

FORESTRY (AMENDMENT) BILL, 1978 (No. 2)

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Local Government (Forestry) Amendment Bill, 1978, is cognate with this Bill.

THE objects of this Bill are—

- (a) to enable the appointment of the Commissioner who constitutes the Forestry Commission (hereinafter called "the Commission") and the appointment of the Assistant Commissioners for terms of less than 7 years (Schedule 2 (1) (a) and (b));
- (b) to enable the appointment of a person to the office of Commissioner or Assistant Commissioner in the event of a vacancy in the office for a term greater than the remainder of the unexpired term of the vacant office (Schedule 2 (1) (c));
- (c) to make further provision with respect to the Commission's power of delegation (Schedule 2 (2));
- (d) to enable the Commission to control the utilisation, sale and disposal of sawmill residues (Schedule 2 (3) (a));
- (e) to further enable the Commission to inspect timber structures and to conduct a timber testing service (Schedule 2 (3) (c));
- (f) to further enable the Commission to charge fees in respect of the services it provides (Schedule 2 (3) (i));
- (g) to increase the amount the Commission may expend without the approval of the Minister from \$25,000 to \$50,000 (Schedule 2 (5) (c));
- (h) to enable the Commission, with the approval of the Minister, to administer matters relating to Crown tenures within State forests (Schedule 3 (2));
- (i) to empower the Commission to issue timber licences, products licences and forest materials licences where previously the Commission was empowered to issue general and special licences and to specify the authority conferred by timber licences, products licences and forest materials licences and the circumstances in which those licences may be issued (Schedule 5 (4));
- (j) to authorise the Commission to grant permission, otherwise than by the issue of a sawmill licence, to enable the sawing and treatment of small quantities of timber (Schedule 5 (6) (a) and (b));

- (k) to provide for the commission of offences in certain circumstances by officers of corporations which operate sawmills in contravention of the Forestry Act, 1916 (Schedule 5 (6) (c));
- (l) to empower the Commission to determine the amount of royalties to be paid by the holders of timber licences, products licences and forest materials licences, to provide for the payment of the whole of those royalties to the Commission and to authorise the distribution of royalties by the Commission to certain landholders and other persons (Schedule 5 (7));
- (m) to enable a landholder to whom a royalty payment would otherwise be made by the Commission to elect to have that payment made directly to him by the licence holder (Schedule 5 (7));
- (n) to further provide for the recovery by the Commission of amounts in lieu of royalty where timber, products or forest materials are taken otherwise than in pursuance of a licence (Schedule 5 (7));
- (o) to provide that where an amount is recovered in the circumstances referred to in paragraph (n), that amount shall, except where it is recovered from a landholder from whose land the timber, products or forest materials are taken, be distributed by the Commission as if it were a royalty (Schedule 5 (7));
- (p) to enable the Commission to authorise, otherwise than by the issue of a licence, the taking of small quantities of timber, products or forest materials from certain lands (Schedule 5 (7));
- (q) to empower the Commission to issue grazing permits, occupation permits, hunting permits and special purposes permits and to specify the authority conferred by those permits and the circumstances in which they may be issued (Schedule 6 (1), (2) and (3));
- (r) to specify the circumstances in which the hunting of animals and the use of firearms, other weapons and other hunting devices in State forests, timber reserves and flora reserves is unlawful (Schedule 6 (3));
- (s) to enable a member of the police force or a person authorised by the Commission to seize or require the delivery up to him of any article or thing unlawfully in the possession of a person in or adjacent to a State forest, timber reserve or flora reserve or which is reasonably suspected of having been used or taken by that person in the commission of an offence under the Forestry Act, 1916 (Schedule 6 (3));
- (t) to authorise a court of petty sessions to make an order for the disposal of an article or thing seized or delivered up in the circumstances referred to in paragraph (s) (Schedule 6 (3));
- (u) to empower the Commission to remove and to dispose of structures unlawfully erected in State forests, timber reserves and flora reserves together with the contents of those structures (Schedule 7 (3));
- (v) to enable the Commission to give directions relating to the use or enjoyment of State forests, timber reserves and flora reserves by signs and notices (Schedule 7 (4));

