

Queensland



ANNO TERTIO DECIMO

ELIZABETHAE SECUNDAE REGINAE

No. 15 of 1964

**An Act to Amend "The Forestry Act of 1959" in certain particulars**

[ASSENTED TO 6TH APRIL, 1964]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. (1) **Short title.** This Act may be cited as "*The Forestry Act Amendment Act of 1964.*"

(2) **Principal Act.** "*The Forestry Act of 1959,*" is in this Act referred to as the Principal Act.

(3) **Collective title.** The Principal Act and this Act may be collectively cited as "*The Forestry Acts, 1959 to 1964.*"

2. **Amendments of s. 5.** Section five of the Principal Act is amended by—

(a) inserting after the definition "Conservator of Forests" the following definition:—

" "Contiguous"—When used in relation to lands set apart and declared as State Forests, Timber Reserves, National Parks or Scenic Areas includes lands which are separated only by a road or roads or by a water course, body of water or other natural feature;";

(b) omitting the definition "Crown holding" and inserting in its stead the following definition:—

“ “Crown holding”—Land held under “*The Land Acts, 1962 to 1963*” as Agricultural Selection, Perpetual Country Lease, Brigalow Lease, Grazing Selection, Settlement Farm Lease, Pastoral Lease, Stud Holding or Special Lease or by way of Occupation License granted in priority to a late lessee in respect of an expired Pastoral Lease, Grazing Selection or Settlement Farm Lease and land held as Prickly-pear Selection or Prickly-pear Development Selection under “*The Land Acts, 1910 to 1962*” and “*The Prickly-pear Land Acts, 1923 to 1959*” and land held as Stud Holding comprising land which was opened under the provisions of section 16A of “*The Land Acts Amendment Act of 1927*” or Forest Grazing Lease:

The term includes such other land, being land subject to any lease or license lawfully granted by the Crown, as may be prescribed by the Governor in Council by Order in Council;”;

(c) in the definition “Crown land”—

(i) omitting from the end of paragraph (iii.) the symbol “:” and inserting in its stead the symbol and word “; or”;

(ii) inserting after paragraph (iii.) the following paragraph:—

“(iv.) Set apart and declared as a State Forest, National Park, Scenic Area or Timber Reserve or deemed so to be:”;

(iii) inserting in the proviso after the words “Crown holding”, the words “and an occupation license granted over a Timber Reserve or any part thereof,”;

(d) adding the following sentence to the definition “Forest products”:—

“The term does not include indigenous or introduced grasses or crops grown by a lessee or licensee of a Crown holding;”;

(e) omitting the definition “Minister” and inserting in its stead the following definition:—

“ “Minister”—The Minister for Local Government and Conservation or other Minister of the Crown for the time being charged with the administration of this Act;”;

(f) omitting the definition “Quarry material” and inserting in its stead the following definition:—

“ “Quarry material”—Includes guano and any of the following materials, not being a mineral within the application of the Mining Acts, namely stone, gravel, sand, rock, clay, earth and soil;”.

**3. Amendments of s. 28.** Section twenty-eight of the Principal Act is amended by re-numbering subsection (5.) as subsection (6.) and inserting the following subsection as subsection (5.):—

“(5.) The Governor in Council may from time to time—

(a) By the Order in Council setting apart any Crown land as a Timber Reserve amalgamate that Timber Reserve and any existing contiguous Timber Reserve;

(b) By Order in Council amalgamate any two or more contiguous Timber Reserves.”

**4. Amendment of s. 30.** Section thirty of the Principal Act is amended by, in subsection (3.), re-numbering paragraph (iii.) as paragraph (iv.) and inserting the following paragraph as paragraph (iii.):—

“(iii.) By Order in Council amalgamate any National Parks or Scenic Areas or any National Park and any Scenic Area which, not being contiguous, could more appropriately be administered as one unit in the opinion of the Conservator of Forests;”.

**5. Amendment of s. 32.** Section thirty-two of the Principal Act is amended by inserting in the first paragraph after the word “industry” the words “or that any such land be opened or applied for use as a road for public use.”.

