundles, billets, or loads, or cut up in the manner it is usual to cut wood for burning, and refuse wood generally.

“Forest offence” means the contravention of any provision of this Act or of any regulation.

“Forest officer” means any person appointed to be an officer of the Department.

“Forest produce” means and includes trees, timber, firewood, piles, pole wood, wattles, branchwood, slabs, chips, sawdust, plants, grass, reeds, rushes, bedding, creepers, fibres, leaves, moss, flowers ferns, blackboys, grass trees, roots, bulbs, galls, bark, gum, kino, resin, sap, and charcoal; and in any State forest or timber reserve also includes stones and earth (except gold and other minerals, alluvial, and coal, as defined by the Mining Act, 1904), shells, indigenous animals and birds (not being game within the meaning of the Game Act, 1912-13), honey, and bees-wax.

“Minister” means the responsible Minister of the Crown or member of the Executive Council charged for the time being with the administration of this Act.

“Owner” includes any person holding land under any lease or license from the Crown or any person deriving title from, under, or through such lessee or licensee.

“Owner or occupier” includes the agent of or overseer for an owner or occupier, and also a joint owner or occupier.

“Regulations” means regulations made under this Act.

“Reserved trees” means trees declared by notification in the *Gazette* to be reserved trees within the meaning of this Act.

“State forest” means land dedicated under this Act as a State forest.

“Stream” includes all natural watercourses and artificial channels in which water flows permanently or intermittently.

“Timber” includes trees when they have fallen or have been felled, and whether sawn, hewn, split or otherwise fashioned. Vic. No. 2655,
s. 4.

“Timber reserve” means land reserved before or after the commencement of this Act for forestry purposes.

“Tree” includes not only timber trees, but trees, shrubs, and bushes, seedlings, saplings, and re-shoots of all kinds and of all ages. Vic. No. 2655,
s. 4.

“Working plan” means a detailed written scheme of the operations to be undertaken on a specified area of forest.

5. (1.) The rights conferred by the Land Act, 1898, on pastoral lessees to such timber as may be required for domestic purposes, for the construction of buildings, fences, stockyards, or other improvements on the land so occupied, and by the Mining Act, 1904, on holders of miners’ rights to cut and remove timber for mining purposes on and from Crown land for their personal use, are hereby preserved.

Preservation of rights of pastoral lessees and holders of mining rights.

(2.) The rights conferred by all existing timber concessions, timber leases, and sawmill permits are hereby preserved, and the provisions of this Act, so far as they are inconsistent with such rights, shall not, except as hereinafter expressly provided, apply.

6. The Governor may

(a) extend the term of sawmill permits granted under the Land Act, 1904, so far as the operations thereunder have been temporarily discontinued in consequence of the present state of war; and

Power to extend existing permits, etc.

(b) so far as the operations under any existing timber concession or timber lease have been temporarily

suspended in consequence of the present state of war—

- (i) extend the term of such concession or lease subject to payment, during the period of such extension, in lieu of the rent thereby reserved, of a royalty on all timber acquired at the prescribed rate of royalty under this Act for timber acquired under permits, and to the regulations in force for the time being, subject to the proviso to section forty-three; or
- (ii) within twelve months of the termination of the war, accept a surrender of any concession or lease, and issue, in lieu thereof, a permit under this Act of the same or other land at the prescribed royalty, the rent paid under the surrendered concession or lease during the period of temporary suspension of operations being credited to the permit holder and apportioned over the term of the permit.

PART II.—THE FORESTS DEPARTMENT.

Forests Depart.
ment.
Vic. No. 2655,
s. 8.

7. (1.) There shall be a department of the public service called the Forests Department having, under the direction of the Minister, such powers, authorities, and duties as are provided for by this Act.

See *Ibid.* s. 8.

(2.) The department shall have the exclusive control and management of—

- (a) all matters of forest policy;
- (b) all State forests and timber reserves, and the forest produce of other Crown lands;
- (c) the planting or thinning of forests, and the making, laying out, and maintaining of plantations and nurseries, and the distribution of trees therefrom;
- (d) the granting of all permits, licenses, and forest leases under this Act;
- (e) the enforcement of the conditions of timber concessions, leases, permits, licenses, and authorities granted under this Act, or any Act hereby repealed, or otherwise;
- (f) the collection and recovery of all rents, fees, royalties, charges, and revenues of the department; and
- (g) the administration of this Act generally.

8. (1.) There shall be a Conservator of Forests to be appointed by the Governor

Conservator of Forests.
See W.A., 1904,
No. 58, ss. 2, 3.
Vic. No. 2655,
s. 7.
N.S.W., 1916,
No. 55, s. 5.

(2.) Subject to the provisions of this Act, the Conservator—

- (a) shall be the permanent head of the Department;
- (b) shall hold office for a term of seven years, and at the expiration of his term of office shall be eligible for re-appointment;
- (c) shall be directly responsible to the Minister for the management and control of State forests, timber reserves, plantations, and nurseries, and the administration of the department generally; and
- (d) subject to the Public Service Act, 1904, shall have control of all other officers and employees of the department.

(3.) The Conservator in office at the commencement of this Act shall continue in office, under and subject to the terms of his appointment, as if this Act had been in force when he was appointed and he had been appointed thereunder, and this Act shall apply to him accordingly.

9. (1.) The Conservator shall be a body corporate by the name of "The Conservator of Forests," and by that name shall have perpetual succession and a common seal.

Conservator a body corporate.
See N.S.W., 1916, No. 55, ss. 7, 8.

(2.) Judicial notice shall be taken of the common seal and signature of the Conservator.

10. (1.) The Conservator shall receive such salary as may be fixed from time to time by the Governor.

Salary of Conservator.
See N.S.W., 1916, No. 55, s. 6.

(2.) Such salary is hereby charged upon the consolidated revenue fund which, to the extent required for the payment of such salary, is hereby permanently appropriated.

