

FORESTRY ACT AMENDMENT ACT

No. 13 of 1991

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Queensland



ANNO QUADRAGESIMO

ELIZABETHAE SECUNDAE REGINAE



No. 13 of 1991

An Act to amend the Forestry Act 1959-1990, and for related purposes

[ASSENTED TO 1ST MAY, 1991]

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 and citation. (1) This Act may be cited as the *Forestry Act Amendment Act 1991*.

(2) In this Act, the *Forestry Act 1959-1990* is referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the *Forestry Act 1959-1991*.

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

(2) The remaining provisions, or such of them as are specified, commence on a day or on days appointed by Proclamation.

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

(a) inserting after the definition "Beds and banks" the following definitions:—

““Camp”—Includes—

- (a) pitch, place or erect a tent, caravan, hut or other structure for the purpose of camping;
- (b) place other camping equipment in position for the purpose of camping;
- and
- (c) stay overnight;

“Camping form”—A form required to be made available by the Conservator of Forests under section 34H for use in relation to a self-registration camping area;”;

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

““Entrance”—In relation to a State Forest or a part of a State Forest, is an area of land—

- (a) developed with the authority of the Conservator of Forests for use as a vehicular entrance to the State Forest or that part of the State Forest;
- and
- (b) that is commonly used by persons for the purpose of driving or riding vehicles into the State Forest or that part of the State Forest;”;

(c) inserting after the definition “Forest Entitlement Area” the following definition:—

““Forest infringement”—An offence against—

- (a) section 34AA(5), 34G, 39, 53, 54, 60, 62, 66, 67, 73, 73A or 86 (1) (x), (xi) or (xii);

or

(b) the regulations;”;

(d) inserting after the definition “Minister” the following definition:—

“ “Motor vehicle”—Has the same meaning as in the *Traffic Act 1949-1990*;”;

(e) inserting after the definition “National Park” the following definition:—

“ “Notice”—A notice, sign, pictograph or other device, of whatever material and whether fixed or movable, erected or displayed in or near a State Forest with the authority of the Conservator of Forests;”;

(f) inserting after the definition “Officer” the following definition:—

“ “Official traffic sign”—An official traffic sign within the meaning of the *Traffic Act 1949-1990*;”;

(g) inserting after the definition “Order in Council” the following definition:—

“ “Owner”—In relation to a vehicle that is registered in a State or Territory of the Commonwealth under a law of that State or Territory providing for the registration of vehicles, the person in whose name the vehicle is so registered;”;

(h) in the definition “Permit”, inserting after the word “granted” the words “or taken to have been granted”;

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

“ “Regulatory notice”—A notice referred to in section 34AA(1);

“ “Requirement”—In relation to a regulatory notice or self-registration camping notice, includes a direction, instruction, indication, condition or other provision contained on the notice;”;

(j) inserting after the definition “Secretary” the following definitions:—

“ “Self-registration camping area”—A State Forest or a part of a State Forest to which a self-registration camping notice relates;

“ “Self-registration camping notice”—A notice referred to in section 34H(1);”;

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

“ “State Forest information notice”—A notice erected or displayed under section 34AB(1);”;

(l) inserting after the definition “Trees” the following definition:—
““Vehicle”—Includes—

- (a) a motor vehicle, trailer, bicycle, carriage, cart, wagon and any other means of transport or conveyance designed for movement upon wheels, whether or not the vehicle is for the time being capable of being operated or used in a normal manner;
- and
- (b) a hovercraft;”.

4. Amendment of s. 17. (1) Section 17 of the Principal Act is amended by—

(a) in subsection (6) (a), omitting the word “Minister” (wherever occurring) and substituting the words “Conservator of Forests” (in each case);

(b) omitting subsection (7).

(2) An appointment of a person to act as a forest officer made by the Minister under section 17(6) of the Principal Act and in force immediately before the commencement of this section continues in force and has effect on and after that commencement—

- (a) as if the appointment had been made by the Conservator of Forests under the Principal Act as amended by this Act; and
- (b) if the appointment was made for a specified period— subject to the Principal Act as amended by this Act, for the remainder of the period of appointment under the Principal Act.