**6. Amendments of s. 35.** Section thirty-five of the Principal Act is amended by—

(a) in subsection (1.)—

(i) inserting as a first proviso after paragraph (iii.) the following proviso:—

“Provided that in any case where the term of an occupation permit or a stock grazing permit has been fixed at less than seven years the Conservator of Forests may, from time to time, extend the same for such term as he thinks fit but so that the term originally fixed and any extension or extensions thereof shall not, in the aggregate, exceed seven years.”;

(ii) inserting in the existing proviso—

(a) after the word “Provided”, the word “further”;

(b) after the word “granted”, the words “or extended”;

(b) in subsection (2.), omitting the words “section one hundred and seventy-nine of *The Land Acts, 1910 to 1959*” and inserting in their stead the words “sections one hundred and ninety-eight and two hundred and three of *The Land Acts, 1962 to 1963,*” and for the purpose of this subsection such land shall be deemed to be land reserved and set apart for public purposes.”.

**7. Repeal of and new s. 36.** Section thirty-six of the Principal Act is repealed and the following section is inserted in its stead:—

“[36.] Subject to this Act, a lease or license may be granted under *The Land Acts, 1962 to 1963*” with respect to any Timber Reserve or any part thereof.

For the purpose of the grant, extension or renewal of any lease authorised by this section the land to be made subject to such lease, extension or renewal shall be deemed to be land reserved and set apart for public purposes and for the purpose of the grant, extension or renewal of any license authorised by this section the land with respect to which the license is to be granted, extended or renewed shall be deemed to be Crown land:

Provided that no lease conferring any rights with respect to any land comprised in a Timber Reserve shall be granted, extended or renewed under *The Land Acts, 1962 to 1963*” and no license conferring any such rights shall be granted under those Acts except with the joint approval of the Land Administration Commission and the Conservator of Forests and the grant of any such lease or license and any extension or renewal of

such a lease shall be subject to such conditions for the protection of the Timber Reserve as the Conservator of Forests recommends.”

**8. Amendments of s. 42.** Section forty-two of the Principal Act is amended by—

(a) in subsection (1.), omitting the words “section one hundred and seventy-nine of *“The Land Acts, 1910 to 1959”* and inserting in their stead the words “sections one hundred and ninety-eight and two hundred and three of *“The Land Acts, 1962 to 1963,”* and for the purpose of this subsection such land shall be deemed to be land reserved and set apart for public purposes,”;

(b) omitting subsection (2.) and inserting in its stead the following subsection:—

“(2.) With respect to any land comprised in any National Park or Scenic Area the Conservator of Forests may from time to time grant, subject to such provisions, reservations and conditions as he thinks fit—

(a) Permits to graze stock for a term fixed by the Conservator of Forests but not exceeding seven years (in this Act referred to as “stock grazing permits”):

Provided that in any case where the term of a stock grazing permit has been fixed at less than seven years the Conservator of Forests may, from time to time, extend the same for such term as he thinks fit but so that the term originally fixed and any extension or extensions thereof shall not, in the aggregate, exceed seven years;

(b) Permits for apiary sites for a term fixed by the Conservator of Forests (in this Act referred to as “apiary permits”):

Provided that no permit to which this subsection relates shall be granted or extended or subjected to any provision or condition unless the Conservator of Forests is satisfied that the objects of this Part of this Act would not be thereby prejudiced or opposed.”

**9. Amendment of s. 45.** Section forty-five of the Principal Act is amended by deleting the words “Crown lands” from paragraph (v) and inserting in their stead the words “lands the property of the Crown”.

**10. Amendments of s. 47.** Section forty-seven of the Principal Act is amended by—

(a) omitting the words “or other entitlement” where they appear throughout that section;

(b) in subsection (1.)—

(i) adding to paragraph (i.) the following proviso:—

“Provided that the Land Administration Commission, or, as the case may be, the Department of Mines may, from time to time, upon application made in that behalf by the Conservator of Forests, fix a value and thereupon the Conservator of Forests may sell any such forest products or quarry material of a value which does not, in the case of any

such sale, exceed the value so fixed without submitting his proposals with respect to that sale to the Land Administration Commission or, as the case may be, the Department of Mines pursuant to this paragraph;”;

(ii) omitting paragraph (ii.) and inserting in its stead the following paragraph:—

“(ii.) (a) If the Land Administration Commission or, as the case may be, the Department of Mines consents to a sale of forest products or quarry material on land comprised in such a Crown holding or of forest products on land comprised in such a lease granted under the Mining Acts where the proposal is for a sale to a person other than the lessee or holder thereof; or