- (w) to require a person who is reasonably suspected of having committed an offence under the Forestry Act, 1916, to state his name and address, or, where the offence involves the use of a motor vehicle, to produce his driver's licence, to a person authorised in that behalf by the Commission (Schedule 7 (6));
 - (x) to control and regulate the parking of vehicles in State forests, timber reserves and flora reserves (Schedule 7 (6));
 - (y) to repeal the power of the Minister—
 - (i) to exempt Crown lands from the operation of licences under the Forestry Act, 1916; and
 - (ii) to establish depots for the inspection and measurement of timber and products pending payment of royalty,
(Schedule 7 (8));
 - (z) to further empower the Governor to make regulations with respect to various matters relating to the use and enjoyment of State forests, timber reserves and flora reserves (Schedule 7 (9) (f)–(h));
 - (aa) to make further provision with respect to the seizure and disposal of timber, products and forest materials by the Commission (Schedule 7 (10));
 - (bb) to facilitate the proof of an allegation in summary proceedings brought by the Commission—
 - (i) that land forms part of a State forest, timber reserve or flora reserve or otherwise comprises Crown-timber lands; and
 - (ii) that a sign or notice has been erected or displayed with the authority of the Commission,
(Schedule 7 (12));
 - (cc) to provide for the recovery of penalties by the Commission in respect of parking and certain other offences under the Forestry Act, 1916, by the service of penalty notices (Schedule 7 (14));
 - (dd) to authorise a court of petty sessions to make an order for the payment of compensation to the Commission against a person who has committed an offence resulting in damage to Crown-timber lands or the loss of or damage to any property of the Commission (Schedule 7 (16));
 - (ee) to increase, generally, the amounts of penalties recoverable in respect of offences committed under the Forestry Act, 1916;
 - (ff) to make amendments to the Forestry Act, 1916, by way of statute law revision (Schedule 8);
 - (gg) to make a minor amendment to the Forestry, Conservation Authority of New South Wales and Other Acts (Amendment) Act, 1972, by way of statute law revision (clause 6); and
 - (hh) to make other provisions of a minor, consequential or ancillary nature.
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The first part of the report deals with the general situation of the country and the progress of the work during the year. It is followed by a detailed account of the various projects and the results achieved.

The second part of the report deals with the financial aspects of the work, including a statement of the income and expenditure for the year.

The third part of the report deals with the personnel and the work done by the various departments during the year.

The fourth part of the report deals with the general conclusions and recommendations for the future.

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The twelfth part of the report deals with the general conclusions and recommendations for the future.

The thirteenth part of the report deals with the general conclusions and recommendations for the future.

The fourteenth part of the report deals with the general conclusions and recommendations for the future.

The fifteenth part of the report deals with the general conclusions and recommendations for the future.

FORESTRY (AMENDMENT) BILL, 1978 (No. 2)

No. , 1978.

A BILL FOR

An Act to amend the Forestry Act, 1916, and the Forestry,
Conservation Authority of New South Wales and Other
Acts (Amendment) Act, 1972.

[MR GORDON—15 November, 1978.]

See also Local Government (Forestry) Amendment Bill, 1978.

Forestry (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5 **1.** This Act may be cited as the "Forestry (Amendment) Short title.
Act, 1978".

2. (1) Except as provided in subsections (2), (3) and Commence-
(4), this Act shall commence on the date of assent to this ment.
Act.

10 (2) Section 4 shall, in its application to a provision
of Schedules 1–8, commence on the day on which that
provision commences.

(3) Section 5, Schedule 1, Schedule 2 (3) (e), (f),
(j)–(l), (4), (5) (a), Schedule 4, Schedule 5, Schedule
15 6 (1), (3), (4) and Schedule 7 (1), (2), (5) (a), (b),
(7), (9) (b)–(e), (g) and (14)–(16) shall commence
on such day as may be appointed by the Governor in respect
thereof and as may be notified by proclamation published in
the Gazette.

20 (4) Section 6 shall be deemed to have commenced on
1st February, 1973.

3. This Act contains the following Schedules :— Schedules.

SCHEDULE 1.—AMENDMENTS TO SECTIONS 2 AND 4
OF THE FORESTRY ACT, 1916.

25 SCHEDULE 2.—AMENDMENTS TO PART I OF THE
FORESTRY ACT, 1916.

SCHEDULE 3.—AMENDMENTS TO PART II OF THE
FORESTRY ACT, 1916.