11. (1.) The Conservator may be suspended from his office by the Governor—

Suspension and removal of Conservator.
See W.A., 1904, No. 23, s. 13.

- (a) for misbehaviour or incompetence; or
- (b) if he becomes bankrupt, or applies to take the benefit of any Act for the relief of insolvent debtors,

or compounds with his creditors, or makes an assignment of his salary for their benefit; or

(c) if he becomes incapable of performing his duties.

(2.) The Minister shall cause to be forthwith laid before Parliament a full statement of the grounds of suspension, if Parliament is sitting, and, when Parliament is not sitting, within seven days after the commencement of the next session.

(3.) The Conservator, when suspended under this section, shall not be restored to office unless each House of Parliament, within forty days from the time when such statement has been laid before it, declares by resolution that he ought to be restored to office.

(4.) If each House of Parliament within such time so declares, the Conservator shall be restored by the Governor accordingly, but otherwise he may be removed from office.

(5.) The Conservator shall not be removed from office except as hereinbefore provided.

Deputy Con-
servator.
See ibid., s. 2.

12. (1.) In the case of the illness, suspension, or absence of the Conservator, the Governor may appoint some person to act as his deputy during such illness, suspension or absence, and until such appointment is terminated by notice in the *Gazette*.

(2.) Every person so appointed shall, while so acting, have the powers and perform the duties of the Conservator.

Other officers.
See N.S.W.
1916, No. 55,
s. 10 (1.)

13. The Governor may, subject to the provisions of the Public Service Act, 1904, appoint such other officers as may from time to time be necessary.

Provided—

(a) that no such officer shall be appointed without reference to the Conservator;

(b) that the Conservator may engage and dismiss casual employees; and

(c) that the Governor may exempt from the provisions of the said Act any officer or class of officers.

Qualification of
officers of the
professional
division.

14. No person shall be appointed or promoted to an office in the professional division unless he has obtained the degree or diploma of a forest school recognised by the Governor.

15. No person shall be appointed or promoted to an office in the general division unless he has passed such examination as may be prescribed as a qualification for such office.

Qualification of officers of the general division.
See Vic. No. 2655, s. 9.

But it shall not be necessary for such examination to be passed by any person in the permanent employment of the department prior to the commencement of this Act, unless such person is an applicant for promotion.

16. (1.) The Conservator may provide for the training of forest officers, and may employ such youths as he may think fit as apprentices.

Training of forest officers.
See N.S.W. 1916, No. 55, s. 10 (2). Vic. No. 2655, s. 11.

(2.) At the expiration of the period of apprenticeship (which shall not exceed four years), any person who is certified by the Conservator as having fulfilled the conditions of his apprenticeship may be appointed to a position in the general division of the department prescribed as one for which such person is qualified.

17. No forest officer shall hold or be interested in any permit, license, or forest lease under this Act, or in any timber lease, license, or saw-milling permit granted under any Act hereby repealed, or as principal or agent trade in, or be interested in any contract or agreement for the working or removal of any forest produce.

Forest officers not to trade in timber, etc.
See Vic. No. 2655, s. 46.

18. A forest officer may, in the performance of his duties, hold an auction of forest produce, and may submit permits to public auction, without a license under the Auctioneers Act, 1873.

Auctioneers' licenses not required by forest officer.

PART III.—STATE FORESTS AND TIMBER RESERVES.

Classification of Forest Lands.

19. (1.) The Conservator shall, with the approval of the Minister, cause a classification of the forest lands of the State to be made for the purpose of determining which of the lands are suitable to be—

Classification of forest lands.
See N.S.W., 1916, No. 55, s. 17.

- (a) permanently dedicated as State forests; or
- (b) reserved from sale as timber reserves.

(2.) The Conservator shall cause plans to be prepared of the lands so classified showing the quantity of timber growing thereon, and indicating those portions which, in his opinion, do not carry or are not likely to produce marketable timber.

State Forests.

Dedication of
State forests.
See W.A., 1904,
No. 58, s. 8,
N.S.W., 1916,
No. 55, s. 18.

20. (1.) The Governor may, by Order in Council, dedicate as a State forest any Crown land, including any area which may have been theretofore a timber reserve.

(2.) Land so dedicated shall not be dealt with otherwise than in pursuance of this Act; and such dedication shall not be revoked or altered except under the authority of this Act.

Revocation of
dedication.
See N.S.W.,
1916, No. 55,
s. 19.

21. A dedication under this Act of Crown land as a State forest may be revoked in whole or in part, in the following manner:—

(a) The Governor shall cause to be laid on the table of each House of Parliament a proposal for such revocation.

(b) After such proposal has been laid before Parliament, the Governor, on a resolution being passed by both Houses that such proposal be carried out, shall, by Order in Council, revoke such dedication.

(c) On any such revocation the land shall become Crown land within the meaning of the Land Act, 1898.

Purchase or re-
sumption of
land.
See N.S.W.,
1916, No. 55,
s. 15.

22. (1.) The Governor, subject to the consent of Parliament, may, under the Public Works Act, 1902, purchase, acquire, resume, or appropriate land for the purpose of a State forest or to provide access thereto, and such purchase, acquisition, resumption, or appropriation shall be deemed to be an authorised work.

(2.) Such land shall not be dealt with otherwise than in pursuance of this Act.

Exchange of
land.
See N.S.W.,
1916, No. 55,
s. 17.

23. The Governor, subject to the consent of Parliament, may, on the recommendation of the Minister and with the concurrence of the Minister for Lands, acquire by exchange for Crown land any alienated land required for State forests or to provide access thereto.

24. Excepting in the case of a person who prior to the passing of this Act followed the occupation of a hewer in this State, it shall be unlawful, within the boundaries of a State forest, to hew timber for railway sleepers on the area of any timber concession, lease, or permit granted before or after the commencement of this Act.

Hewing of railway sleepers within State forests prohibited.

