



ANALYSIS

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1987, No. 118

An Act to amend the Forests Act 1949

[1 July 1987]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Forests Amendment Act 1987, and shall be read together with and deemed part of the Forests Act 1949 (hereinafter referred to as the principal Act).

(2) Except as provided in sections 9 (2) and 10 (2) of this Act, this Act shall be deemed to have come into force on the 1st day of April 1987.

2. Title—The principal Act is hereby amended by repealing the Title, and substituting the following Title:

“An Act to consolidate and amend the law relating to forestry”.

3. Interpretation—(1) Section 2 of the principal Act is hereby amended by repealing the definition of the term “wildlife” (as inserted by section 2 of the Forests Amendment Act 1976).

(2) Section 2 of the principal Act is hereby further amended by inserting, in their appropriate alphabetical order, the following definitions:

“ ‘Forest land’ means land on which forest is growing, land used for agroforestry, and land intended to be forested or used for agroforestry by the owner or occupier of the land:

“ ‘Forestry sector’ means all matters and activities concerned with or affecting the production and use of goods from or on all forest land that is devoted primarily to commercial production; and shall include protection from disease and fire of all forests, the protective effects of forests, the harvesting and processing of trees and other forest plants, and other matters associated with commercial forestry production:

“ ‘Ministry’ means the Ministry of Forestry:”.

(3) Section 2 of the principal Act is hereby further amended by omitting from the definition of the terms “forest produce” and “forest product” the word “State”.

4. Delegation of powers by Secretary—The principal Act is hereby amended by inserting, after section 4, the following section:

“4A. (1) The Secretary may from time to time, either generally or particularly, delegate to such officer or officers or employee or employees of the Ministry as the Secretary thinks fit, all or any of the powers exercisable as Secretary under any enactment, including any powers delegated to the Secretary under any enactment.

“(2) Notwithstanding subsection (1) of this section—

“(a) The Secretary shall not delegate the power of delegation conferred on the Secretary by that subsection; and

“(b) The Secretary shall not, without the written consent of the Minister, delegate any power delegated to the Secretary by the Minister; and

“(c) The Secretary shall not, without the written consent of the State Services Commission, delegate any power delegated to the Secretary under the State Services Act 1962.

“(3) Subject to any general or special directions given or conditions attached by the Secretary, every officer or employee to whom any powers are delegated under this section may exercise those powers in the same manner and with the same

effect as if they had been conferred directly by this section and not by delegation.

“(4) Any delegation under this section may be made to a specified officer or employee, or to officers or employees of a specified class, or to the holder or holders for the time being of a specified office or class of offices.

“(5) Every person purporting to act pursuant to any delegation made under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

“(6) Any delegation made under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Secretary.

“(7) Any delegation made under this section shall, until revoked, continue in force according to its tenor, notwithstanding that the Secretary by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the successor in office of that Secretary.”

5. Protection of Forestry Officers, etc.—The principal Act is hereby amended by repealing section 13, and substituting the following section:

“13. Nothing done by any Forestry Officer, by an employee of the Ministry, or by any person appointed to a committee under section 15 (2) (b) of this Act or to an Authority under section 71A of this Act shall, if done in good faith in the exercise of powers or in the performance of duties under this Act, subject that person to any personal liability in respect thereof.”

6. Powers of Minister—The principal Act is hereby amended by repealing section 15, and substituting the following section:

“15. (1) The Minister shall have such powers as are reasonably necessary to enable the Ministry to perform its functions.

“(2) Without limiting the provisions of subsection (1) of this section the Minister may, from time to time,—

“(a) Make financial grants or loans to persons and bodies engaged in the forestry sector:

“(b) Appoint persons to such committees as the Minister thinks fit to advise or otherwise assist the Minister or the Secretary on any matters relating to forestry that the Minister may specify:

“(c) By agreement acquire any interest in land for the purposes of research, training, regulatory functions, or demonstrating any matter relating to the forestry sector, and may likewise dispose of any such interest.”