5. Amendment of heading of Part III. The heading of Part III of the Principal Act is amended by omitting the words “, TIMBER RESERVES, AND NATIONAL PARKS” and substituting the words “AND TIMBER RESERVES”.

6. Amendment of s. 27. Amalgamation, division and naming of State Forests. Section 27 of the Principal Act is amended by—

(a) omitting the note appearing in and at the beginning of the section and substituting the note “**Amalgamation and division of State Forests.**”;

(b) omitting from the end of paragraph (iii) “;” and substituting “.”;

(c) omitting paragraph (iv).

7. New ss. 34AA and 34AB. The Principal Act is amended by inserting after section 34 the following sections:—

“**34AA. Power of Conservator of Forests to regulate use, etc., of State Forests by notices.** (1) The Conservator of Forests may authorise the erection or display in relation to a State Forest or

a part of a State Forest of notices for the purpose of regulating or prohibiting—

- (a) the use of the State Forest or that part of the State Forest by persons;
 - (b) the use in the State Forest or that part of the State Forest of vehicles or vehicles included in a specified class of vehicles;
 - or
 - (c) the bringing into the State Forest or that part of the State Forest of animals or animals included in a specified class of animals.
- (2) Without limiting the generality of subsection (1), the Conservator of Forests may authorise the erection or display of regulatory notices in the form of official traffic signs.
- (3) A regulatory notice—
- (a) may be erected or displayed within, or at or near the entrances to, the State Forest or the part of the State Forest to which the notice relates;
 - (b) must specify or indicate a particular requirement or particular requirements to be complied with by persons entering, or in, the State Forest or that part of the State Forest;
 - and
 - (c) may expressly state that a contravention of a requirement contained on the notice constitutes an offence against this Act.
- (4) A regulatory notice referred to in subsection (2) is, for the purposes of subsection (3) (b), taken to contain the direction or indication given by the corresponding official traffic sign.
- (5) A person must not knowingly or recklessly contravene or fail to comply with a requirement contained on a regulatory notice.
- (6) Evidence that a regulatory notice was erected or displayed at a place referred to in subsection (3) (a) is evidence that the notice was so erected or displayed with the authority of the Conservator of Forests.

34AB. Display in State Forests of information notices in conjunction with regulatory notices. (1) Where a regulatory notice is erected or displayed in relation to a State Forest or a part of a State Forest and the notice does not contain the statement referred to in section 34AA(3) (c), the Conservator of Forests—

- (a) must cause to be erected or displayed at or near the entrances to the State Forest or that part of the State Forest;
- and

- (b) may cause to be erected or displayed at such other places within the State Forest as the Conservator of Forests considers appropriate;

notices that expressly state that a contravention of a requirement contained on the regulatory notice constitutes an offence against this Act.

(2) The Conservator of Forests must take reasonable steps to ensure that, while regulatory notices of the kind referred to in subsection (1) continue to apply in relation to a State Forest or a part of a State Forest, State Forest information notices—

- (a) continue to be erected or displayed under subsection (1) (a);

and

- (b) are properly maintained.

(3) A State Forest information notice, in addition to containing the statement referred to in subsection (1), may contain such other information relating to the State Forest or the use of the State Forest by persons as the Conservator of Forests considers appropriate.

(4) In this section—

“regulatory notice” means—

- (a) a notice referred to in section 34AA(1);

and

- (b) a notice referred to in section 34G(1);

other than a notice in the form of an official traffic sign.”.

8. Amendment of s. 34E. Scientific Area. Section 34E of the Principal Act is amended in subsection (3) by omitting the words “which shall be deemed to be a forest offence”.

9. Amendment of s. 34G. Regulating movement of vehicles on Feature Protection Areas, etc. Section 34G of the Principal Act is amended by—

- (a) inserting after subsection (1) the following subsection:—

“(1A) A notice erected under subsection (1) may be in the form of an official traffic sign and, in such a case, is taken to contain a provision that is the same as the direction or indication given by the corresponding official traffic sign.”;

- (b) inserting after subsection (2) the following subsection:—

“(2A) Evidence that a notice was erected on or adjacent to a place referred to in subsection (1) is evidence that the notice was so erected by the Conservator of Forests.”.

