

Queensland



ANNO TRICESIMO TERTIO

ELIZABETHAE SECUNDAE REGINAE

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**No. 86 of 1984**

**An Act to amend the Forestry Act 1959–1982 in certain  
particulars**

[ASSENTED TO 2ND NOVEMBER, 1984]

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. Short title.** This Act may be cited as the *Forestry Act Amendment Act 1984*.

**2. Commencement.** (1) Section 1 and this section shall commence on the day on which this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided by subsection (1), this Act or the provisions thereof specified in the Proclamation shall commence on the day or days appointed by Proclamation for the commencement of this Act or, as the case may be, those provisions.

**3. Principal Act and citation as amended.** (1) In this Act the *Forestry Act 1959–1982* is referred to as the Principal Act.

(2) The Principal Act as amended by this Act may be cited as the *Forestry Act 1959–1984*.

**4. Amendment of s. 5. Meaning of terms.** Section 5 of the Principal Act is amended by—

(a) inserting after the definition “Environmental Park” the following definitions:—

“ “Feature Protection Area”—the whole or part of a State Forest declared as such under this Act;

“Forest Drive”—that part of a State Forest declared as such under this Act;”;

(b) inserting after the definition “State Forest” the following definition:—

“ “State Forest Park”—the whole or part of a State Forest declared as such under this Act;”;

(c) inserting after the definition “Regulations” the following definition:—

“ “Scientific Area”—the whole or part of a State Forest declared as such under this Act;”.

**5. Amendment of s. 8.** Section 8 of the Principal Act is amended by adding the following paragraph at the end of subsection (1):—

“Every power, authority, duty or function had by the Conservator of Forests under this Act in his personal capacity may be exercised or performed by The Conservator of Forests as such corporation.”.

**6. Amendment of s. 15. Delegation of powers by the Conservator of Forests.** Section 15 of the Principal Act is amended by inserting after subsection (1) the following subsection:—

“(1A) A delegation under subsection (1) may be to the holder of an office, specifying the office but without naming the holder, in which case each successive holder of that office and each person who for the time being occupies or performs the duties of that office may exercise or, as the case may be, shall perform (for so long as he holds or occupies or performs the duties of that office) the delegated powers, functions, authorities and duties as are specified in the instrument.”.

**7. Amendment of s. 18.** Section 18 of the Principal Act is amended in paragraph (vii) of subsection (1) by omitting the words “and secure” and substituting the words “and, subject to any order made under section 82A (3), secure”.

**8. Repeal of and new s. 22P.** The Principal Act is amended by repealing section 22P and substituting the following section:—

“**22P. Superannuation scheme.** A Council may with the approval of the Governor in Council—

- (a) institute and maintain any scheme or schemes;
- (b) amend any scheme or schemes (whether instituted before or after the commencement of the *Forestry Act Amendment Act 1984*),

for the provision of superannuation benefits to its officers or employees or their dependants and to that end may provide in such manner as it thinks fit for the establishment and maintenance of such funds as it considers necessary or desirable and may contribute to such funds:

Provided that it shall not be necessary for a Council to obtain the approval of the Governor in Council to maintain any scheme or schemes instituted by it before the commencement of the *Forestry Act Amendment Act 1984*.”.

**9. Repeal of and new s. 22Q.** The Principal Act is amended by repealing section 22Q and substituting the following section:—

“**22Q. Funds.** (1) A Council shall establish and maintain in accordance with this Act the following funds:—

- (a) a General Fund;
- (b) such other funds (if any) as are prescribed.

The funds shall be kept separate and distinct and a separate bank account shall be kept for each fund.

(2) A Council shall pay or cause to be paid into the General Fund all moneys received pursuant to section 22s.

(3) Moneys from time to time forming the General Fund shall be applied to expenditure necessarily incurred by a Council in the exercise, performance and discharge of its powers, authorities, functions, duties and obligations.”.

**10. New ss. 22QA and 22QB.** The Principal Act is amended by inserting after section 22Q as inserted by this Act the following sections:—

“ **22QA. Financial records.** A Council shall keep accurately such accounts, books and records of its receipts and expenditure as are prescribed or, so far as they are not prescribed, as the Minister, on the recommendation of the Auditor-General, from time to time requires.

