

New Zealand.



ANALYSIS.

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| <p style="margin-left: 2em;">Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Commissioner of State Forests may act as agent of other Department of State or of local authority for sale of timber, &c. 3. Governor-General may exclude land comprised in State forest from national endowment. 4. Additional penalty for unlawful dealing with forest produce. 5. Commissioner of State Forests to grant licenses to out timber for mining purposes. | | <ol style="list-style-type: none"> 6. Making provision for administration of certain timber-bearing reserves in Westland and Nelson as if they were provisional State forests. 7. Validation of certain timber-cutting rights heretofore granted in Karamea and Westland Mining Districts, and imposing certain conditions with respect to future rights thereunder. 8. Validation of certain tramway licenses for the conveyance of timber. 9. Repeals. |
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1926, No. 69.

AN ACT to amend the Forests Act, 1921-22.

Title.

[11th September, 1926.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Forests Amendment Act, 1926, and shall be read together with and deemed part of the Forests Act, 1921-22 (hereinafter referred to as the principal Act). Short Title.

2. (1.) The Commissioner of State Forests may agree with the Minister in charge of any other Department of State, or with any local authority, to act as the agent of that Minister or local authority in respect of the sale of any timber or other forest produce; and any such Minister or local authority having power to sell any such forest produce may appoint the Commissioner to act as agent for that purpose, and may pay for such services such reasonable amount as may be mutually agreed on. Commissioner of State Forests may act as agent of other Department of State or of local authority for sale of timber, &c.

(2.) All expenses incurred by the Commissioner in his capacity as such agent may be paid out of the State Forests Account, and all fees and other moneys received by him in respect of such services shall be paid into the State Forests Account.

Governor-General may exclude land comprised in State forest from national endowment.

3. (1.) If and whenever he considers it expedient in the public interest so to do, the Governor-General, acting on the joint recommendation of the Commissioner of State Forests and the Minister of Lands, may, by Proclamation approved in Executive Council, declare that any area of national-endowment land set apart as a State forest shall, as from a date to be specified in the Proclamation, cease to be national-endowment land.

(2.) On the taking-effect of any Proclamation under this section a special valuation of the land to which the Proclamation relates shall be made by the Valuer-General as at the date of the taking-effect of such Proclamation. An amount equal to the value of the land so determined, less the value of any improvements thereon that have been paid for out of the State Forests Account, shall, without further appropriation than this section, be transferred from the State Forests Account to the National Endowment Trust Account, and shall be dealt with as provided for in Part VII of the Land Act, 1924.

(3.) For the purposes of this section standing trees which have been planted for utility purposes shall be treated as improvements.

Additional penalty for unlawful dealing with forest produce.

4. Section forty-three of the principal Act is hereby amended by adding the following as subsection two thereof:—

“(2.) In addition to any penalty imposed under the foregoing provisions of this section there may be imposed a penalty equal to twice the value of the forest produce the subject-matter of the proceedings, and every such penalty shall be recoverable as a fine.”

Commissioner of State Forests to grant licenses to cut timber for mining purposes.

5. (1.) Notwithstanding anything in the principal Act or in any other Act, the Commissioner of State Forests shall have authority, at the request of the Minister of Mines, to grant a license or other permit conferring on the holder of a miner's right or a coal-mining right the right to cut and remove trees or timber on or from any lands vested in the Crown (other than land subject to the Land Act, 1924), or administered by any Department of State, whether such lands are within a State forest or not. Such license or other permit shall be granted exclusively for mining or coal-mining purposes, and shall be upon such terms and conditions as to payment of rent or royalty or other fees as may be agreed on between the Minister of Mines and the Commissioner of State Forests.

(2.) The Commissioner may in any particular case, by writing signed by him, delegate the authority conferred on him by this section to a Warden appointed under the Mining Act, 1908.

Making provision for administration of certain timber-bearing reserves in Westland and Nelson as if they were provisional State forests.

6. (1.) Notwithstanding anything to the contrary in any other Act, the Governor-General may, on the joint recommendation of the Commissioner of State Forests and the Minister of Lands, from time to time by Proclamation declare that any lands comprised in the Westland-Grey Coalfield Reserve, or in the Nelson-Grey Coalfield Reserve, or in the Buller Coalfield Reserve, as the said reserves are described in the First, Second, and Third Schedules respectively to the Westland and Nelson Coalfields Administration Act, 1877, shall, as from a date to be fixed in such Proclamation, be administered by the State Forest Service as if they were State forests within the meaning of the principal Act.