10. New s. 34H. The Principal Act is amended by inserting after section 34G the following section:—

“34H. Self-registration camping areas. (1) The Conservator of Forests may authorise the erection or display in, or at or near the entrances to, a State Forest of a notice or notices indicating that the State Forest, or the specified part of the State Forest, is, during the specified period or periods, a self-registration camping area.

(2) A self-registration camping notice—

- (a) must, in relation to the use of camping forms, indicate, in general terms, the procedures to be followed by persons proposing to camp in the self-registration camping area;
- (b) must, if applicable, specify the maximum number of persons authorised to camp in the self-registration camping area under the authority of a single permit;
- (c) must specify the maximum period for which camping is authorised in the self-registration camping area;
- (d) must specify any requirements relating to—
 - (i) the maximum number of persons authorised to camp on;
 - or
 - (ii) the maximum number of permits that may apply in relation to;
 - a single camp site in the self-registration camping area;
- (e) must specify the amount of the camping fee prescribed by the regulations in relation to camping in the self-registration camping area;
- (f) must indicate the effects of camping in a State Forest without a permit;
- and
- (g) may contain such other information relating to camping in the self-registration camping area as the Conservator of Forests considers appropriate.

(3) The Conservator of Forests is to make available in a self-registration camping area in a prominent position and at a place that is readily accessible, and take reasonable steps to ensure that there continues to be so available—

- (a) forms for use in relation to self-registration camping areas;
- and
- (b) a sealed, secure container for the deposit of—
 - (i) the appropriate completed parts of camping forms;
 - and

- (ii) camping fees.
- (4) A form for use in relation to a self-registration camping area—
 - (a) is to be in a form approved by the Conservator of Forests;
 - (b) is to comprise 2 detachable parts, one part being an envelope that is designated as the part required to be dealt with in the manner referred to in section 35A(1) (b) and the other part being designated as the part required to be dealt with in the manner referred to in section 73A(1);
 - (c) must indicate the procedures to be followed by a person in relation to the use of the form;
 - (d) must contain on the part of the form comprising the envelope a section for use for credit card payments of camping fees;
and
 - (e) may contain such other information relating to—
 - (i) the use of the form;
or
 - (ii) camping in a self-registration camping area;
as the Conservator of Forests considers appropriate.”.

11. **New s. 35A.** The Principal Act is amended by inserting after section 35 the following section:—

“35A. Permits to camp in State Forests may be taken to have been granted by Conservator of Forests. (1) Where, in relation to a self-registration camping area, a person—

- (a) completes a camping form in the manner indicated in the form and detaches the relevant part of the form;
- (b) deposits in the container provided for the purpose the part of the camping form, duly completed, required to be so deposited;
and
- (c) pays to the Conservator of Forests in accordance with subsection (4) the appropriate camping fee calculated in accordance with the details relating to camping fees specified on the self-registration camping notice;

a permit to camp is, subject to this section, taken to have been granted under section 35 in relation to that self-registration camping area for the period specified in the form to—

- (d) the person specified in the form;
and

- (e) each other person accompanying that person for the purpose of camping.
- (2) The permit is not to be taken to have been granted—
 - (a) to a number of persons exceeding the number of persons referred to in the camping form;
 - (b) to a number of persons exceeding the maximum number of persons authorised by the relevant self-registration camping notice;
 - (c) in relation to any period during which the area is not a self-registration camping area;
 - (d) for any period exceeding the maximum period for which camping is authorised by the relevant self-registration camping notice;or
 - (e) if payment of the amount of the camping fee relating to the permit was purported to have been made by cheque and the cheque was not honoured on presentation.
- (3) The permit is subject to any requirements contained on the relevant self-registration camping notice.
- (4) The camping fee is to be paid—
 - (a) by placing in the part of the camping form comprising the envelope the amount of the fee in cash or a cheque for the amount of the fee and depositing the envelope, duly sealed, in the container provided for the purpose;or
 - (b) by properly completing and signing the section of the camping form relating to credit card payments appearing on the part of the form comprising the envelope and depositing the envelope in the container provided for the purpose.”.

12. Amendment of s. 39. Interfering with forest products on State Forests, etc. Section 39 of the Principal Act is amended by omitting the second paragraph.