**22QB. Annual statements of account.** (1) As soon as practicable after the close of each financial year, but in no case later than 2 months after that close unless otherwise authorized by the Minister, a Council shall balance its accounts and prepare annual statements of account.

(2) The annual statements of account shall be prepared in the prescribed form or in such other form as is, subject to subsection (3), approved by the Minister.

(3) The Minister, on the recommendation of the Auditor-General, may either generally or in respect of a particular case approve of a form in which the annual statements of account may be prepared.

(4) The Chairman and the principal accounting officer of a Council shall certify as to whether or not in their opinion the annual statements of account fairly set out the financial transactions of the Council for the period to which they relate and show a true and fair view of the state of affairs of the Council at the close of the period on a basis consistent with that applied in respect of the financial year last preceding.

(5) A Council shall cause the annual statements of account together with the vouchers in support thereof and all of its books, papers, writing and records relating thereto to be laid before the auditor appointed under this Act to examine the accounts of the Council.

(6) Unless otherwise authorized by the Minister, the annual statements of account or copies thereof shall not be made available to any person other than the Auditor-General or a person acting in aid of him, the Minister or a person acting in aid of him, or a member or officer of the Council until the said statements have been audited and duly certified by the Auditor-General.

(7) When the annual statements of account have been audited and certified by the Auditor-General the Council shall cause them to be published in a manner approved by the Minister. All copies of the statements of account so published

shall be true copies of the statements certified by the Auditor-General and shall have appended thereto a copy of the Auditor-General's certificate.”.

**11. New ss. 22QC and 22QD.** The Principal Act is amended by inserting after section 22QB as inserted by this Act the following sections:—

“**22QC. Audit.** (1) The accounts of a Council, including the accounts of a superannuation scheme or schemes instituted or maintained under section 22P, shall be audited by the Auditor-General or an authorized officer within the meaning of the *Financial Administration and Audit Act 1977–1981* directed by the Auditor-General, each of whom shall have with respect to such audit and accounts all the powers and authorities conferred on him by that Act.

(2) On completion of the audit of the annual statements of account prepared in accordance with section 22QB the Auditor-General shall certify thereon whether or not he has obtained all the information and explanations required by him and whether or not the statements—

- (a) are in the form approved pursuant to section 22QB;
- (b) are in agreement with the accounts; and
- (c) have, in his opinion, been properly drawn up so as to present a true and fair view of the transactions for the financial year in question and the financial position at the end of that year on a basis consistent with that applied in respect of the financial year last preceding,

and after such certification shall deliver the said statements to the Council concerned.

(3) The Auditor-General shall, at least once in each year, report to the Council concerned the results of each audit carried out pursuant to this section and shall, if he thinks fit, include with the report recommendations with respect to the financial statements and the manner of operating and maintaining the accounts.

(4) If in performing the audit the Auditor-General or authorized officer—

- (a) considers that the conduct of any aspect of the affairs of a Council and the business and management thereof warrants further study by the Council with a view to improving the efficiency and economy of the Council or the adequacy of its performance; or
- (b) forms the opinion that the affairs of the Council and the business and management thereof have in any respect not been conducted efficiently and economically or have in any respect not been adequately performed in accordance with this Act or any other Act or law,

he shall, if he thinks fit, state such opinion and the reasons therefor in his report,

(5) Where the Auditor-General is of the opinion that he should cause a recommendation referred to in subsection (3) to be brought to the attention of the Minister he shall cause a copy of the report including that recommendation to be forwarded to the Minister and the Minister shall give due consideration to the report and recommendation.

(6) A Council shall give due consideration to the report and recommendations (if any) of the Auditor-General made pursuant to subsection (3).