(2.) Any such Proclamation may be at any time in like manner amended or revoked.

(3.) From the revenues received by the State Forest Service in respect of the administration of any lands under this section there shall be deducted an amount equal to ten per centum thereof in respect of the expenses of administration, which shall be credited to the State Forests Account. The balance of the said revenues, in so far as they have been derived from lands within the Buller Coalfield Reserve, shall be credited to the Westport Harbour Account, and all other such revenues shall be paid to the Greymouth Harbour Board.

7. Whereas by section thirteen of the Mining Act Amendment Act, 1899, provision was made for defining and specifying areas in mining districts within which timber licenses and other timber-cutting rights might be granted under section two hundred and twenty-seven of the Land Act, 1892, exclusively, and further for defining and specifying other areas in which such rights might be granted exclusively by the Warden under the Mining Act: And whereas similar provisions are now made by section one hundred and forty-seven of the Mining Act, 1908: And whereas by section one hundred and forty-nine of that Act provision is made whereby the Warden is empowered on behalf of the Land Board to deal with applications for timber-cutting rights in a Land Board's timber area: And whereas by Warrant under the hand of the Governor dated the thirty-first day of August, nineteen hundred, the counties of Buller, Inangahua, Grey, and Westland were defined and specified as being areas within which timber-cutting rights should be granted under section two hundred and twenty-seven of the Land Act, 1892, exclusively: And whereas, purporting to act under the authorities aforesaid, the Wardens for the time being exercising jurisdiction in the Karamea and the Westland Mining Districts respectively have from time to time since the said thirty-first day of August, nineteen hundred, granted timber licenses and other timber-cutting rights within the aforesaid areas as if they were Warden's timber areas and not Land Board's timber areas, and as if their power to grant such licenses and other rights was conferred by the Mining Acts and the regulations thereunder without reference to the Land Acts and the limitations of the authority conferred thereby: And whereas, subject to the provisions hereinafter contained, it is desired to validate the grant of the licenses and other rights granted in error as aforesaid by the said Wardens, and to make certain other provisions in relation to the said licenses and other rights: Be it therefore enacted as follows:—

(1.) In this section, unless the context otherwise requires,—

The expressions "Land Board's timber area" and "Warden's timber area" respectively have the same meanings as in section one hundred and forty-nine of the Mining Act, 1908:

The expression "timber-cutting rights" includes rights held under a certificate of reservation, granted or renewed with respect to timber-bearing lands, and being appurtenant to a license to cut timber on any area contiguous thereto.

(2.) Subject to the special provisions hereinafter contained, all licenses and other timber-cutting rights granted since the thirty-first day of August, nineteen hundred, by any Warden within a Land Board's timber area in the Westland Mining District or the Karamea Mining District are hereby declared to have been as validly granted

Validation of certain timber-cutting rights heretofore granted in Karamea and Westland Mining Districts, and imposing certain conditions with respect to future rights thereunder.

as if those areas had been comprised within a Warden's timber area. All licenses and other timber-cutting rights hereby validated shall hereafter be administered by the Commissioner of State Forests as if they were granted under the principal Act, and all references to the Warden in any such license or other right, or in any conditions subject to which any such license or right has been granted, shall be construed as references to the Commissioner :

Provided that the holder of any such license or other timber-cutting rights shall have the same right of appeal (if any) against any decision of the Commissioner as he would have had against a like decision of the Warden.

(3.) All timber which after the passing of this Act is cut pursuant to a license the grant of which is hereby validated, or is cut pursuant to a license that may be hereafter granted in respect of any land comprised in a certificate of reservation the grant or renewal of which is hereby validated, shall be paid for by way of royalty assessed on the output of timber cut under the license. In the case of an existing license such royalty shall continue to be computed on the basis and at the rates heretofore in force, and in respect of every new license the basis and rates of royalty shall be fixed by the Commissioner.

(4.) Every new license granted in respect of an area comprised in a certificate of reservation validated by this Act shall be expressed to be for a term of forty-two years from the date thereof, but shall be deemed to be surrendered so soon as the timber thereon has been cut :

Provided that the licensee shall for the purposes of his license be entitled without further payment to continue to use any land in the surrendered area as a site for any tramway, or for any sawmill or other building.