13. Amendment of s. 62. Control of fires on State Forests, etc. Section 62 of the Principal Act is amended by omitting the second paragraph.

14. Amendment of s. 66. Lighted match, etc., not to be dropped near inflammable material. Section 66 of the Principal Act is amended by—

- (a) in the note appearing in and at the beginning of the section omitting the word “**inflammable**” and substituting the word “**flammable**”;
- (b) omitting the word “**inflammable**” and substituting the word “**flammable**”.

15. Amendment of s. 67. Lighting of small fires on State Forests, etc. Section 67 of the Principal Act is amended in subsection (1) by omitting the word “inflammable” and substituting the word “flammable”.

16. Amendment of s. 71. Impounding. Section 71 of the Principal Act is amended by—

(a) omitting the words “section twenty-nine of *“The Fauna Conservation Act of 1952”*” and substituting the words “section 35 of the *Fauna Conservation Act 1974-1989*”;

(b) omitting the words “the said subsection (2) of section twenty-nine” and substituting the words “that subsection”;

(c) omitting the words “within the meaning of *“The Fauna Conservation Act of 1952”*” and substituting the words “within the meaning of the *Fauna Conservation Act 1974-1989*”.

17. Amendment of s. 72. Wild Stock. Section 72 of the Principal Act is amended by—

(a) in subsection (1) (b), omitting the words “on the prescribed form”;

(b) in subsection (4), omitting the words “on the prescribed form”.

18. Amendment of s. 73. Unlawfully using State Forests, etc. Section 73 of the Principal Act is amended by—

(a) in paragraph (ii), omitting the words “or erects or places any hut, tent, caravan or other structure whatsoever”;

(b) omitting the words “, which shall be deemed to be a forest offence,”.

19. New s. 73A. The Principal Act is amended by inserting after section 73 the following section:—

“73A. Display of camping forms. (1) Where, by virtue of section 35A(1), a permit to camp is taken to have been granted under section 35, the person specified in the camping form must—

(a) forthwith cause to be securely affixed in a conspicuous position—

(i) to the tent, caravan or other structure being used by the person for camping;

or

(ii) if such a structure is not being so used—to any other camping equipment or vehicle being used by the person for camping;

the part of the camping form required to be so affixed;
and

(b) take reasonable steps to ensure that, while a person continues to camp under the authority of the permit, the part of the form remains so affixed.

(2) A person must not affix or cause to be affixed, in the manner referred to in subsection (1), the part of a camping form referred to in that subsection to a tent, caravan, other structure, camping equipment or vehicle being used by the person for camping in a self-registration camping area unless a permit to camp is, by virtue of section 35A(1), taken to have been granted under section 35 to the person in relation to the area in connection with the use of the form.”.

20. Amendment of s. 74. Unauthorised building, etc., within State Forest, etc. Section 74 of the Principal Act is amended by—

(a) in subsection (1)—

(i) inserting after the words “or any other thing” the words “, or any property that appears to have been abandoned,”;

(ii) inserting after the words “or other thing” the words “, or that property,”;

(b) in subsection (2), inserting after the words “or other thing” the words “, or that property,”;

(c) in subsection (3), inserting after the words “or other thing” (wherever occurring) the words “, or the property,” (in each case);

(d) adding at the end of the section the following subsection:—

“(4) In this section—

“owner”, in relation to property that has been abandoned, means the person who was the owner of the property immediately before the property was abandoned.”.

21. Amendment of s. 76. Entry on to reserves may be prohibited. Section 76 of the Principal Act is amended by—

(a) in subsection (1)—

(i) omitting from the first paragraph the words “necessary or desirable” and substituting the words “reasonable and necessary”;

(ii) omitting from the first paragraph the words “enter in or on or remain within” and substituting the words “be in or on”;

(b) in subsection (2), omitting the words “, which shall be deemed a forest offence,”.

22. Amendment of s. 78. Receiving forest products. Section 78 of the Principal Act is amended by omitting the words “, which shall be deemed to be a forest offence,”.