Timber Reserves.

25. (1.) The Governor may, by Order in Council, reserve from sale any Crown land as a timber reserve; and may revoke in whole or in part any such reservation.

Reservation of timber reserves. See N.S.W., 1916, No. 55, s. 22.

(2.) Where any reservation of land is so revoked, the land shall, unless otherwise declared by the Order in Council, become Crown land within the meaning of and may be dealt with under the Land Act, 1898.

(3.) No reservation from sale of land as a timber reserve made before or after the commencement of this Act shall be revoked in whole or in part except under this Act, nor until a report of the Conservator on the proposal for such revocation has been obtained.

Ibid., s. 23.

26. A lease or license to occupy land within a timber reserve shall not be granted, extended, or renewed under the Land Act, 1898, unless with the approval of the Conservator, and subject to such conditions as the Conservator thinks fit to impose.

Lease or license within timber reserve not to be granted without approval of Conservator. See N.S.W., 1916, No. 55, s. 24.

State Forest and Timber Reserves.

27. (1.) A map of every State forest and timber reserve, certified under the hand of the Surveyor General, shall be deposited in the department, and shall be open to public inspection on payment of the prescribed fee.

Maps to be deposited in Department of Forests.

(2.) Any land excised from or added to a State forest or timber reserve shall be indicated on such map and certified as aforesaid.

(3.) All maps and plans certified under the hand of the Surveyor General to be copies of the original maps or plans or of portions thereof deposited in the department, shall be admissible in evidence in any court of justice or before any person having by law or the consent of parties authority to hear, receive, and examine evidence, and shall be *prima facie* evidence for the same purpose and to the same extent as the originals thereof if they had been produced.

(4.) Judicial notice shall be taken of the signature of the Surveyor General to any map or plan or certified copy of a map or plan or of a portion thereof.

Excluded areas may be surveyed after dedication.

28. When in the description of a State forest it is notified that areas of land, approximately specified, within the boundaries thereof, are excluded from the dedication, and it is impracticable at the time of the dedication to define such excluded areas by survey, such areas may be subsequently defined by survey under the direction of the Surveyor General with the approval of the Conservator, and plans thereof shall be deposited in the department with the maps deposited under the provisions of the last preceding section.

Existing holdings in State forests and timber reserves. See N.S.W., 1916, No. 55, s. 25.

29. The dedication of land as a State forest or the reservation of land as a timber reserve shall not, except as in this Act provided, affect any concession, permit, lease, or license from the Crown current and in force at the time of such dedication or reservation.

Provided that all pastoral leases of land situated within the boundaries of a State forest shall, at the expiration of six months from such dedication, and by force of this Act alone, be surrendered to the Crown; but every lessee shall during such period of six months have the option to acquire under this Act a forest lease of the land demised by the surrendered lease for the remainder of the term thereof, at the rent thereby reserved.

Land subject to mining laws. See N.S.W., 1916, No. 55, s. 21.

30. Land within a State forest or timber reserve shall be subject to the provisions of the Mining Act, 1904; but the exercise of any right thereunder shall be subject to such conditions and restrictions relating to forestry as may be prescribed:

Provided that the Minister, with the concurrence of the Minister for Mines, may, by notice in the *Gazette*, take the whole or any part of a State forest out of the operation of those provisions, and may revoke or alter any such notification.

Working Plans.

Working Plans.

31. (1.) The Conservator shall, from time to time, prepare working plans for each State forest and timber reserve.

(2.) Such plans shall, subject to existing rights under concessions, leases and permits, regulate the management of

each State forest and timber reserve respectively for a period not exceeding ten years, to be stated on the plan.

(3.) A working plan may specify—

- (a) the maximum area from which forest produce may be taken annually;
- (b) the maximum quantity of forest produce that may be disposed of annually;
- (c) the silvicultural operations necessary to assure the regeneration of the best species of forest produce on areas which have been cut over; and
- (d) such other matters as the Conservator may think fit.

(4.) Every working plan shall be subject to the approval of the Governor, and when so approved shall have effect; and shall not be altered except on the recommendation of the Conservator.

PART IV.—PERMITS, LICENSES, AND FOREST LEASES.

32. (1.) Subject to this Act and the regulations, the Conservator may grant permits and issue licenses to take, and contract for the sale of, forest produce on Crown land within a State forest, timber reserve, or other Crown land.

Permits and
licenses.
See W.A., 1904,
No. 58, ss. 11,
13. N.S.W.,
1916, No. 55,
s. 26.

(2.) Licenses may be issued by any forest officer acting with the authority of the Conservator.

33. (1.) A permit shall be in the prescribed form, and subject to the conditions and limitations expressed therein, and to the regulations, shall confer on the holder the exclusive right to take and remove any forest produce therein specified on and from that portion of a State forest, timber reserve, or other Crown land therein defined.

Form and effect
of Permit.
See W.A., 1904,
No. 58, s. 11.
N.S.W., 1916,
No. 55, ss. 28,
31.

(2.) A permit may, subject as aforesaid, confer on the holder the right—

- (a) to occupy land as the site of a sawmill or for other buildings, as a timber depôt, for growing fodder for cattle used in the exercise of the privileges conferred by the permit, and for any other purpose approved by the Conservator;
- (b) to work a mill for sawing and treatment of timber;

- (c) to make roads and construct and work tramways, and, with the approval of the Conservator, to extend such roads and tramways upon Crown lands beyond the boundaries of the permit area;
- (d) to graze and water cattle, subject to existing rights.
- (3.) The term of a permit shall not exceed ten years, but may be renewed

Royalty.
See W.A., 1904,
No. 58, s. 15
(5).

34. (1.) Every permit shall be granted subject to the payment by the holder of royalties for all forest produce taken.

(2.) Every permit shall, except as hereinafter provided, and subject to the regulations, be submitted to public auction or tender, and the royalties to be paid shall be thereby fixed:

Provided that a permit may be issued without being submitted to public auction or tender where the aggregate royalty payable in respect thereof does not exceed ten pounds.