(5.) There shall be payable in respect of the aggregate area comprised in a license to cut timber and in the appurtenant certificate of reservation an annual rent computed at the rate of one shilling an acre. Such rent shall be paid in advance in half-yearly instalments on the first day of January and the first day of July in each year :

Provided that all sums paid by the licensee in respect of royalty for any half-year shall to the extent thereof be in satisfaction of the rent payable in respect of the land comprised in the license to cut timber in respect of that half-year, and any adjustment that may be required shall be made in the next succeeding half-year.

(6.) Every certificate of reservation the grant of which has been validated by this section shall continue in force for five years from the date thereof (or if that period has already expired shall continue in force for one year from the date of the passing of this Act), but the licensee shall be entitled to a renewal of such certificate of reservation from year to year on application in that behalf to the Commissioner of State Forests and on payment of an annual fee of one pound :

Provided that the Commissioner may refuse to grant a renewal of any such certificate if application for such renewal is not made at least two months before the date fixed for the expiry of the certificate, or if the licensee has failed to comply with any of the conditions subject to which the certificate of reservation has been granted :

Provided also that any application for renewal made after the expiration of the certificate of reservation shall not be granted unless

the Commissioner is satisfied that the failure to make the application within the time limited by this section was due to inadvertence, mistake, or accident.

(7.) A certificate of reservation shall not confer any right to occupy the land comprised therein, or to cut any timber thereon, or otherwise to use that land; but the licensee may at any time after the timber has been cut surrender his existing license and obtain in lieu thereof a license over any contiguous area (not exceeding four hundred acres) comprised in the certificate of reservation appurtenant to his license.

(8.) On the grant of a new license over any land comprised in the certificate of reservation the Commissioner shall exclude from the certificate the land comprised in the new license, and thereafter the certificate shall be deemed to relate only to the residue of the land. On the surrender of any license the rent payable by the licensee shall be abated accordingly.

(9.) Save as hereinbefore provided, every new license that may be hereafter granted over any land comprised in a certificate of reservation appurtenant to a license hereby validated shall be granted subject to the same terms and conditions as such last-mentioned license.

(10.) All revenues received in respect of timber-cutting licenses or other timber-cutting rights validated by this Act, or received in respect of timber-cutting licenses hereafter granted in respect of lands comprised in any certificate of reservation validated by this Act, shall be disposed of as follows:—

- (a.) In respect of rights over lands within areas heretofore reserved for mining purposes pursuant to a contract entered into between the Crown and the New Zealand Midland Railway Company (Limited), ten per centum thereof shall be paid to the credit of the State Forests Account in respect of administration expenses, and the balance shall be paid into the Public Account as goldfields revenue, to be disposed of in accordance with the provisions in that behalf of section four hundred and nine of the Mining Act, 1908:
- (b.) In respect of rights over lands subject to a Proclamation under section six of this Act, such revenues shall be applied in the manner provided by that section:
- (c.) In respect of rights over any other lands, ten per centum thereof shall be paid to the State Forests Account in respect of administration expenses, fifty per centum thereof shall be paid to the Public Account as goldfields revenue to be disposed of as provided in paragraph (a) hereof, and the balance shall be deemed to be territorial revenue.

(11.) All lands comprised in any license or other timber-cutting right validated by this section and not included in a State forest shall, as from the passing of this Act, be deemed to be provisional State forests under and within the meaning of the principal Act as if set apart by the Governor-General under that Act.

8. (1.) Save as provided in the next succeeding subsection, every license for a tramway for the conveyance of timber granted by a Warden purporting to act under the Mining Act, 1908, is hereby declared to have been validly granted.

Validation of
certain tramway
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timber.

(2.) Nothing in subsection one of this section shall apply to licenses granted after the passing of the Mining Amendment Act, 1922, unless the provisions of section six of that Act have been complied with.

(3.) Nothing in subsection one of this section shall apply to licenses granted after the passing of the Forests Amendment Act, 1925, unless the provisions of section nine of that Act have been complied with.

Repeals.

9. Sections one hundred and forty-seven to one hundred and fifty-two of the Mining Act, 1908, and section eight of the Forests Amendment Act, 1925, are hereby repealed.