23. Amendment of s. 82. Section 82 of the Principal Act is amended by—

(a) omitting subsection (2) and substituting the following subsection:—

“(2) **Branding of seized timber.** Where timber has been seized under this section, the forest officer making the seizure may brand the timber for the purposes of identification.”;

(b) in subsection (3)—

(i) omitting the words “(other than timber)”;

(ii) omitting the words “in the prescribed form, or a form to the like effect,”;

(c) in subsection (7), omitting from the first paragraph the words “and shall be deemed to have committed a forest offence”.

24. Amendment of s. 82A. Seizure and forfeiture of vehicles. Section 82A of the Principal Act is amended in subsection (2A) by—

(a) omitting the words “or vessel” (wherever occurring);

(b) omitting the words “or, as the case may be, vessel”.

25. Amendment of s. 86. Section 86 of the Principal Act is amended in subsection (1) (vii) by inserting after the words “lawful requisition” (wherever occurring) the words “or lawful direction” (in each case).

26. Amendment of s. 87. Forgery of license, etc., and other offences. Section 87 of the Principal Act is amended by—

(a) in paragraph (v), inserting after the word “posted” the words “, erected or displayed”;

(b) inserting after paragraph (vii) the following words:—

“(viiia) knowingly or recklessly furnish information in a camping form that is false or misleading in a material particular; or”;

(c) in paragraph (viii), omitting the words “or making of the entry or writing,” and substituting the words “making of the entry or writing or furnishing of the information,”;

(d) omitting the expression “\$1 000” and substituting the words “100 penalty units”.

27. New s. 87A. The Principal Act is amended by inserting after section 87 the following section:—

“**87A. Interference with infringement notices or camping forms.**

(1) A person must not remove or interfere with an infringement

notice placed on or affixed to a vehicle under section 88B(1) (b) (ii) unless the person is—

- (a) the owner of the vehicle;
- (b) in charge of the vehicle;
- or
- (c) authorised in that behalf by the owner or person in charge of the vehicle.

(2) While a person continues to camp under the authority of a permit to camp taken, by virtue of section 35A(1), to have been granted under section 35, a person must not remove or interfere with the part of a camping form affixed to a structure, equipment or vehicle under section 73A(1).”

28. Amendment of s. 88. Section 88 of the Principal Act is amended in subsection (2) by—

(a) omitting paragraph (a) (including the proviso to the paragraph) and substituting the following paragraph:—

“(a) **General penalty.** A person guilty of an offence against any provision of this Act is liable, if no specific penalty is provided for the offence, to a penalty of—

- (i) for a first offence—100 penalty units;
- and
- (ii) for a second or subsequent offence against the same section or that is similar to the first or a previous offence—200 penalty units.”;

(b) omitting paragraph (d).

29. New ss. 88A, 88B and 88C. The Principal Act is amended by inserting after section 88 the following sections:—

“**88A. Infringement notices.** (1) Where a forest officer believes on reasonable grounds that a forest infringement has been committed, the officer may serve or cause to be served an infringement notice in accordance with section 88B.

(2) An infringement notice is to be in a form approved by the Conservator of Forests and must—

- (a) be identified by a serial number;
- (b) subject to section 88B(4), specify the full name, or surname and initials, and address of the person on whom it is served;
- (c) specify the day, time and place of the commission of the alleged forest infringement;
- (d) clearly indicate the nature of the alleged forest infringement;
- (e) if the forest infringement involves a vehicle or an animal—specify the vehicle or animal;

- (f) contain a notification to the person on whom it is served that, if the person does not wish the matter to be dealt with by a court, the person may pay the amount of the prescribed penalty specified in the notice within—
 - (i) 14 days after the service of the notice;
 - or
 - (ii) such further time as the Conservator of Forests, whether before or after the end of that period of 14 days, allows;
 - (g) clearly indicate the place at which, the manner in which, and the person to whom, the prescribed penalty may be paid;
 - and
 - (h) if the forest infringement involves a vehicle—inform the person on whom the notice is served in general terms of subsections (3), (4), (5), (7), (8), (9), (10) and (11) of section 88D.
- (3) For the purposes of this section, the prescribed penalty for a forest infringement is—
 - (a) in respect of an offence against section 34AA(5) or 34G(2) (where the relevant notice is in the form of an official traffic sign) or section 73 (ii) or 73A—
 - (i) such amount as is prescribed by the regulations;
 - or
 - (ii) if an amount is not so prescribed—\$30;
 - (b) in respect of an offence against section 34AA(5) (other than an offence against section 34AA(5) referred to in paragraph (a)) or section 60, 66, 67, 73 (i), (iii) or (iiia) or 86 (1) (xi) or the regulations — 1 penalty unit;
 - and
 - (c) in respect of an offence against section 34G(2) (other than an offence against section 34G(2) referred to in paragraph (a)) or section 34G(4), 39, 53, 54, 62, 73 (iv) or 86 (1) (x) or (xii)—2 penalty units.