30 SCHEDULE 4.—AMENDMENTS TO PART IIA OF THE
FORESTRY ACT, 1916.

Forestry (Amendment).

SCHEDULE 5.—AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916.

SCHEDULE 6.—AMENDMENTS TO PART IV OF THE FORESTRY ACT, 1916.

5 SCHEDULE 7.—AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916.

SCHEDULE 8.—AMENDMENTS TO THE FORESTRY ACT, 1916, BY WAY OF STATUTE LAW REVISION.

4. The Forestry Act, 1916, is amended in the manner set
10 forth in Schedules 1–8. Amendment
of Act No.
55, 1916.

5. (1) In this section, a reference to a section of the
Forestry Act, 1916, is a reference to a section of the Forestry
Act, 1916, as amended by this Act. Transitional
provision—
licences
and permits.

(2) A licence granted under a provision of the
15 Forestry Act, 1916, repealed by this Act, being a licence in
force immediately before the date of repeal, shall be deemed
to be—

20 (a) where the licence confers authority with respect
to the taking of timber—a timber licence under
section 27A;

(b) where the licence confers authority with respect
to the taking of products—a products licence under
section 27B;

25 (c) where the licence confers authority with respect
to the taking of forest materials—a forest materials
licence under section 27C; or

(d) where the licence confers authority with respect to
the ringbarking or other killing or destruction of
trees—a clearing licence under section 27G.

Forestry (Amendment).

(3) A permit granted under a provision of the Forestry Act, 1916, repealed by this Act, being a permit in force immediately before the date of repeal shall be deemed to be—

- 5 (a) where the permit confers authority to graze and water animals—a grazing permit under section 31 (1); or
- (b) where the permit confers authority to occupy land—an occupation permit under section 31 (1A).

10 6. The Forestry, Conservation Authority of New South Wales and Other Acts (Amendment) Act, 1972, is amended by inserting in section 5 (y) (v) after the words “such timber and products” the words “where secondly occurring”.

Amendment of Act No. 61, 1972. Sec. 5. (Further amendment of Act No. 55, 1916.)

SCHEDULE 1.

Sec. 4.

15 AMENDMENTS TO SECTIONS 2 AND 4 OF THE FORESTRY ACT, 1916.

(1) Section 2—

Omit the matter relating to Part III, insert instead :—

20 PART III.—PROVISIONS RELATING TO THE TAKING OF TIMBER, PRODUCTS AND FOREST MATERIALS.

DIVISION 1.—*Unlawful Taking of Timber, Products and Forest Materials.*

DIVISION 2.—*Licences.*

25 DIVISION 3.—*Payment of Royalty.*

DIVISION 4.—*Taking of Small Quantities from Certain Lands.*

Forestry (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO SECTIONS 2 AND 4 OF THE FORESTRY ACT,
1916—*continued.*

(2) (a) Section 4, definition of “Clearing licence”—

5 Before the definition of “Crown lands”, insert :—
 “Clearing licence” means a licence issued
 under section 27G which is in force.

(b) Section 4, definition of “Forest lease”—

 After the definition of “Flora reserve”, insert :—
10 “Forest lease” means a lease granted under
 section 33 (1) which is in force.

(c) Section 4, definitions of “Forest materials licence”,
“Holder”—

 After the definition of “Forest materials”,
15 insert :—
 “Forest materials licence” means a licence
 issued under section 27C which is in
 force.

 “Holder”, in relation to a clearing licence,
20 includes, except in section 27G, a succes-
 sor in title to the land in respect of which
 the clearing licence is issued.

(d) Section 4, definitions of “Licence”, “Motor cycle”,
“Motor vehicle”—

 After the definition of “Lease”, insert :—
25 “Licence” means a licence issued by the com-
 mission under this Act.

 “Motor cycle” means any motor vehicle which
30 has 2 wheels or, where a sidecar or
 sidebox is attached thereto, has 3 wheels.

Forestry (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO SECTIONS 2 AND 4 OF THE FORESTRY ACT,
1916—*continued.*

5 “Motor vehicle” means a motor car, motor
 carriage, motor cycle or other apparatus
 propelled on land, snow or ice wholly
 or partly by volatile spirit, steam, gas, oil
 or electricity.

(e) Section 4, definition of “Products licence”—

10 After the definition of “Products”, insert :—

 “Products licence” means a licence issued
 under section 27B which is in force.