**22QD. Investment of Funds.** (1) A Council may from time to time invest moneys standing to the credit of any fund kept by it under this Act and not required for the time being for the purposes of this Act—

- (a) in securities issued or guaranteed by the Government of the Commonwealth or of a State or Territory of the Commonwealth;
- (b) with or on deposit with a bank or in securities issued, guaranteed or accepted by a bank;
- (c) with any authorized dealer in the short term money market with established lines of credit with the Reserve Bank of Australia as a lender of last resort;
- (d) in such other securities, investments or other financial arrangements as may be recommended by the Treasurer and approved by the Governor in Council,

provided that no such investment shall have a term in excess of 12 months except with the Treasurer's approval first had and obtained.

(2) Every security, safe custody acknowledgement or other document evidencing title issued in respect of an investment shall be held either by the Council concerned, by the Treasurer on behalf of the Council or in such other manner as is approved by the Treasurer.

(3) Any approval in accordance with subsection (1) or (2) may be granted—

- (a) in respect of a specific security, investment or other financial arrangement, all securities, investments or other financial arrangements of a specific kind or class or all securities, investments and other financial arrangements;
- (b) for specific period or without limit of time;
- (c) in respect of a particular Council or of all Councils.”.

**12. New ss. 22QE and 22QF.** The Principal Act is amended by inserting after section 22QD as inserted by this Act the following sections:—

“**22QE. Budget of a Council.** (1) After receipt of an estimate pursuant to section 22r a Council shall adopt and present to the Minister a budget showing its estimates of its receipts and disbursements for the financial year to which that estimate relates.

(2) Every such budget shall be subject to the approval of the Minister and, until so approved, shall have no force or effect.

(3) The Minister may amend a budget of a Council in such manner as he thinks fit.

(4) A budget that has been approved by the Minister shall be binding on a Council whether or not it has been amended pursuant to subsection (3).

**22QF. Observance of budget.** (1) Subject to subsection (2), a Council shall confine its disbursements throughout a financial year to which a budget relates to the items and amounts contained in its budget for that financial year as approved by the Minister.

(2) If, during any financial year to which a budget relates, it appears to a Council that an extraordinary circumstance has arisen that requires a Council to make in that financial year a disbursement that was not provided for in the budget as approved for that financial year or that exceeds the amount estimated for that financial year, the Council shall, before making the disbursement or excess disbursement—

(a) by resolution, approve the disbursement or excess disbursement; and

(b) obtain the approval of the Minister for an amendment to the budget.

(3) A Council shall ensure that the budget as amended and approved will not then be exceeded in any particular or in totality by the disbursement or excess disbursement referred to in subsection (2).”

**13. New ss. 22QG, 22QH and 22QL.** The Principal Act is amended by inserting after section 22QF as inserted by this Act the following sections:—

“ **22QG. Treatment of ordinary expenditure, surplus and deficit.**

(1) If at the close of any financial year for which a budget is framed there is a surplus or deficit the same shall be carried forward and taken into account in framing the budget for the next following financial year.

(2) At the close of each financial year for which a budget is framed all authorizations of expenditure and votes of money for any item provided for in the budget so framed shall lapse but may be re-authorized or revoked as the case may be.

**22QH. Budget statement to be presented to meeting.** (1) The chairman of a Council shall cause to be presented to each ordinary meeting of the Council a statement in relation to the budget for the period of the financial year from commencement to the close of the month last concluded.

(2) The statement shall show both estimated receipts and disbursements and actual receipts and disbursements with such explanations as will give a true indication of the progressive state

of the items provided in the budget and, in addition, the statement submitted to the first meeting of a Council held after the last day of December and March shall include an estimate of the anticipated position at the end of the financial year.

**22QI. Control of moneys and property of a Council.**

(1) Whenever it appears to or comes to the knowledge of a Council that, arising from a cause which could constitute an offence under *The Criminal Code* or any other Act or law, there is a loss being—

- (a) a loss of or deficiency in any moneys of or under the control of the Council; or
- (b) a loss of, destruction of or damage to property of or under the control of the Council,

the Council shall forthwith give notice thereof in writing to the Auditor-General and to a member of the Police Force of Queensland.