88B. Service of infringement notices. (1) An infringement notice may be served—

- (a) by serving the notice personally or by post on the person who appears to have committed the forest infringement;
- (b) if the forest infringement involves a vehicle—
 - (i) by serving the notice personally or by post on the owner of the vehicle;
 - or

(ii) by securely placing the notice on, or securely affixing the notice to, the vehicle in a conspicuous position;

or

(c) if the forest infringement involves a vehicle and the owner of the vehicle has given a statutory declaration under section 88D(3)—by serving the notice personally or by post on the person whose name is specified in the declaration as that of the person—

(i) in charge of the vehicle at the time of the alleged forest infringement;

or

(ii) to whom the vehicle had been sold or otherwise disposed of before the time of the alleged forest infringement;

as the case may be.

(2) Where, by virtue of subsection (1), service on a person of an infringement notice may be effected personally or by post, the notice may, instead of being served in that manner, be served by leaving the notice at the place of residence or business of the person last known to the forest officer with a person apparently over the age of 16 years and apparently an occupant of or employed at that place.

(3) Where an infringement notice is to be served by post on a person, the notice may be addressed to the person—

(a) at the place of residence or business of the person last known to the forest officer;

(b) if the person is the owner of a vehicle registered under a law of a State or Territory of the Commonwealth providing for the registration of vehicles—at the latest address of the owner in the record of registration of the vehicle;

or

(c) if the person is a person whose name is specified in a statutory declaration given under section 88D(3) in relation to a vehicle as that of the person in charge of the vehicle at the time of the alleged forest infringement or to whom the vehicle was sold or disposed of before the time of the alleged forest infringement—at the address of the person specified in the declaration.

(4) Where an infringement notice is served in the manner referred to in subsection (1) (b) (ii), the notice—

(a) is taken to have been served on the owner of the vehicle;

and

(b) may be addressed to “the owner” of the vehicle without further description of the owner.

88C. Effect of service of infringement notice. (1) Where an infringement notice has been served and, within—

- (a) the period of 14 days referred to in the notice;
or
- (b) such further time as the Conservator of Forests, whether before or after the end of that period, allows; the amount of the prescribed penalty is paid in accordance with the notice—
- (c) any liability of a person in relation to the alleged forest infringement is discharged;
and
- (d) no further proceedings may be taken in relation to the alleged forest infringement.

(2) Nothing in this Part prevents the service of more than one infringement notice in relation to the same forest infringement, but it is sufficient for the application of subsection (1) to a person on whom more than one such notice has been served for the person to pay the prescribed penalty in accordance with any one of those notices.

(3) Where the amount of the prescribed penalty in relation to a forest infringement is paid by cheque, payment is taken not to have been made unless and until the cheque is honoured upon presentation.

(4) Except as provided by subsection (1), nothing in this Part in any way—

- (a) prejudices or affects the institution or prosecution of proceedings in relation to an alleged forest infringement;
or
- (b) limits the amount of the penalty that may be imposed by a court in relation to a forest infringement.

(5) Nothing in this Part is to be construed as requiring the serving of an infringement notice under this Part or as affecting the liability of a person to be prosecuted in a court in respect of an alleged forest infringement in relation to which a notice has not been served.”.

30. New ss. 88D, 88E and 88F. The Principal Act is amended by inserting immediately after section 88C as inserted by this Act the following sections:—

“88D. Liability for forest infringements. (1) Subject to this section, where—

- (a) a forest infringement that involves a vehicle occurs;
and
- (b) an infringement notice in relation to the infringement is served on the owner of the vehicle;

the owner of the vehicle at the time of the occurrence of the infringement is taken to have committed the infringement notwithstanding that the actual offender may have been another person.