(b) When the Conservator of Forests proposes, in accordance with the provisions of paragraph (i.) of this subsection, to sell forest products or quarry material on land comprised in such a Crown holding or forest products on land comprised in such a lease granted under the Mining Acts to a person other than the lessee or holder thereof, without obtaining the consent of the Land Administration Commission or, as the case may be, the Department of Mines,

shall give to that lessee or holder, a notice in writing of his proposal and containing or accompanied by a diagram, description, or other sufficient identification of the land or part thereof whereon or wherein the forest products or quarry material is proposed to be sold and requiring the person to whom the notice is given to lodge, in writing, within fourteen days (or such longer period as may be stated in the notice) after the notice is so given, with the Conservator of Forests or Department any objection such person may have to the proposed sale:

Provided that the provisions of this paragraph shall not apply in the case where the forest products or quarry material, the subject of the proposal, are required by the Department of Main Roads for use in the construction, widening or straightening of roads.”;

(c) adding the following subsection:—

“(6.) This section does not apply with respect to the sale of forest products which have been damaged by ringbarking or other clearing operations or by poisoning or by fire.”

**11. Amendment of s. 48.** Section forty-eight of the Principal Act is amended by deleting the words “or other entitlement”, where they appear throughout that section.

**12. Amendments of s. 53.** Section fifty-three of the Principal Act is amended by—

(a) in subsection (1.), omitting the words “Crown lands” from paragraph (ii.) and inserting in their stead the words “lands the property of the Crown”;

(b) omitting subsection (2.);

(c) renumbering the subsection presently numbered (3.) as subsection (2.) and omitting therefrom the words “earth or soil”.

**13. Amendments of s. 55.** Section fifty-five of the Principal Act is amended by—

(a) in subsection (1.), omitting the words “stone, gravel, clay or other” and omitting the proviso thereto;

(b) inserting as subsection (2.) the following subsection:—

“(2.) When the Conservator of Forests proposes to grant a license under this section with respect to any forest products or quarry material situated on any Crown holding (other than a Crown holding in respect of the whole or part of any State Forest or Timber Reserve) notice in writing of the proposal to grant the license shall be given to the Land Administration Commission and the consent of the Commission obtained thereto and, if such consent is obtained, notice in writing shall be given to the lessee or holder of the Crown holding concerned and the provisions of section forty-seven of this Act, with all necessary adaptations thereof, shall extend to that notice, any objection to the proposal lodged by the lessee or holder and any inquiry thereon and the recommendations and determination therein:

Provided that the Land Administration Commission may, from time to time, upon application made in that behalf by the Conservator of Forests, fix a quantity or value and thereupon the Conservator of Forests may grant a license with respect to forest products or quarry material situated on a Crown holding (other than a Crown holding in respect of the whole or part of any State Forest or Timber Reserve) the quantity or value of which forest products or quarry material, the subject of the license, does not exceed the quantity or value so fixed, without giving any notice of his proposal so to do to the Land Administration Commission but without prejudice to the provisions of this subsection with respect to the giving of notice in writing to the lessee or holder of the Crown holding concerned.”;

(c) renumbering the subsection presently numbered (2.) as subsection (3.).

**14. Amendments of s. 56.** Section fifty-six of the Principal Act is amended by—

(a) in subsection (1.)—

(i) inserting after the word “Act” where that word secondly appears the words “and to extend any of the same from time to time”;

(ii) inserting between the words “made” and “subject” the words “or extended”;

(b) in subsection (2.)—

(i) inserting in paragraph (a), after the word “grant” and after the word “make”, where those words respectively appear, the words “or extend”;

(ii) inserting in paragraph (b), after the word “contract” the words “, or to extend any of the same,”.

15. Amendments of s. 65. Section sixty-five of the Principal Act is amended by—

(a) in subsection (2.)—

- (i) omitting the words “ was burning ” where those words appear and inserting in their stead the word “ originated ”;
- (ii) inserting after the word “ permit ” where that word secondly appears the words “ or, if the fire be one in respect of which a permit is not required under those Acts, that the fire was lit in contravention of the provisions of those Acts,”;