(2) A Council shall not—

- (a) abstain from, discontinue or delay a prosecution for any offence under the laws of the State in relation to any loss of a description referred to in subsection (1);
- (b) withhold or promise to withhold or delay any evidence for the purpose of such prosecution.”.

**14. Amendment of s. 22R. Annual report.** Section 22R of the Principal Act is amended in the first paragraph by inserting after the words “ financial year ” the words “, which report shall have appended a copy of the relevant annual statements of account bearing the certification of the Auditor-General prescribed by section 22QC ”.

**15. Amendment of s. 22S. Additional stampage.** Section 22s of the Principal Act is amended by omitting the words “ and shall be applied in defraying expenses incurred by a Council and any other sums required to be paid by a Council ” and substituting the words “ and shall, with the approval of the Minister, be paid out of the Fund to the Timber Research and Development Advisory Council of South and Central Queensland and the Timber Research and Development Advisory Council of North Queensland in such proportions as are determined by the Conservator of Forests ”.

**16. Amendment of s. 22T. Estimates of expenditure.** Section 22T of the Principal Act is amended by—

(a) omitting the note appearing in and at the commencement of the section and substituting the following note:—

“ Estimate by Conservator.”;

- (b) omitting the expression “ (1) ”;
- (c) omitting subsections (2), (3) and (4).



**17. Amendment of s. 34.** Section 34 of the Principal Act is amended in subsection (1) by—

(a) in paragraph (x), omitting the word “purposes;” and substituting the word “purposes.”;

(b) omitting paragraph (xi).

**18. New ss. 34A, 34B and 34C.** The Principal Act is amended by inserting after section 34 the following sections:—

“**34A. Specialized management within State Forests.** (1) The Conservator of Forests may, from time to time, recommend to the Governor in Council—

(a) that the whole or a part or parts of a State Forest be declared a—

(i) Feature Protection Area;

(ii) Scientific Area; or

(iii) State Forest Park; or

(b) that a part or parts of a State Forest be declared a Forest Drive.

(2) On the recommendation of the Conservator of Forests the Governor in Council may, by Order in Council—

(a) declare the whole of a State Forest or the part or parts thereof defined in the recommendation to be a Feature Protection Area, Scientific Area or, as the case may be, State Forest Park; or

(b) declare the part or parts of a State Forest defined in the recommendation to be a Forest Drive.

(3) Every recommendation by the Conservator of Forests to which this section relates shall be forwarded to the Minister who may, in his absolute discretion, present the recommendation to the Governor in Council or remit the same to the Conservator of Forests for reconsideration.

**34B. Application of Motor Vehicles Control Act.** For the purposes of the *Motor Vehicles Control Act* 1975 a Feature Protection Area, Scientific Area, State Forest Park or Forest Drive shall be taken not to be a public place.

**34C. Feature Protection Area.** The Conservator of Forests—

(a) shall, subject to section 33, use and manage a Feature Protection Area with a view to ensuring that the features thereof which gave rise to its declaration as such under this Act continue to exist;

(b) may provide roads and paths for the purpose of enabling persons generally to travel to, within and from a Feature Protection Area;

(c) may provide picnic and other facilities for the use of persons generally within a Feature Protection Area.”

19. New ss. 34D and 34E. The Principal Act is amended by inserting after section 34C as inserted by this Act the following sections:—

“ 34D. State Forest Park. The Conservator of Forests—

- (a) shall, subject to section 33 and to paragraph (c), use and manage a State Forest Park with a view to maintaining its forest setting;
- (b) shall provide roads and paths for the purpose of enabling persons generally to travel to, within and from a State Forest Park;
- (c) shall provide such recreational facilities as to him seem appropriate in a State Forest Park;
- (d) may cause to be erected and maintained at each entrance to and also within a State Forest Park such number of signs as to him seem desirable showing details of the recreational activities for which facilities are available within the Park.

34E. Scientific Area. (1) The Conservator of Forests—

- (a) shall, in so far as he is able to do so and subject to section 33 and paragraph (c), use and manage a Scientific Area so as to preserve it as a sample of the natural environment of the State Forest concerned;
- (b) may permit persons, who in his opinion are suitably qualified, to study the nature and environment of a Scientific Area;
- (c) may carry out or allow to be carried out in any Scientific Area any works which he considers necessary or desirable.