(f) Section 4, definition of “Timber licence”—

 After the definition of “Timber”, insert :—

15 “Timber licence” means a licence issued under
 section 27A which is in force.

SCHEDULE 2.

Sec. 4.

AMENDMENTS TO PART I OF THE FORESTRY ACT, 1916.

(1) (a) Section 5 (1)—

20 Omit “a term of seven years from the date of his
 appointment”, insert instead “such term, not
 exceeding 7 years, as is specified in the instru-
 ment of his appointment”.

(b) Section 5 (3)—

25 Omit “a term not exceeding seven years”, insert
 instead “such term, not exceeding 7 years, as is
 specified in the instrument of his appointment”.

Forestry (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART I OF THE FORESTRY ACT, 1916—
continued.

(c) Section 5 (6)—

5 Omit the subsection.

(2) (a) Section 10A (1) (a)—

Omit “or”.

(b) Section 10A (1) (b), (c), (d)—

Omit section 10A (1) (b), insert instead :—

10 (b) to the secretary or any other officer of the
commission or an officer of a specified
class or description of officers of the com-
mission;

15 (c) to a person appointed under section 10 or
a member of a specified class or descrip-
tion of persons so appointed; or

(d) to any prescribed person or a member
of a prescribed class or description of
persons,

20 (c) Section 10A (1)—

After “under this”, insert “or any other”.

(d) Section 10A (1)—

25 After “delegation” where secondly occurring,
insert “, and may, by such an instrument, revoke
wholly or in part any such delegation”.

Forestry (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART I OF THE FORESTRY ACT, 1916
—*continued.*

(e) Section 10A (6)—

5 After section 10A (5), insert :—

10 (6) An instrument purporting to be signed by a delegate of the commission in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the commission under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the commission under this section.

15 (3) (a) Section 11 (1) (d1)—

After section 11 (1) (d), insert :—

20 (d1) may, in respect of timber taken by the commission or any other person on Crown-timber lands, control the utilisation, sale and disposal of bark, sidings, off-cuts, chips, sawdust, shavings and other residues produced as a consequence of the conversion of that timber into logs or any other article;

25 (b) Section 11 (1) (k)—

After “timber”, insert “, whether or not the timber is incorporated in any structure”.

(c) Section 11 (1) (k1)—

After section 11 (1) (k), insert :—

30 (k1) may provide a service for the testing of timber and articles and commodities associated with the use of timber;

Forestry (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART I OF THE FORESTRY ACT, 1916
—*continued.*

- 5 (d) Section (11) (1) (l)—
Omit “or”.
- (e) Section 11 (1) (m) (ii)—
Omit “licenses under section 26”, insert instead
“timber licences or products licences or timber
licences and products licences”.
- 10 (f) Section 11 (1) (m) (ii)—
After “timber or products”, insert “or timber and
products”.
- (g) Section 11 (1) (m) (iv)—
After “incidental to”, insert “the attainment of
15 its objects or”.
- (h) Section 11 (1) (m) (iv)—
Omit “Act.”, insert instead “Act; or”.
- (i) Section 11 (1) (n)—
After section 11 (1) (m), insert :—
20 (n) may determine, from time to time,
whether fees shall be charged in respect of
any activity carried out by the commis-
sion under this section and, if so, the
amounts of those fees and the persons
25 by whom those fees shall be paid.
- (j) Section 11 (4)—
Omit “a license issued under this Act”, insert
instead “a timber licence, products licence or
forest materials licence”.

Forestry (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART I OF THE FORESTRY ACT, 1916
—*continued.*

- (k) Section 11 (4)—
5 Omit “timber and products or forest materials”,
insert instead “timber, products or forest
materials”.
- (l) Section 11 (4)—
10 Omit “license” where secondly and thirdly
occurring, insert instead “licence”.
- (4) Section 12 (3)—
15 Omit “a license issued under this Act and such part
of any amounts referred to in paragraph (a) of sub-
section (4) of section 30”, insert instead “a timber
licence, products licence or forest materials licence
and such part of any amounts referred to in section
30G (a) and in section 30E as applied by section 30H
(2)”.
- (5) (a) Section 13 (2)—
20 Omit “royalties, licenses,”, insert instead “its
proportion of royalties or amounts recovered by
or paid to it under section 30H, 30I, 46A or 48,
from licences.”.
- (b) Section 13 (2)—
25 After “timber” where firstly occurring, insert
“and products”.
- (c) Section 13 (3)—
Omit “\$25,000”, insert instead “\$50,000”.