(b) inserting as subsection (3.) the following subsection:—

“(3.) Where any officer or employee of the Conservator of Forests has, within the boundaries of any State Forest, Timber Reserve, National Park or Scenic Area, as the case may be, extinguished or caused to be extinguished a fire burning within that State Forest, Timber Reserve, National Park or Scenic Area, as the case may be, then, if it be established that such fire originated on land other than that State Forest, Timber Reserve, National Park or Scenic Area, as the case may be, and that the owner or occupier of the land on which such fire originated, or his agent or employee, was responsible for the lighting of such fire and that a permit for the lighting thereof had not been obtained by such owner, or occupier as required by the provisions of “ *The Rural Fires Acts, 1946 to 1958* ” or that the fire had been lit contrary to the authority conferred by such a permit, or, if the fire be one in respect of which a permit is not required under those Acts, that the fire was lit in contravention of the provisions of those Acts, the Conservator of Forests may recover from the owner or occupier of the land on which the fire originated, in any court of competent jurisdiction, all reasonable expenses incurred by such officer or employee in controlling and extinguishing such fire (including, but without limiting the generality hereof, salaries and wages of officers and employees and compensation for the use of plant, vehicles and equipment).

The provisions of this subsection shall be in addition to and not in derogation of or substitution for the provisions of any other enactment of this Act.”;

(c) renumbering the subsection presently numbered (3.) as subsection (4.).

16. Repeal of and new s. 71. Section seventy-one of the Principal Act is repealed and the following section is inserted in its stead:—

“ [71.] For the purposes of the provisions of “ *The Local Government Acts, 1936 to 1963* ” relating to impounding, and for the purposes of subsection (2.) of section twenty-nine of “ *The Fauna Conservation Act of 1952* ” relating to the taking of fauna, the Conservator of Forests shall be deemed to be the owner and the occupier of State Forests, Timber Reserves, National Parks and Scenic Areas and for the purposes of the said subsection (2.) of section twenty-nine every State Forest and National Park and Scenic Area shall be deemed to be a holding situated within

a sanctuary within the meaning of “*The Fauna Conservation Act of 1952*” and every Timber Reserve shall be deemed to be a holding situated within a sanctuary within the meaning of that Act where such Timber Reserve is declared to be, or is within an area declared to be, a sanctuary under that Act:

Provided that the provisions of this section shall not prejudice the provisions of section seventy-two of this Act or any right conferred by any Act or law upon the occupier of any Crown holding within, or the holder of any license over, any State Forest, Timber Reserve, National Park or Scenic Area.”

**17. Repeal of and new s. 72.** Section seventy-two of the Principal Act is repealed and the following section is inserted in its stead:—

“[72.] (1.) If the Conservator of Forests is satisfied that stock are unlawfully in, and are detrimental to a State Forest, Timber Reserve, National Park or Scenic Area (such forest, reserve, park or, as the case may be, area being hereinafter in this section referred to as the “area”) he may—

- (a) Cause to be twice inserted in a newspaper circulating in the district wherein the area is situated, a notification that on a day or days specified therein, and being not less than twenty-eight days from the date of the second insertion of such notification, a muster or musters of all or any of such stock in the area will be made at a stock-yard or stock-yards, the location of which shall be adequately set out in the notification, and that the owners of such stock as may be mustered and other interested persons may claim such stock at such stock-yard or stock-yards.

A copy of such notification shall be posted up at the forestry office closest to the area and further copies thereof shall be sent to the Clerk (or Clerks) of Petty Sessions for the Petty Sessions District (or Districts) within which the area is situated and to the Inspector (or Inspectors) of stock for the district (or districts) in which the area is situated who shall post up such copies in their respective offices; and

- (b) Cause to be made a muster or musters of all or any of such stock in the area and, for this purpose, issue on the prescribed form a permit to muster stock to such of his officers and employees and to such other persons as he deems necessary:

Provided that the Conservator of Forests shall not issue a permit to muster stock with respect to any part of an area which is comprised in a Crown holding or is subject to a permit (other than a Sales Permit) granted under this Act without the consent in writing of the lessee, licensee or permittee first had and obtained.

(2.) All stock mustered during any muster at a stock-yard shall be held at that stock-yard until noon on the day following the day of its muster at that stock-yard unless otherwise lawfully dealt with under the provisions of this section.



(3.) At least one forest officer shall attend at a stock-yard on the day or days of each muster at that stock-yard and until noon on the day following the last day of such muster.

(4.) The forest officer in attendance at a stock-yard shall release from that stock-yard and shall deliver to the claimant therefor any stock in respect of which a person has—

- (a) Claimed ownership, or a right to possession, on the day of the muster at that stock-yard or before noon on the day following the day of such muster; and
- (b) Established his claim to the satisfaction of the forest officer; and
- (c) Paid to the forest officer such fees as may be from time to time prescribed: Provided that if the claimant has participated in and assisted the muster, and the forest officer thus certifies to the Conservator of Forests, he may be granted a rebate of such sum on account of fees as the Conservator of Forests may determine.