(2) Permission given pursuant to subsection (1) (b) shall be in writing and may be given subject to such provisions, reservations and conditions as to the Conservator seem fit.

(3) A person who contravenes or fails to comply with a provision, reservation or condition of a permit given to him pursuant to subsection (1) (b) commits an offence which shall be deemed to be a forest offence.”.

20. New ss. 34F and 34G. The Principal Act is amended by inserting after section 34E as inserted by this Act the following sections:—

“ 34F. Forest Drive. The Conservator of Forests—

- (a) shall provide upon a Forest Drive a road for the purpose of enabling persons generally to travel along the route of the Forest Drive;
- (b) may provide on a Forest Drive such facilities as to him seem desirable for the use and enjoyment of persons generally;

- (c) may cause to be erected and maintained within a State Forest such number of signs as to him seem desirable with a view to informing persons generally of the existence and route of a Forest Drive.

**34G. Regulating movement of vehicles on Feature Protection Areas, etc.** (1) The Conservator of Forests may, by erecting a notice or notices on or adjacent to any Feature Protection Area, State Forest Park or Forest Drive, regulate and prohibit the movement of vehicles thereon.

(2) A person who fails to comply with or contravenes a provision of a notice mentioned in subsection (1) commits an offence.

(3) Section 73 (iv) does not apply to a person who traverses a State Forest or part thereof that is a Feature Protection Area, State Forest Park or Forest Drive.

(4) A person shall not on any Feature Protection Area, State Forest Park or Forest Drive—

(a) drive or ride a vehicle—

- (i) in any manner that would cause that vehicle to swerve, veer or turn violently without reasonable cause;
- (ii) at such speed or in such other manner as may endanger himself or endanger or inconvenience any other person;
- (iii) in such a manner that an unreasonable amount of damage (having regard to the conditions existing at the time) is caused to any part of the Feature Protection Area, State Forest Park or, as the case may be, Forest Drive;

(b) use a vehicle in such a manner as is likely to cause annoyance to any person.”

**21. Amendment of s. 35.** Section 35 of the Principal Act is amended in subsection (1) by inserting after paragraph (i) the following paragraph:—

“ (ia) Permits to camp;”.

**22. Amendment of s. 47. Sale of forest products on Crown holdings or mining leases.** Section 47 of the Principal Act is amended by—

(a) in paragraph (ii) of subsection (1)—

- (i) omitting the word “ sale:” and substituting the word “ sale.”;
- (ii) omitting the proviso;

(b) in subsection (6), adding after the word “ fire ” the words “ or with respect to the sale of forest products or quarry material where these are required by the Main Roads Department for use in the construction, widening or straightening of roads ”,

**23. Amendment of s. 73. Unlawfully using State Forests, etc.** Section 73 of the Principal Act is amended in paragraph (ii) by omitting the words "resides upon, or encloses any land or waters, or erects any hut or other structure whatsoever" and substituting the words "resides or camps upon, or encloses any land or waters, or erects or places any hut, tent, caravan or other structure whatsoever".

**24. New s. 82A.** The Principal Act is amended by inserting after section 82 the following section:—

**"82A. Seizure and forfeiture of vehicles.** (1) Any forest officer may, if he has reasonable grounds for believing—

(a) that a vehicle presently on a State Forest or Timber Reserve is being or has been used in contravention of section 73; or

(b) that a vehicle presently on a State Forest is being or has been used in connection with an offence against section 34G,

seize, remove and detain that vehicle.

(2) A vehicle seized under this section may be detained for a period of 3 months or until the final determination (including the determination of an appeal therein, if any) of proceedings taken within that period in relation to the vehicle, whichever time is the longer.