Forestry (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART I OF THE FORESTRY ACT, 1916
—*continued.*

(6) Section 14 (2)—

- 5 Omit “Any clerk or other person having the custody of any such books who does not on demand permit any person authorised as aforesaid to examine the said books and take copies or extracts therefrom shall be liable to a penalty not exceeding ten dollars.”.

10

SCHEDULE 3.

Sec. 4.

AMENDMENTS TO PART II OF THE FORESTRY ACT, 1916.

(1) Section 20—

Omit “or license”.

(2) (a) Section 25 (1)—

- 15 After “vested in the Minister,” insert “or, with the approval of the Minister, in the commission,”.

(b) Section 25 (1)—

After “who”, insert “or which”.

Forestry (Amendment).

SCHEDULE 4.

Sec. 4.

AMENDMENTS TO PART IIA OF THE FORESTRY ACT, 1916.

- (1) (a) Section 25F (1)—
5 Omit “a license is issued under this Act”, insert instead “a timber licence or products licence is issued”.
- (b) Section 25F (1)—
Omit “that license”, insert instead “the licence”.
- (c) Section 25F (1)—
10 Omit “timber and products” wherever occurring, insert instead “timber or products”.
- (d) Section 25F (3)—
Omit “a license issued under this Act”, insert instead “a timber licence or products licence”.
- 15 (e) Section 25F (4)—
Omit “a license issued under this Act”, insert instead “a timber licence or products licence”.
- (f) Section 25F (4)—
20 Omit “timber and products” wherever occurring, insert instead “timber or products”.
- (g) Section 25F (4)—
Omit “license” where secondly and thirdly occurring, insert instead “licence”.
- (2) Section 25G (2)—
25 Omit “a license issued under this Act”, insert instead “a timber licence or products licence”.

Forestry (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART IIA OF THE FORESTRY ACT,
1916—*continued.*

(3) (a) Section 25H—

5 Omit “a license under this Act”, insert instead
“a timber licence or products licence”.

(b) Section 25H—

Omit “license” where secondly occurring, insert
instead “licence”.

10 (c) Section 25H—

Omit “timber and products”, insert instead
“timber or products”.

(4) (a) Section 25I (1) (a1)—

15 Omit “a license issued under this Act”, insert
instead “a timber licence or products licence”.

(b) Section 25I (1) (b)—

Omit “license issued under this Act”, insert
instead “timber licence or products licence”.

Forestry (Amendment).

SCHEDULE 5.

Sec. 4.

AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916.

(1) Part III, heading—

Omit "LICENSES.", insert instead :—

5 PROVISIONS RELATING TO THE TAKING OF TIMBER,
PRODUCTS AND FOREST MATERIALS.

DIVISION 1.—*Unlawful Taking of Timber,
Products and Forest Materials.*

(2) Sections 26, 26A—

10 Omit the sections and short headings thereto.

(3) (a) Section 27 (2)—

Omit "clearing license under this Act", insert
instead "clearing licence".

(b) Section 27 (3) (a) (i)—

15 Omit the subparagraph, insert instead :—

(i) in pursuance of a timber licence, pro-
ducts licence, forest materials licence,
clearing licence or other authority issued
or granted by the commission;

20 (c) Section 27 (3) (b)—

At the end of the paragraph, insert "or".

(d) Section 27 (3) (c)—

Omit the paragraph.

Forestry (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

(4) Sections 27A–27H—

5 After section 27, insert :—

DIVISION 2.—*Licences.*

Timber licences.

10 27A. (1) A timber licence authorises the holder, ^{Timber} subject to the regulations and subject to the conditions ^{licences.} and limitations of the licence, to take timber, or such class or description of timber as is specified in the licence, on Crown-timber lands.

(2) The term of a timber licence—

15 (a) shall not exceed 5 years without the prior written approval of the Minister; and

(b) shall not, in any event, exceed 20 years.

(3) Timber licences shall be issued by the commission.

Products licences.

20 27B. (1) A products licence authorises the holder, ^{Products} subject to the regulations and subject to the conditions ^{licences.} and limitations of the licence, to take products, or such class or description of products as is specified in the licence, on Crown-timber lands.