7. Collection and disclosure of statistical information—The principal Act is hereby amended by inserting, after section 15, the following section:

“15B. (1) The Secretary may from time to time require returns to be made by growers, producers, distributors, processors, importers, exporters, or consumers of forest produce, and by other persons engaged in the forestry sector, and such returns shall give details as may be required relating to trees, timber, forest produce, or other goods grown, acquired, sawn, cut, manufactured, processed, converted, held, produced, sold, imported, exported, or disposed of.

“(2) Information furnished to the Secretary under this section shall be used for statistical purposes only.

“(3) All statistical information made available by the Secretary shall be arranged in such a manner as to prevent any particulars being identifiable by any person (other than the person by whom such particulars were supplied) as particulars relating to any particular person.

“(4) Notwithstanding subsection (3) of this section the Secretary may disclose the following information:

“(a) Information supplied by a person in respect of which disclosure is consented to in writing by the person who supplied it:

“(b) Information available to the public under any Act or public document:

“(c) Information supplied by a local authority.

“(5) Except in respect of a prosecution under this Act, no return or copy of a return made pursuant to this Act shall be disclosed or used as evidence in any proceedings whatever, and no Forestry Officer shall be compelled to give oral testimony in any proceedings regarding any return.”

8. Receipts and expenditure—Section 16 of the principal Act is hereby amended by repealing subsection (3).

9. Other offences—(1) The principal Act is hereby amended by repealing section 60, and substituting the following section:

“60. Every person commits an offence against this Act who—

- “(a) Impersonates or falsely pretends to be a Forestry Officer or employee of the Ministry; or
- “(b) Without reasonable cause, fails to make a statistical or other return required by this Act before the time within which the Secretary requires it to be made expires; or
- “(c) Counterfeits upon or unlawfully fixes to any forest produce any marks, label, or certificate used by and appropriated for the use of Forestry Officers or other persons in the exercise of their duties under this Act, or without due authority makes or causes to be made or uses or causes to be used, or has, in that person’s possession, any brand, stamp, or badge that resembles or purports to be a brand, stamp, or badge such as is usually used by Forestry Officers or other persons when exercising powers under this Act.”.

(2) This section shall come into force on the day on which this Act receives the Governor-General’s assent.

10. General penalty for offences—(1) The principal Act is hereby amended by repealing section 61, and substituting the following section:

“61. Every person who commits an offence against this Act shall be liable on summary conviction,—

- “(a) In the case of an individual, to a fine not exceeding \$2,000 and, if the offence is a continuing one, to a further fine not exceeding \$200 for every day during which the offence continues:
- “(b) In the case of a body corporate, to a fine not exceeding \$12,000, and, if the offence is a continuing one, to a fine not exceeding \$1,200 for every day during which the offence continues.”

(2) This section shall come into force on the day on which this Act receives the Governor-General’s assent.

11. Regulations as to use of State forest land for public recreation—(1) The principal Act is hereby amended by repealing section 63F (as inserted by section 19 of the Forests Amendment Act 1976).

(2) The Forests Amendment Act 1976 is hereby consequentially amended by repealing section 19.

12. Control of injurious importations and exportations—Section 69 of the principal Act is hereby amended—

- (a) By omitting from subsection (1) the words “or which does not comply with export requirements as to grading, treating, drying, manufacture, and merchandising. Such requirements shall be prescribed by regulations under this Act or by the Minister while no such regulations are in force, or in cases where the regulations do not apply”:
- (b) By inserting in subsection (2) (a), after the word “aircraft,”, the words “bulk cargo container”:
- (c) By omitting from subsection (3) the words “is of the opinion”, and substituting the words “has reasonable cause to suspect”.

13. Imposition of charges for disease control—Section 70 (2) of the principal Act is hereby amended by adding the following paragraph:

- “(h) Prescribing charges that may be made for the inspection of any areas, trees, tree seed, timber, forest products, buildings, or other structures, or for the destruction of any material pursuant to regulations made under this section.”

14. Compensation for destruction—Section 70A (1) of the principal Act (as inserted by section 21 (1) of the Forests Amendment Act 1976) is hereby amended by inserting, after the words “to the owner of trees”, the words “or other forest products or buildings”.