(3.) Royalty may be assessed on timber standing or in the log. The contents of timber cut for milling purposes and measured in the log shall be calculated on the quarter girth system, or such other system as the Conservator may from time to time determine.

Form and effect
of license.
See W.A., 1904
No. 58, s. 13.

35. (1.) Licenses shall be in the prescribed form, and shall authorise the licensee, in common with other licensees, to take and remove forest produce, to be therein specified, on Crown land within a State forest or timber reserve, or on other Crown land.

(2.) Licenses may be granted subject to the payment of prescribed fees, or prescribed royalties on the forest produce acquired thereunder.

Permit or li-
cense not to be
transferred
without con-
sent.
N.S.W., 1916,
No. 55, s. 34.

36. No permit or license shall be transferable except with the consent in writing of the Conservator, or a forest officer acting with his authority.

Forest produce
to be removed
during currency
of permit or
license.

37. (1.) All forest produce obtained under the authority of a permit or license shall be removed from the State forest timber reserve, or other Crown land during the currency of the permit or license, unless the time for removal is extended by the Conservator on such conditions, if any, as he may think fit.

(2.) Any forest produce not so removed from a State forest, timber reserve, or other Crown land shall be forfeited to the Crown, and may be disposed of by the Conservator.

38. Every permit and license shall be liable to forfeiture for default in payment of the royalty or fees payable thereunder, or on breach or non-observance by the holder of any of the provisions of this Act or the regulations relating thereto, or of the conditions expressed therein.

Forfeiture.
See N.S.W.,
1916, No. 35,
s. 35.

39. (1.) Every lessee of a mining lease, or holder of a mining tenement, granted or held under the Mining Act, 1904, or the regulations thereunder, may, subject to the regulations under this Act and the payment of the prescribed royalty, if any, take from the land so demised or held such timber as may be required for mining purposes thereon.

Timber, etc.,
on mining and
other leases.

Provided that no royalty shall be prescribed under this subsection except in respect of leases or tenements within the boundaries of a State forest or timber reserve, and that such royalty may, with the approval of the Governor, be credited to a special fund and expended in the work of improving the forests on such leases and holdings.

(2.) Subject as aforesaid and to the regulations, the privileges conferred by permits and licenses under this Act shall extend to forest produce on pastoral and other leases which do not confer on the lessee the right to forest products, including forest leases, and on mining tenements, and a permit holder or licensee, if so authorised by his permit or license, may, subject to the regulations, enter upon the land comprised in any such lease or mining tenement and take and remove forest produce therefrom.

40. (1.) The Conservator may, with the approval of the Minister, grant on such conditions as he thinks fit, and for any term not exceeding twenty years, leases of land within a State forest, for grazing, agriculture, and other purposes not opposed to the interests of forestry. Such leases are, in his Act, referred to as "forest leases."

Grant of forest
leases.
See N.S.W.,
1916, No. 55,
s. 33.

(2.) No compensation shall be payable to a lessee under a forest lease, on the expiration thereof, for any improvements to the land comprised therein; but the lessee shall be entitled, at any time before the expiration of his lease, to remove any buildings or fences erected by him or to dispose of them to an incoming tenant.

PART V.—FINANCIAL PROVISIONS.

Revenue and Expenditure.

Revenue to be paid into Treasury.

41. (1.) All revenue of the department shall be paid into the Treasury.

Three-fifths of all revenue to be credited to a fund for re-forestation.
See N.S.W., 1916, No. 55, s. 13 (2).

(2.) Three fifths of the net revenue of the department, to be certified by the Under Treasurer, shall in every financial year be placed to the credit of a special account at the Treasury, and shall form a fund for the improvement and re-forestation of State forests and the development of forestry, and such fund may be expended by the Conservator with the approval of the Minister without any other authority than this Act.

Provided that a scheme for such expenditure shall be submitted annually to and shall be subject to the approval of Parliament.

Balance of revenue to be placed to consolidated revenue fund.

(3.) The balance of the revenue of the department shall be paid into the consolidated revenue fund.

Expenditure.
See N.S.W., 1916, No. 55, s. 13 (1).

(4.) All moneys appropriated annually by Parliament for the purposes of this Act shall be expended under the control and management of the Conservator, with the approval of the Minister.

Interpretation of "revenue."

(5.) The revenue of the department shall include all royalties and proceeds of the sale of forest produce, license fees, rents, and damages awarded for offences against this Act, and all rents and royalties payable under leases, licenses, and permits granted under any Act hereby repealed, or payable under any other existing timber leases or concessions.

Annual Report.

Annual Report.
See Vic. No. 2655, s. 12.

42. (1.) The Conservator shall prepare for the Minister, not later than the thirtieth day of September in each year, an annual report to the preceding thirtieth day of June of all proceedings under this Act.

(2.) Such annual report shall contain a statement in detail of the revenue and expenditure of the department, and shall be laid before both Houses of Parliament.

PART VI.—REGULATIONS.

Regulations.
See W.A., 1904, No. 58, s. 15.
Vic. No. 2655, s. 55.
N.S.W., 1916, No. 55, s. 41.