25 (2) The term of a products licence shall be such term, not exceeding 5 years, as is specified in the licence.

Forestry (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

5 (3) Products licences shall be issued by the
commission.

Forest materials licences.

10 27C. (1) A forest materials licence authorises the holder, subject to the regulations and subject to the conditions and limitations of the licence, to take forest materials, or such class or description of forest materials as is specified in the licence, from a State forest.

15 (2) The term of a forest materials licence shall be such term, not exceeding 5 years, as is specified in the licence.

(3) Forest materials licences shall be issued by the commission.

Restrictions on issue of timber licences and products licences.

20 27D. Nothing in section 27A or 27B authorises the commission to issue a timber licence or products licence in respect of—

(a) land held under—

25 (i) conditional lease and not dedicated as a State forest or reserved from sale; or

(ii) conditional purchase lease, unless the lessee of that land consents to the issue of the licence; or

Forestry (Amendment).

 SCHEDULE 5—*continued.*

 AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

- 5 (b) land in respect of which trustees have been appointed for a public purpose, unless those trustees consent to the issue of the licence.

10 27E. (1) Where the commission, pursuant to section 25F (5), has formed the opinion, or where the commission is otherwise of the opinion, that any trees on Crown-timber lands (not being Crown-timber lands referred to in paragraph (a) of the definition of "Crown-timber lands" in section 4)—

15 (a) have been planted or established and have been maintained by careful tending and improvement as a woodlot or forest or for the purpose of tree-farming or have been planted or established as a windbreak or for the beautification of the lands; or

20 (b) are growing on land that has been substantially improved for farming purposes and which, subject to subsection (2), are necessary for shade or shelter or for the purpose of the farming, improvement or protection of the lands,

25 the commission shall not issue a timber licence or products licence in respect of those lands unless the licence includes a condition or limitation preventing the holder of the licence from taking from the land to which the licence relates any such trees as are
 30 designated or described in the condition or limitation.

*Forestry (Amendment).*SCHEDULE 5—*continued.*AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

5 (2) The obligation to impose a condition or limitation in respect of trees referred to in subsection (1) (b) extends only to trees designated or described in the condition or limitation and having a total timber content not exceeding 150 cubic metres, as determined by the commission.

10 (3) Subsection (1) does not apply to the issue, in relation to Crown-timber lands which are subject to a tenure specified or described in the First Schedule, of a timber licence or products licence to the holder of that tenure or, with the consent of that holder, to any other person.

Issue of licences in respect of flora reserves.

20 27F. Nothing in section 27A, 27B or 27C authorises the commission to issue a timber licence, products licence or forest materials licence in respect of a flora reserve unless—

Issue of licences in respect of flora reserves.

- (a) the conditions and limitations of the licence are in accordance with the working plan for that flora reserve; and
- 25 (b) the issue of the licence is approved by the Minister.

Clearing licences.

27G. (1) A clearing licence authorises—

Clearing licences.

- (a) the holder; and
- 30 (b) a successor in title to the land in respect of which the clearing licence is issued,

subject to the regulations and subject to the conditions and limitations of the licence, to ringbark or otherwise kill or destroy trees, or any specified description thereof, on such Crown-timber lands as are specified

Forestry (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

5 in the licence, notwithstanding the provisions of any other Act or any terms or conditions subject to which any tenure of those Crown-timber lands is held.

(2) The term of a clearing licence shall be such term as is specified in the licence.

10 (3) Clearing licences shall be issued by the commission.

27H. Nothing in section 27G authorises the commission to issue a clearing licence—

Restrictions
on issue of
clearing
licences.

15 (a) in respect of Crown-timber lands within a State forest that are not the subject of a forest lease or any other lease from the Crown;

(b) in respect of Crown-timber lands within a flora reserve;

(c) where the Crown-timber lands are—

20 (i) held subject to a tenure specified or described in the First Schedule—except to the holder of that tenure;

25 (ii) purchase-tenure land, as defined in section 25c—except to the owner, as so defined, of that land; or

(iii) held under a forest lease—except to the lessee;

Forestry (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

5 (d) in respect of protected land, as defined in section 21A of the Soil Conservation Act, 1938—except with the consent of the Catchment Areas Protection Board constituted under that Act; or

10 (e) to ringbark or otherwise kill or destroy trees having economic value.