(2) Nothing in this section affects the liability of an actual offender other than the owner of the vehicle but—

- (a) the owner and the actual offender are not both to be liable for the same forest infringement;
and
- (b) where a penalty has been imposed on a person in relation to a forest infringement—a further penalty is not to be imposed upon or recovered from another person in relation to the same forest infringement.

(3) The owner of a vehicle is not to be taken to have committed a forest infringement if, within 10 days after the service on the owner of an infringement notice or a summons in relation to the alleged forest infringement the owner or, if the owner is a corporation, a director, manager or secretary of the corporation, makes and gives to the Conservator of Forests a statutory declaration that complies with subsection (4) or (5).

(4) A statutory declaration made for the purposes of subsection (3) (other than a statutory declaration referred to in subsection (5)) must state—

- (a) that the declaration is made for the purposes of this section;
- (b) that—
 - (i) where the owner is a natural person—he or she was not in charge of the vehicle at the time of the alleged forest infringement;
and
 - (ii) where the owner is a corporation—the vehicle was not being used for the purposes of the corporation at the time of the alleged forest infringement;
and
- (c) the name and address of the person who was in charge of the vehicle at that time.

(5) A statutory declaration made for the purposes of subsection (3) (other than a statutory declaration referred to in subsection (4)) must state—

- (a) that the declaration is made for the purposes of this section;
and
- (b) facts which establish that the owner had sold or otherwise disposed of the vehicle before the time of the alleged forest infringement, including—
 - (i) the name and address of the person to whom the vehicle was sold or disposed of;

(ii) the time and date of the sale or disposal;
and

(iii) the name and address of the agent, if any, who made the sale or disposal on behalf of the owner.

(6) Where a statutory declaration is given under subsection (3) that complies with subsection (5), this section has effect as if the person specified in the declaration as the person to whom the vehicle was sold or otherwise disposed of were, as from the time of the sale or disposal, the person in whose name the vehicle is registered under a law of a State or Territory of the Commonwealth providing for the registration of vehicles.

(7) Where an infringement notice or a summons has been served on the owner of a vehicle in relation to an alleged forest infringement, the owner or, if the owner is a corporation, a director, manager or secretary of the corporation, may, within 10 days after the service of the notice or summons, as the case requires, make and give to the Conservator of Forests a statutory declaration that complies with subsection (8) or (9).

(8) A statutory declaration made for the purposes of subsection (7) (other than a statutory declaration referred to in subsection (9)) must state—

(a) that the declaration is made for the purposes of this section;

(b) that—

(i) where the owner is a natural person—he or she was not in charge of the vehicle at the time of the alleged forest infringement;

and

(ii) where the owner is a corporation—to the knowledge of the declarant, from the facts as set out in the declaration, the vehicle was not being used for the purposes of the corporation at the time of the alleged forest infringement;

(c) that the declarant has not been able to ascertain who was in charge of the vehicle at that time;

and

(d) the nature of the inquiries made for the purpose of ascertaining the name and address of the person who was in charge of the vehicle at that time.

(9) A statutory declaration made for the purposes of subsection (7) (other than a statutory declaration referred to in subsection (8)) must state—

(a) that the declaration is made for the purposes of this section;

and

- (b) facts which establish that the vehicle was, at the time of the alleged forest infringement, stolen or illegally taken or used.

(10) In proceedings in relation to a forest infringement against the owner of a vehicle who has given a statutory declaration under subsection (7) that complies with subsection (8), the court is not to find the owner liable for the infringement if it is satisfied (whether on the statements contained in the declaration or otherwise)—

(a) that—

- (i) where the owner is a natural person—the owner was not in charge of the vehicle at the time of the alleged forest infringement;

and

- (ii) where the owner is a corporation—the vehicle was not being used for the purposes of the corporation at the time of the alleged forest infringement;

and

- (b) that the inquiries made for the purpose of ascertaining the name and address of the person who was in charge of the vehicle at that time—

- (i) were reasonable in the circumstances of the case; and

- (ii) were carried out with due diligence.