43. The Governor, on the recommendation of the Conservator, may make regulations for all and any of the following purposes:—

(1) The qualifications and duties of officers of the department;

- (2) The nature and standard of the examinations to be passed to qualify for an appointment or promotion to positions in the department, and the classes of persons who may present themselves for examination;
- (3) The terms and conditions under which persons may be employed as apprentices, and the positions to which persons who have served as apprentices may be appointed;
- (4) The organisation of a system of education and training in scientific forestry;
- (5) The organisation and establishment of a forest produce research laboratory, and for the publication of scientific information emanating therefrom;
- (6) The protection under patent rights of any discovery or invention the outcome of the research laboratory;
- (7) The management of State forests, timber reserves, and forests on Crown lands, and the regulation of the cutting, removal, hewing, and sawing of timber, and the cutting, hewing, stripping, tapping, and removal of other forest produce;
- (8) The protection of trees in parks and reserves under the control and management of a board under the Parks and Reserves Act, 1895; and regulating, restricting, or prohibiting the cutting or removal of such trees and other forest produce;
- (9) Prescribing such annual cutting sections as may be deemed necessary under a working plan;
- (10) Prescribing the forms of permits, licenses, and forest leases, and regulating the manner of applying for, granting, and issuing the same, and the terms and conditions under which the same shall be held, determined, cancelled, or withdrawn;
- (11) Prescribing the procedure for the sale by auction or by tender of forest produce, and enabling upset prices or minimum royalties to be fixed;
- (12) Prescribing the fees or deposits to be paid with any application or tender;

- (13) Prescribing the rate or amount of rents, royalties, fees, dues, and charges payable in respect of permits, licenses, and forest leases;
- (14) (a) Regulating the exercise of the powers conferred by permits and licenses under this Act, or by any lease, license, or permit granted under any repealed Act or regulation, or by any other existing timber concession, lease, license, or agreement, including the protection and preservation of trees, and the cutting, marking, and removing of timber and other forest produce; and
(b) providing for the making of declarations or statements in writing as to the quantity and description of timber and forest produce obtained, held, removed, hewn, sawn, or otherwise treated consigned or exported, and as to the place where any timber or forest produce was obtained and as to the place to which it was or is intended to be consigned, and prescribing the time within which such declarations or statements shall be made, and imposing penalties for refusing or neglecting to make any such declaration or statement, or for making an untrue declaration or statement;
- (15.) Providing for the inspecting of timber and other forest produce for export and for local use, and prescribing the forms and certificates to be used, the fees to be paid, and the brands or marks to be used;
- (16.) Prescribing rules for the grading of timber for export and for local use;
- (17.) Regulating or prohibiting the export of certain species of timber or other forest produce;
- (18.) Prohibiting the cutting of reserved trees;
- (19.) Prescribing the kinds, sizes, and quantities of any forest produce which may be cut or removed in or from any State forest or timber reserve, and prohibiting the removal of any forest produce until branded by a forest officer, if so prescribed;
- (20.) Prescribing the mode in which any forest produce is to be branded or marked, and the mode in which such brands or marks shall be registered in the department;

- (21.) Prohibiting the counterfeiting, defacing, or obliterating of brands and marks placed on forest produce by forest officers;
- (22.) Prohibiting any person from having in his possession any instrument which might be used for counterfeiting brands or marks placed on forest produce by forest officers;
- (23.) (a) Requiring the names and addresses of all persons (except mill hands, navvies, and general labourers) engaged or employed in the timber industry, or in the cutting or removal of forest produce, in any State forest or timber reserve, or on other Crown land, or on any timber lease or concession or sawmill permit area, to be registered in the department in the prescribed form; and
 - (b) providing for the annual renewal of such registration and the suspension or cancellation thereof and requiring the payment of a registration fee not exceeding the sum of two shillings and sixpence per annum; and
 - (c) prohibiting the employment of any person in such industry, except as aforesaid, whose name and address are not so registered; and
 - (d) requiring in the case of fallers and hewers the brands used by them to mark timber to be registered;
- (24.) Prescribing the form of registration for timber workers, except as aforesaid, and the mode of applying for the same;
- (25.) Requiring the holder of any permit or license under this Act, or any lease, license, or permit granted under any repealed Act or regulation, or any other existing timber concession, lease, license, or agreement, to produce for inspection by the Conservator, or any person acting with his authority, all books of account, mill returns, and other documents to enable the royalties payable to be ascertained; but such regulations shall prescribe that the information so obtained shall not be disclosed otherwise than in the performance by an officer of his official duties;
- (26.) Regulating or prohibiting the burning off of forest produce and the lighting and use of fires within

any State forest or timber reserve or within any specified portion thereof;

- (27.) Regulating or prohibiting the carrying or use of wax matches and fire-arms, and regulating the use of steam engine locomotives and traction engines, and generally for the protection of State forests and timber reserves from damage by fire;
- (28.) Regulating traffic through State forests and timber reserves, and for the prevention of trespass in any portion of a State forest or timber reserve which is the subject of planting or regeneration;
- (29.) Enabling forest officers to give directions regarding the road or track in or by which any forest produce may be removed or taken through any part of State forest or timber reserve, and requiring such directions to be observed;
- (30.) Reserving any area of a State forest or timber reserve from the operation of any permit, license, or forest lease;
- (31.) Reserving from the operation of any permit, license, or forest lease any area of a State forest or timber reserve required for the agistment of draught cattle used by any person holding a permit, license, or forest lease under this Act;
- (32.) Prohibiting, except under permit, the depasturing of cattle within and regulating the passage of cattle through a State forest or timber reserve;
- (33.) Prohibiting, except under a forest lease or other lawful authority, the making of temporary clearings in State forests or timber reserves, for any description of cultivation;
- (34.) Regulating and for the temporary prohibition of grazing over specified areas of a State forest or timber reserve to preserve young trees and seedlings;
- (35.) Regulating or prohibiting the destruction, shooting, hunting, pursuing or snaring of indigenous animals and birds (subject to the provisions of the Game Act, 1912-13) in State forests or timber reserves;
- (36.) Enabling forest officers to stop or detain any forest produce within the boundaries of any State forest or timber reserve, or on any public highway within or abutting on any State forest or timber reserve;