(5) (a) Section 28, short heading—

Omit “*licenses*”, insert instead “*licences*”.

(b) Section 28 (1)—

15 Omit “*license*” wherever occurring, insert instead “*licence*”.

(c) Section 28 (1)—

Omit “*under this Act*”.

(d) Section 28 (2)—

Omit “*license*”, insert instead “*licence*”.

20 (e) Section 28 (3)—

Omit “*licenses*”, insert instead “*licences*”.

Forestry (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

(6) (a) Section 29 (1)—

5 Omit “except under the authority of a license
issued and in force under this Act or a sawmill
license granted under the authority of the Act
hereby repealed, or under the authority of an
10 exemption granted by the commission,” insert
instead :—

except—

- (a) under the authority of a sawmill
licence issued under section 28
which is in force; or
- 15 (b) in accordance with a written
permission of the commission
granted in such circumstances, if
any, and in respect of such quan-
20 tity of timber, if any, as may be
prescribed,

(b) Section 29 (2)—

Omit “any such license or exemption”, insert
instead “a sawmill licence referred to in subsec-
25 tion (1) or a written permission referred to in
subsection (1) (b).”

*Forestry (Amendment).*SCHEDULE 5—*continued.*AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

(c) Section 29 (3)—

5 After section 29 (2), insert :—

10 (3) A person who is an officer as defined in section 5 (1) of the Companies Act, 1961, of a corporation which commits an offence under subsection (1) or (2) is guilty of the same offence, and liable to be punished as an individual guilty of that offence, unless he satisfies the court that—

15 (a) the offence committed by the corporation was committed without his knowledge;

(b) he was not in a position to influence the conduct of the corporation in relation to the commission of the offence by it; or

20 (c) he, being in such a position, used all due diligence to prevent the commission of the offence by the corporation.

(7) Part III, Divisions 3, 4—

Omit sections 30 and 30A and the short heading before section 30, insert instead :—

25 DIVISION 3.—*Payment of Royalty.*

30. In this Division—

“owner”, in relation to purchase-tenure land, has the meaning ascribed thereto in section 25C;

“purchase-tenure land” has the meaning ascribed thereto in section 25C;

Interpreta-
tion: Pt. III,
Div. 3.

30

Forestry (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

5 “royalty” means a royalty payable under this
Division.

10 30A. (1) The holder of a timber licence, products
licence or forest materials licence shall, in accordance
with this Division, pay a royalty in respect of the
timber, products or forest materials taken in pursuance
of the licence. Royalty for
timber,
products
and forest
materials.

15 (2) Nothing in subsection (1) requires the
payment of a royalty in respect of timber taken in
pursuance of a timber licence from land the subject
of a tenure specified or described in the First Schedule
where the timber is derived from trees which, in the
opinion of the commission, have been planted or
established and have been maintained by careful
tending and improvement as a woodlot or forest or
20 for the purpose of tree-farming or have been planted
or established as a windbreak or for the beautification
of the land.

30B. A royalty shall be such amount as the
commission may from time to time determine either
generally or in a particular case or class of cases. Amount of
royalty.

25 30C. (1) Except as provided by section 30F, a
royalty shall be paid to the commission. Payment of
royalty to
commission.

30 (2) Subsection (1) has effect notwithstand-
ing the terms of any licence issued under this Act and
in force immediately before the date of commence-
ment of this Division.

Forestry (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

5 30D. The commission may from time to time determine, either generally or in a particular case or class of cases, to pay such part of a royalty as is specified in its determination to such organisation established for the promotion or improvement of the use or marketing of timber or products produced in
10 New South Wales as is so specified.

Timber
organisa-
tions.

30E. (1) In this section—

Apportion-
ment of
royalty.

“lessee” means the holder or owner of a lease but does not include a mortgagee of land the subject of a lease;

15 “prescribed amount”, in relation to a royalty, means the aggregate of—

20 (a) the instalments, if any, which the holder of a timber licence, products licence or forest materials licence is entitled, under a contract with the commission, to deduct from the royalty in respect of the construction of roads, bridges, gates and ramps and incidental works constructed by him in connection with the taking of the timber, products or forest materials in respect of which the royalty is payable;

25 (b) such instalments, if any, as may be determined by the commission, of the cost of any roads, bridges, gates, ramps, railways and incidental
30

Forestry (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

5 works constructed by the commis-
sion for, or partly for, the taking or
removal of the timber, products or
forest materials in respect of which
the royalty is payable; and

10 (c) such part of that royalty as the
commission determines under sec-
tion 30D to pay to the organisation
specified in its determination.