15. Regulations as to establishment and powers of Timber Preservation Authority—(1) Section 71A of the principal Act (as inserted by section 5 (1) of the Forests Amendment Act 1983) is hereby amended by adding the following subsection:

“(3) The Governor-General may, by Order in Council, from time to time make regulations—

“(a) Making it an offence—

“(i) To describe or represent any timber to have been preserved or preservative treated or as having gone through or been subjected to any preservative treatment process or method of any kind whatever;
or

“(ii) To use any mark or identification that conveys or is likely to convey an impression that any such timber has been preserved or preservative treated or has gone through or been subjected to any preservative treatment process or method of any kind whatever,—

unless the timber has been treated to a standard authorised by the Authority using plant, equipment, methods, and chemicals authorised by the Authority; and prescribing penalties for such offence:

“(b) Requiring any person engaged in timber preservation or sale to destroy, dispose of, or hand over to an officer of the Authority for disposal, any timber which an officer of the Authority is satisfied has not been treated to a standard complying with the requirements of the Authority, and to dispose of or destroy that timber in a manner specified by the officer:

“(c) Prescribing charges that may be made for the inspection, testing, handling, or disposal of any timber, or for the licensing of persons, plants, or equipment for timber preservation.”

(2) On the 1st day of April 1988—

(a) Section 71A of the principal Act, section 5 of the Forests Amendment Act 1983, and subsection (1) of this section shall be deemed to have been repealed; and

(b) The Timber Preservation Notice 1974 and the Timber Preservation Regulations 1984 shall be deemed to have been revoked.

16. Restrictions on exercise of power of entry—Section 71B (1) of the principal Act (as inserted by section 6 (1) of the Forests Amendment Act 1983) is hereby amended—

(a) By omitting the words “(except for State forest land)”:

(b) By inserting, after the word “aircraft,”, the words “bulk cargo container,”.

17. Regulations—Section 72 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) The Governor-General may from time to time, by Order in Council, make regulations not inconsistent with this Act for all or any of the following purposes:

“(a) Prescribing the mode in which any forest produce is to be branded or marked for any purpose whatever;

and providing for the registration of brands or marks:

“(b) Prescribing the terms, conditions, and securities upon which money may be advanced to persons, local authorities, and companies for the establishment, maintenance, and protection of forests:

“(c) Prescribing offences for the breach of any regulations under this Act, or of the conditions of any licence, lease, permit, or other authority under this Act, and prescribing, on summary conviction,—

“(i) In the case of an individual, a term of imprisonment not exceeding one month, or a fine not exceeding \$2,000, and, if the offence is a continuing one, a further fine not exceeding \$200 for every day during which the offence continues, or to both such imprisonment and fine:

“(ii) In the case of a body corporate, a fine not exceeding \$12,000, and, if the offence is a continuing one, a further fine not exceeding \$1,200 for every day during which the offence continues:

“(d) Prescribing fees for inspections for the purpose of checking the presence of insects or diseases in any areas, trees, tree seed, timber, forest products, or buildings or other structures:

“(e) Generally for any purposes for which regulations are required or contemplated by this Act, and for giving full effect to the provisions of this Act.”

18. Remuneration and expenses—(1) The principal Act is hereby amended by inserting, after section 72, the following section:

“72A. There shall be paid out of money appropriated by Parliament for the purpose to the members of any Authority constituted under section 71A of this Act or to any person appointed to a committee under section 15 (2) (b) of this Act remuneration by way of fees, salary, or allowances, and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if any such authority or committee were a statutory Board within the meaning of that Act.”

(2) Section 72 (4) of the principal Act is hereby consequentially repealed.

19. Honorary rangers—(1) The principal Act is hereby amended—

- (a) By omitting from section 4 (1) the words “or to any honorary ranger” (as inserted by section 3 of the Forests Amendment Act 1976);
- (b) By omitting from section 59 (a) the words “honorary ranger” and also the word “ranger”;
- (c) By omitting from section 59 (b) the word “ranger” in both places where it occurs.

(2) The Forests Amendment Act 1976 is hereby consequentially amended by repealing section 3.

This Act is administered in the Ministry of Forestry.