- (37.) Regulating the establishment of Government timber depôts, and prescribing the terms and conditions for the use of same;
- (38.) Requiring the holders of timber leases or concessions, sawmill permits, and all owners of private forest to register in the Conservator's office and retain the use of a brand whereby timber cut in or proceeding from their holdings may be distinguished from any other timber;
- (39.) Enabling the department to construct and use tramways in State forests and timber reserves or on Crown land for the carriage of, and to carry forest produce and other goods;
- (40.) Enabling the Governor to extend the term of sawmill permits, subject to a revision of royalties, so far as holders may not have fully exercised their rights on the basis of provision for ten years' cutting;
- (41.) Conferring on the holders of timber leases, concessions, and sawmill permits the right for a period not exceeding six months after the expiration of such leases, concessions, and permits to remove their buildings, machinery, plant, and effects, including timber acquired;
- (42.) Generally for carrying into effect the objects of this Act;

And may, by any such regulations, impose a penalty not exceeding fifty pounds for any breach of the same, or for any contravention or failure to comply with any provision or condition contained in any permit, license, or authority granted in pursuance of this Act:

Provided that so far as such regulations apply to any existing concession, lease, or sawmill permit, such regulations shall not be inconsistent with the rights under such concession, lease, or permit.

44. (1.) Any regulations made under or by virtue of this Act shall—

Publication and
effect of regu-
lations.

- (a) be published in the *Gazette*;
- (b) take effect from the date of publication or from a later date to be specified therein; and
- (c) be judicially noticed, and unless and until disallowed as hereinafter provided, or except in so far as in conflict with any express provision of this or any other Act, be conclusively deemed to be valid.

(2.) Such regulations shall be laid before both Houses of Parliament within fourteen days after publication, if Parliament is in session, and if not, then within fourteen days after the commencement of the next session.

(3.) If either House of Parliament passes a resolution at any time within one month after any such regulation has been laid before it disallowing such regulation, then the same shall thereupon cease to have effect, subject, however, to such and the like savings as apply in the case of the repeal of a statute.

PART VII.—OFFENCES, AND GENERAL PROVISIONS.

Unlawful cutting, etc.
See Land Act, 1898, s. 135.

Vic. No. 2655, s. 52 (h).
N.S.W. 1916, No. 55, s. 27.

45. Any person who, without lawful authority, fells, cuts, injures, destroys, obtains, or removes in, on, or from any State forest, timber reserve, or other Crown land any forest produce shall be guilty of a forest offence, and liable, on conviction, to imprisonment for not exceeding one year, or to a penalty not exceeding one hundred pounds.

Penalty for unlawfully lighting fires.

See Vic. No. 2655, s. 34.

46. (1.) If any person—

(a) lights, kindles, or assists to light or kindle, or aids or abets another person in lighting or kindling, any fire within the boundaries or within twenty yards of any boundary of a State forest or timber reserve; or

(b) leaves, without taking due precaution against its spreading or causing injury, a fire lighted or kindled by him as aforesaid, or in the lighting or kindling of which he has aided or abetted;

and in either case any forest produce is burnt or injured, or is in danger of being burnt or injured, such person shall be guilty of a forest offence, and liable, on conviction, to imprisonment for not exceeding one year, or to a penalty not exceeding one hundred pounds.

(2.) A reward of not exceeding fifty pounds may be paid by the department to any person, not being a forest officer, who shall give such information as may lead to a conviction under this section.

A forest officer may call for assistance to extinguish fires.

47. (1.) In the event of a fire occurring in or adjacent to any State forest or timber reserve, a forest officer may call upon any person residing or working within a radius of five miles of the outbreak to assist in extinguishing the fire.

(2.) All persons who in response to such call shall render the assistance required shall be remunerated at the prescribed rate.

48. Any person who sets fire in the open air to any tree, wood, bush or grass on any land contiguous to a State forest or timber reserve, without giving notice of his intention to a forest officer so as to allow such officer to be present at the firing, commits a forest offence.

Setting fire to bush or grass without notice to forest officer.

49. Any person who, in any State forest or timber reserve, except in pursuance of a permit, license, or forest lease under this Act, or of a grant, lease, license, or other authority from the Crown,—

Unlawful occupation of forest land.

See N.S.W., 1916, No. 55, s. 32.

- (a) depastures any cattle;
 - (b) hunts, shoots, or destroys or sets snares for the purpose of capturing any indigenous animals or birds; or
 - (c) occupies, clears, or breaks up any land for cultivation, or any other purpose,
- commits a forest offence.

50. Any person who commits or attempts to commit or aids or abets any person who commits or attempts to commit any of the following offences shall be liable to imprisonment for not exceeding one year or to a penalty not exceeding fifty pounds:—

Other offences.
See Vic. No. 2655, s. 52.

- (a) Counterfeits upon or unlawfully affixes to any forest produce a mark used by forest officers to indicate that such produce is the property of the Crown, or that it may be lawfully cut or removed, or that it has been inspected and passed as suitable for export;
- (b) Without due authority makes or causes to be made, or uses or causes to be used, or has in his possession, a brand or stamp which resembles or purports to be a brand or stamp such as is usually used by forest officers;
- (c) Counterfeits or without due authority issues any license, permit, or order for the cutting, removal, or sale of forest produce;
- (d) Unlawfully alters, obliterates, defaces, pulls up, removes, or destroys any boundary mark, or any stamp, mark, sign, license, permit or order used or issued by the department or any forest officer;
- (e) Unlawfully cuts, breaks, throws down or in any way destroys or damages any building, fence, or gate,

in or enclosing any State forest or timber reserve, or who unlawfully cuts through or breaks down or otherwise destroys the bank, dam, or wall of any part of any natural or artificial reservoir or pond of water within or partly within and adjoining any State forest or timber reserve;

- (f) Exercises compulsion upon any forest officer by violence or threats, or corrupts or attempts to corrupt by promises, offers, gifts or presents any forest officer for the purpose of obtaining a favourable report, recommendation, certificate, valuation, or royalty assessment whether in respect of any place, employment, sale, auction, permit, license, lease, authority, or any other benefit whatsoever, or for the purpose of obtaining abstention on the part of any forest officer from any act which forms part of his duties, or refuses or fails to comply with any lawful direction of a forest officer;
- (g) Being a forest officer accepts any bribe or receives any gift or present in connection with the performance of the functions of his office;
- (h) Without a permit or license therefor does or causes to be done any act, matter, or thing for which a permit or license may be issued under the provisions of this Act;
- (i) Without the written authority of a forest officer removes from any land, within any State forest or timber reserve, any forest produce without previously paying the proper royalty or fee due thereon;
- (j) Knowingly furnishes a forest officer with a false or incorrect statement of any forest produce felled, cut, split, sawn, or removed by him or by any agent or employee of his on which royalties, fees, or charges are payable to the Crown;
- (k) Knowingly makes, or causes to be made, in any book, return, declaration or statement required by the regulations to be kept or made, any entry or writing which is false in any material particular;

N.S.W., 1910,
No. 55, s. 45.