(11) In proceedings in relation to a forest infringement against the owner of a vehicle who has given a statutory declaration under subsection (7) that complies with subsection (9), the court is not to find the owner liable for the infringement if it is satisfied (whether on the statements contained in the declaration or otherwise) that the vehicle was, at the time of the alleged forest infringement, stolen or illegally taken or used.

88E. Evidentiary provisions. (1) In proceedings in relation to a forest infringement in respect of which an infringement notice has been served under this Part, a certificate signed by the Conservator of Forests and stating—

- (a) that the Conservator of Forests did not allow further time, for the purposes of section 88C(1), for the payment of the prescribed penalty in relation to the forest infringement;

and

- (b) that the penalty was not paid in accordance with the notice;

is evidence of the matters so stated.

(2) In proceedings in relation to a forest infringement in respect of which an infringement notice has been served under

this Part, a certificate signed by the Conservator of Forests and stating—

- (a) that the Conservator of Forests allowed, for the purposes of section 88C(1), the further time specified in the certificate for the payment of the prescribed penalty in relation to the forest infringement;
and
- (b) that the penalty was not paid in accordance with the notice or the further time so allowed;

is evidence of the matters so stated.

(3) In proceedings in relation to a forest infringement, a certificate signed by the Conservator of Forests and stating that an infringement notice (a copy of which is attached to the certificate) was, on the date specified in the certificate, duly served by securely placing the notice on, or securely affixing the notice to, in a conspicuous position, the vehicle specified in the certificate is evidence of the matters so stated.

(4) In proceedings in relation to a forest infringement, a certificate signed by the Conservator of Forests and stating that a person specified in the certificate has not, in relation to the forest infringement, given a statutory declaration to the Conservator of Forests for the purposes of a provision of section 88D is evidence of the matters so stated.

(5) In proceedings in relation to a forest infringement, a document—

- (a) issued under—
 - (i) regulations under the *Main Roads Act 1920-1990*;
or
 - (ii) a corresponding law of a State or Territory of the Commonwealth;
or
- (b) issued by—
 - (i) the Commissioner of Main Roads;
 - (ii) a person authorised by the Commissioner of Main Roads in that behalf;
 - (iii) a person or authority having responsibilities in connection with the registration of vehicles under a law of a State or Territory of the Commonwealth corresponding to the regulations under the *Main Roads Act 1920-1990*;
or
 - (iv) a person authorised in that behalf by the person or authority referred to in subparagraph (iii);

and stating that on a specified date or during a specified period a specified person was the person whose name was registered as

the owner of a specified vehicle is evidence of the matters so stated.

(6) For the purposes of this section, a document that purports to have been signed by the Conservator of Forests is to be taken to have been so signed unless the contrary is proved.

(7) A document that purports to be a document referred to in subsection (5) is to be taken to be such a document, duly issued, unless the contrary is proved.

88F. Service of copies of statutory declaration. (1) Where, in relation to an alleged forest infringement involving a vehicle, a statutory declaration is given under section 88D(3) naming a person as being the person in charge of the vehicle at the time of the alleged forest infringement, or to whom the vehicle was sold or otherwise disposed of before the time of the alleged forest infringement—

(a) proceedings in relation to the infringement are not to be instituted against the person unless and until a copy of the declaration has been served on the person in the same manner as a summons may be served under the *Justices Act 1886-1990*;
and

(b) in any proceedings instituted in relation to the infringement—

(i) the declaration is admissible in evidence; and

(ii) is evidence that the person was in charge of the vehicle at that time, or was the owner of the vehicle at that time, as the case may be.

(2) In proceedings in relation to a forest infringement, a document that purports to be a statutory declaration given under section 88D(3) is to be taken to be such a statutory declaration, duly made and given, unless the contrary is proved.”.

31. Amendment of Second Schedule. The Second Schedule to the Principal Act is amended by—

(a) in clause 4, adding at the end of the clause the following paragraph:—

“(c) Providing for camping fees payable in relation to camping in self-registration camping areas.”;

(b) omitting clause 27 and substituting the following clause:—

“**27. Penalties.** Prescribing either generally or for the purposes of particular regulations penalties for offences against the regulations, not exceeding in any case 10 penalty units.”.

Minister's Second Reading Speech made on 14 March 1991.