Before the forest officer releases stock from a stock-yard under this subsection he shall give to the person to whom the stock is to be released a permit on the prescribed form to remove stock and travel it to the boundary of the area.

(5.) Any person who removes, or causes to be removed, stock from a stock-yard notified in accordance with the provision of subsection (1.) of this section shall be guilty of an offence unless he has been given by the forest officer in attendance at that stock-yard prior to such removal a permit referred to in subsection (4.) of this section.

(6.) Stock remaining in a stock-yard at noon on the day following the day of its muster at that stock-yard shall be dealt with in the following manner:—

- (a) All stock that is unbranded or carries no decipherable brand (when clipped if necessary) or in respect of which a claim has been made in accordance with the provisions of subsection (4.) hereof but has not been established to the satisfaction of the forest officer in attendance at the stock-yard or in respect of which a claim has been so established but the fees have not been paid as required by subsection (4.) of this section shall be sold, destroyed or otherwise disposed of in such manner and on such terms as the Conservator of Forests may determine;
- (b) All other stock shall be dealt with in accordance with the provisions of “*The Local Government Acts, 1936 to 1963*” relating to the impounding of animals by private persons.

(7.) The proceeds of sale of any stock and fees paid with respect to any stock under this section shall be paid to Consolidated Revenue.

(8.) No owner, nor any person claiming a proprietary or possessory interest in any stock sold, destroyed, disposed of or otherwise dealt with in pursuance of this section shall have any claim to damages or compensation or otherwise against the Crown, the Conservator of Forests or any other person on account of anything done or omitted to be done *bona fide* with respect to such stock in the course of carrying out or giving effect to the provisions of this section, anything in any Act or law or process of law to the contrary notwithstanding.”

**18. Amendment of s. 90.** Section ninety of the Principal Act is amended by adding to that section the following subsection:—

“(5.) Whenever in any proceeding it becomes necessary or desirable to adduce evidence that—

- (a) Any works or chattels are of a kind referred to in paragraph (b) of subsection (3.) of section twelve of this Act; or
- (b) Any works or chattels are the property of the Conservator of Forests or the Crown to whom the same may have been surrendered by him pursuant to this Act; or
- (c) The Conservator of Forests has or has not given authority to a person concerned in that proceeding to deal with such works or chattels and the extent of any authority given by him,

such evidence may be adduced before the Court or tribunal hearing that proceeding through any officer authorized in that behalf in writing purporting to be under the hand of the Conservator of Forests and every such court or tribunal shall accept such evidence as evidence in the proceeding notwithstanding that such evidence may, in a particular case, be in the nature of hearsay evidence.”

**19. Amendments of s. 91.** Section ninety-one of the Principal Act is amended by—

- (a) numbering the existing paragraphs thereof as subsection (1.);
- (b) omitting the words “earth or soil” where those words appear and by inserting the word “or” between the terms “forest products” and “quarry material” where those terms appear;
- (c) omitting the words “then and there standing” and by inserting in their stead the words “as it stood immediately before the act was done which has rendered the person concerned liable under this section to a demand upon him by the Conservator of Forests”;

(d) adding the following subsection:—

“(2.) Notwithstanding the provisions of subsection (1.) of this section and anything done or omitted to be done thereunder, the Conservator of Forests may, at any time, either before or after making a demand upon any person, sell all or any part of the forest products or quarry material affected by the act which has rendered any person liable to a demand thereunder on such terms and conditions as the Conservator of Forests thinks fit.

The net proceeds of any such sale may be applied towards the reduction of the value demanded or to be demanded by the Conservator of Forests under this section.

Should the net proceeds of any such sale equal or exceed the value demanded, or to be demanded, by the Conservator of Forests under this section then the person upon whom the demand has been made, or would otherwise have been made, shall not be required to make a payment in respect of the value of the forest products or quarry material so sold.

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For the purposes of this subsection the term “ net proceeds ” means the proceeds of the sale of any forest products or quarry material less such expenses incurred in relation to—

- (a) such forest products or quarry material with a view to the sale thereof or, any part thereof; and
- (b) the sale of such forest products or quarry material or any part thereof,

as the Conservator of Forests may determine.”