Unlawful pos-
session of forest
produce.

51. Any person found within any State forest or timber reserve, or on any road in the vicinity thereof, and having in his possession any forest produce, who on being thereunto required by a forest officer having the authority in writing of

the Conservator to exercise the power conferred by this section, refuses or fails to give an account to the satisfaction of such officer of the manner in which he became possessed of such forest produce, shall be guilty of an offence, and shall be liable to a penalty of not exceeding ten pounds, and the forest produce shall be forfeited.

52. (1.) The Conservator, and any forest officer acting with his authority, may enter upon the land held or occupied by virtue of a permit or forest lease under this Act, or under any other timber concession, lease, agreement, or sawmill permit, for the purpose of making inspections, carrying out silvicultural operations, or other forest work, and preventing or suppressing fires.

Power to enter and inspect land.

(2.) Any person who obstructs or hinders the Conservator or any forest officer in the exercise of his powers under this section shall be guilty of a forest offence.

53. (1.) Any person who commits a forest offence—

General penalty.
See W.A., 1914,
No. 23, ss. 30,
31.
N.S.W., 1916,
No. 55, s. 32.

(a) shall, if no penalty is specified for the offence, be liable on summary conviction to a penalty not exceeding fifty pounds, or to imprisonment for not exceeding six months; and

(b) in any case shall, on conviction, be liable for any loss or damage caused by the offence in addition to the penalty for the offence, and such loss or damage may be awarded by the court in fixing the penalty, and may be recovered in the same manner as a pecuniary penalty.

(2.) The minimum pecuniary penalty for any forest offence shall be one-twentieth of the maximum, and no court shall have power to reduce such minimum.

54. (1.) Whoever aids, abets, counsels, or procures, or by any act or omission is in any way directly or indirectly concerned in the commission of a forest offence, shall be deemed to have committed that offence, and shall be punishable accordingly.

Aiding and abetting offences.
See Com., 1908,
No. 3, s. 85.

(2.) Whoever receives any forest produce, knowing the same to have been unlawfully obtained, commits a forest offence.

Receiving forest produce unlawfully obtained.

Seizure of forest produce.
See N.S.W., 1916, No. 55, s. 43.

55. (1.) When there is reason to believe that an offence has been committed in respect of any forest produce, such produce may be seized by a forest officer, and stamped or marked with a distinctive mark, and shall thereupon become and remain the property of the Crown until the title of a lawful owner is established.

Sale of seized timber.
Ibid. (3).

(2.) Any forest produce seized under this section may be sold or otherwise disposed of as the Conservator may direct, and the proceeds of any such sale shall be paid into the Treasury, and carried to the consolidated revenue fund as revenue of the Department, subject to the claim to such proceeds of any lawful owner of the forest produce.

Timber presumed to be property of Crown until contrary proved.
See Vic. No. 2655, s. 44.

56. When in any proceeding under this Act a question arises as to whether any forest produce is the property of the Crown, such forest produce shall be presumed to be the property of the Crown until the contrary is proved.

Forest officer may conduct prosecutions.

57. (1.) Any forest officer may make complaints and conduct prosecutions for forest offences, and the Conservator may sue for and recover royalties, fees, and charges due and payable under this Act.

(2.) In any such prosecution or proceeding no proof shall be required of the appointment of any forest officer or of any authority, whether general or special, of such officer to prosecute or to take any proceedings or to sue.

Penalties under Act not substituted for others.

58. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes a forest offence, or for being liable under such other law to any higher punishment or penalty than that provided by this Act, but no person shall be punished twice for the same offence.

Unbranded timber liable to seizure.

59. (1.) Unbranded timber in course of conveyance without a permit in writing from a forest officer may be seized and detained by a forest officer pending inquiry, and no damages shall be recoverable with regard to such seizure or detention should it afterwards appear that such timber has not been removed in contravention of the provisions of this Act.

Unbranded timber deemed Crown property in absence of proof to contrary.

(2.) All such unbranded timber in course of conveyance without a permit as aforesaid shall be deemed to be the property of the Crown in the absence of proof to be furnished

by the person in charge of such timber that the said timber is private property.

60. All forest produce cut or obtained, upon which any royalty dues or charges are payable under this Act or the regulations, shall, until the payment thereof, remain the property of the Crown, and may be seized and detained or removed by any forest officer until such dues and charges have been paid; and in default of payment within ten days of seizure may be disposed of.

Forest produce the property of Crown till royalty paid. See Vic. No. 2655, s. 42.

61. On the complaint on oath of any forest officer stating his belief that forest produce liable to the payment of any royalty, dues, or charges, is secreted in any place other than a State forest, or timber reserve, any justice may issue a warrant to search for such produce.

Search warrant for secreted forest produce. Vic. No. 2655, s. 45.

62. (1.) When any building, hut, tramline, fence, dam, weir, erected or constructed after the commencement of this Act, or standing crop is found within a State forest or timber reserve, and—

Presence, removal or disposal of buildings, tramline, forest or timber, etc., within State forest or timber reserve. Vic. No. 2655, s. 35.