(2A) Notwithstanding subsection (2), where the owner or other person claiming a proprietary interest in a vehicle or vessel being detained under this section produces to a forest officer at the place where that vehicle or vessel is being detained—

(a) proof to the forest officer's satisfaction of such ownership or interest; and

(b) where that person was not using the vehicle or vessel at the time of commission of the alleged offence referred to in subsection (1), proof to the forest officer's satisfaction of the identity and address of the person who was using the vehicle or vessel at that time,

the vehicle or, as the case may be, vessel shall be returned to him forthwith upon his signing a receipt for the same.

(3) At any time when a vehicle seized under this section or a vehicle or vessel seized under section 18 (1) (vii) is being detained under the authority of this Act the owner or other person claiming a proprietary interest therein may apply to a Magistrates Court constituted under the *Justices Act* 1886–1982 having jurisdiction at the place where the vehicle or vessel is detained for an order that the vehicle or, as the case may be, vessel be returned to him.

Notice of such an application shall be given to the person in whose custody the vehicle or vessel is held.

(4) If the court which hears an application made under subsection (3) is satisfied that—

- (a) the applicant has an interest in the vehicle or vessel that should be protected; and
- (b) the vehicle or vessel is not required to be further detained for the purpose of legal proceedings,

it may order that the vehicle or, as the case may be, vessel be returned to him, but if it is not so satisfied it shall strike out the application and make such order as to costs as it thinks fit.

(5) If an order for the return of the vehicle or vessel is made under subsection (4) such order shall be given effect but where no such order is duly made and the time for which the vehicle or vessel may be detained has expired the vehicle or, as the case may be, vessel may be dealt with as follows:—

- (a) if the owner of the vehicle or vessel claims it within 30 days after such expiration, the same shall be returned to him;
- (b) if the owner of the vehicle or vessel does not claim it within that period, the same shall be forfeited and become the property of the Crown.”.

**25. Amendment of s. 83. Power of the Conservator of Forests to deal with forest products forfeited.** Section 83 of the Principal Act is amended by—

(a) in the note appearing in and at the commencement of the section inserting after the word “ products ” the expression “, etc.”;

(b) in subsection (1), omitting the words “ or earth ” and substituting the words “ earth or any vehicle or vessel ”.

**26. New s. 84A.** The Principal Act is amended by inserting after section 84 the following section:—

“ **84A. Officer may direct person to leave State Forest or Timber Reserve.** An officer may direct a person—

- (a) who has committed or attempted to commit; or
- (b) who he suspects, on reasonable grounds, of having committed or attempted to commit,

an offence against this Act on a State Forest or Timber Reserve to forthwith leave the State Forest or, as the case may be, Timber Reserve.”.

**27. Amendment of s. 86.** Section 86 of the Principal Act is amended in subsection (1) by—

(a) in paragraph (iii), inserting after the words “ or gear ” the words “ or vehicle ”;

(b) in paragraph (iv), inserting after the words “ or gear ” the words “ or a vehicle ”;

(c) in paragraph (x), inserting after the words “ Timber Reserve ” the following expression:—

“ ; or

- (xi) Within any State Forest or Timber Reserve behave in a manner likely to cause danger, inconvenience or annoyance to any person; or
- (xii) Having left a State Forest or Timber Reserve pursuant to a direction given to him under section 84A, on the same day as the direction was given re-enter or enter any State Forest or Timber Reserve ”.

**28. Amendment of Second Schedule.** The Second Schedule of the Principal Act is amended by—

(a) omitting clause 4 and substituting the following clauses:—

“ **4. State Forests.** (a) Regulating and controlling—

- (i) the management and control of State Forests;
- (ii) the conduct and duties of persons in State Forests;
- (iii) recreational and commercial activities within State Forests.

(b) Providing for the payment of charges for the use of facilities and improvements on State Forest and prescribing the amount thereof.

**4A. State Forest Parks, Feature Protection Areas and Forest Drives.** Regulating and controlling recreational activities in or on State Forest Parks, Feature Protection Areas and Forest Drives. The regulations may vary in respect of different State Forest Parks, Feature Protection Areas and Forest Drives.”;

(b) in clause 28 (d), inserting after the word “ kept ” the following expression:—

“ ;

- (e) the moneys to be paid into a fund referred to in section 22Q (1) (b) and the application of those moneys”.