(a) the owner thereof does not on demand produce any lease, license, permit, or authority therefor; or

(b) after reasonable inquiries made by a forest officer the owner thereof cannot be found,

then on the hearing of the complaint of a forest officer acting with the authority in writing of the Conservator, any court of petty sessions may fix a time within which such building, hut, tramline, fence, dam, weir, or crop shall be removed.

(2.) If such removal is not effected within the time so fixed, such building, hut, tramline, fence, dam, weir, or crop shall become the property of the Crown and may be disposed of as the Conservator may direct.

(3.) In any case where after such inquiries an owner has not been found, it shall be sufficient service of the notice of removal if a copy thereof is posted on some conspicuous part of the land on which the building, hut, tramline, fence, dam, weir, or crop is found.

63. State forests and timber reserves shall be deemed "land" within the meaning of that word as applied in the provisions of the Cattle Trespass, Fencing, and Impounding Act, 1882, relating to trespass, and for the purposes of those pro-

Cattle may be impounded.

visions the Conservator shall be deemed the owner of State forests and timber reserves, and forest officers shall be deemed his agents.

Unbranded cattle the property of the Crown.
See Vic. No. 2855, s. 51.

64. All unbranded cattle above the age of twelve months at any time depasturing in any forest or timber reserve, and having no reputed or apparent owner, shall be and be deemed and taken to be the property of the Crown, and it shall be lawful for the Conservator to cause the same to be sold or otherwise disposed of.

Protection of officers.
See 1914, No. 23, s. 26.

65. No matter or thing done by any forest officer *bona fide* in the exercise of his powers or in the performance of his duties under this Act shall subject such officer to any personal liability in respect thereof.

Export of certain timber prohibited except under permit.

66. (1.) The Governor may, by notification in the *Gazette*, declare that certain species or classes of timber to be therein specified shall not be exported until after such timber has been inspected and the permission of the Conservator to the exportation thereof has been obtained.

(2.) Any person who exports any such timber which does not bear a mark or brand, to be affixed by a forest officer, indicating that such permission has been given, shall be liable to a fine of ten pounds per load of fifty cubic feet of timber exported.

Timber on catchment areas may be placed under control of Conservator.

67. The Governor may order that the forest produce on any catchment area now or hereafter vested in or controlled by the Minister of Water Supply, Sewerage, and Drainage or other statutory authority shall be placed under the management or control of the Conservator, subject to such conditions as the Governor may think fit; and thereupon such areas shall be deemed Crown land for the purposes and within the meaning of this Act.

Forest produce on Parks and Reserves.

68. (1.) Notwithstanding anything contained in the Parks and Reserves Act, 1895, to the contrary, no license to cut or remove forest produce in any park or reserve to which the Governor may, by notice in the *Gazette*, apply this section, shall be granted by a board of parks and reserves, or by a road board having the control of a park or reserve, without the approval in writing of the Conservator.

(2.) The revenue to be derived from any such licenses shall, if the Governor so directs, be apportioned between the board and the department.

69. Roads within State forests and timber reserves, and such other roads as the Governor may by notice in the *Gazette* declare that this section shall apply to, shall for the purposes of this Act be deemed Crown land; and, notwithstanding section one hundred and forty-five of the Roads Act, 1911, the timber thereon shall not vest in the board of the road district in which such roads are situated:

Timber on roads.

Provided that the road board may fell timber in the process of clearing such roads, and may sell and dispose of the timber so felled, and may fell timber growing on roads within its district for use by the board in the construction and repair of buildings, bridges, culverts, fences, and other works.

70. On the grant or demise by conditional purchase lease or otherwise under the Land Act, 1898, of land within a State forest or timber reserve, adequate provision shall be made to secure to the holders of timber concessions, leases, permits, and licenses the right of way over such land, and means of ingress and egress, and the right to construct and use roads and tramways for the conveyance of forest produce, and of access to waterholes and streams, and to construct, repair, and maintain pipe lines, and the reasonable use of water.

Rights of way over alienated land within forests.

71. When any area of land of not less than ten acres in extent is planted, after the commencement of this Act, with forest trees approved of by the Conservator as being suitable for commercial purposes, the number of trees not being less than five hundred to the acre, then in computing the value of such area of land as rateable property within the meaning of any Act relating to local government, the increase in the value of such area of land by reason of the trees so planted shall not be taken into consideration.

The increased value of areas of land planted with forest trees shall not be taxed.
See Vic. N. 1.
2655, s. 54.

72. A day shall be set apart in every year for the planting of trees in the several land divisions of the State, and such day shall be called "Arbor Day."

Arbor Day.

73. (1.) On the disposal of land under the conditional purchase provisions of the Land Act, 1898, it shall be a condition that the purchaser shall use an area of not less than two per centum of the acreage of the holding acquired by him for the growth of timber or other forest produce.

Trees to be planted by Conditional Purchase holders.

(2.) The planting of trees, approved by the Conservator, on not less than five acres of any land acquired under the conditional purchase provisions of the Land Act, 1898, shall be deemed an improvement within the meaning of that Act, and the conservation and improvement, to the satisfaction of the Conservator, of indigenous timber already growing on any portion of land acquired under the conditional purchase provisions of the Land Act, 1898, may, with the approval of the Minister for Lands, be deemed an improvement within the meaning of that Act.

Administration
of Act within
area of Green-
bushes State
forest.

74. The administration of this Act in regard to the area comprised within the boundaries of the Greenbushes State forest, excepting any area within such boundaries the subject of any timber lease or permit shall be carried out subject to the concurrence of the Minister for Mines.

Section 3.

THE SCHEDULE.

Date of Act.	Short Title.	Extent of repeal.
No. 37 of 1898 	The Land Act 1898 	Part XI.
No. 58 of 1904 	The Land Act Amendment Act, 1904	The whole.
No. 3 of 1915 	The Land Act Amendment Act, 1914	The whole.