15 (2) The commission, on receipt of a royalty
paid to it under section 30C (1), shall deduct from
the royalty the prescribed amount.

20 (3) Out of the prescribed amount deducted
from a royalty under subsection (2), the commission
shall, where it has made a determination with respect
to the royalty under section 30D, pay such part of the
royalty as is specified in its determination to the
organisation so specified.

25 (4) Out of the balance of the royalty remain-
ing after the commission has deducted the prescribed
amount under subsection (2), the commission shall
pay—

30 (a) where the royalty was paid in respect of
timber, products or forest materials taken
from land held by a lessee under a lease
specified or described in Part 1 of the
Second Schedule, not being a lease referred
to in paragraph (b) (ii)—an amount equal
to one-third of that balance to that lessee;

Forestry (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

- 5 (b) where the royalty was paid in respect of timber, products or forest materials taken from land held by—
- (i) a lessee under a lease specified or described in Part 2 of the Second Schedule; or
- 10 (ii) a lessee under a lease specified or described in Part 1 of the Second Schedule in respect of which the commission has executed a certificate under subsection (5),
- 15 an amount equal to one-half of that balance to that lessee;
- (c) subject to paragraph (d), where the royalty was paid in respect of timber or products taken from purchase-tenure land—an amount equal to one-third of that balance to the owner of that purchase-tenure land;
- 20
- (d) where the royalty was paid in respect of timber or products taken from purchase-tenure land which was, immediately before it became purchase-tenure land, the subject of a lease referred to in paragraph (b) (i) or (ii)—an amount equal to one-half of that balance to the owner of that purchase-tenure land; and
- 25

Forestry (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

5 (e) where the royalty was paid in respect of
timber or products taken from land under
the control of a Pastures Protection Board
being a travelling stock reserve, a camping
reserve or a public watering-place—an
10 amount equal to one-third of that balance
to the Pastures Protection Board.

15 (5) The commission, on the application of a
lessee for the time being of land held under a lease
specified or described in Part 1 of the Second
Schedule, may, if it thinks fit, certify that the timber
and products which were on that land were sub-
stantially taken from that land at a time (whether
before or after the date of commencement of this
Division) when that land was held under any lease so
specified or described.

20 30F. (1) A person to whom the commission is,
under section 30E (4), required to pay an amount of
a royalty may, by notice in writing to the commission,
elect to have the amount paid directly to him by the
holder of the licence liable to pay the royalty.

Election by
landholder
as to
payment
of royalty.

25 (2) Where the commission receives a notice
under subsection (1) in respect of the payment of an
amount of a royalty, it shall—

30 (a) by notice in writing, direct the holder of the
licence liable to pay the royalty to pay the
amount directly to the person making the
election; and

Forestry (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

- 5 (b) forward a copy of the notice referred to in paragraph (a) to the person making the election.

(3) The holder of a licence to whom a direction is given by the commission under subsection (2) (a) shall comply with the direction.

10 30G. Where the commission takes timber or products from land held by a lessee under a lease specified or described in the Second Schedule, purchase-tenure land or land under the control of a Pastures Protection Board being a travelling stock reserve, a camping reserve or a public watering-place, the commission—

Royalty payments by commission.

15 (a) shall pay to an organisation referred to in section 30D the amount that would have been payable to the organisation under section 30E (3); and

20

(b) shall pay to the lessee, the owner of that purchase-tenure land or the Pastures Protection Board, as the case may be, the amount that would have been payable to the lessee, owner or Board under section 30E (4),

25

if the timber or products had been taken in pursuance of a timber licence or products licence, as the case may be, and a royalty had been paid to the commission

Forestry (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

5 in respect of the taking of the timber or products in
pursuance of the licence in accordance with this
Division.

10 30H. (1) Where a person takes or destroys or causes or knowingly suffers the taking or destroying
of any timber, products or forest materials otherwise
than in pursuance of a licence or other authority
issued or granted by the commission (whether or not
by doing so he is guilty of an offence against this Act)
and the commission would, if the timber, products
or forest materials had been taken in pursuance of a
15 licence, have been entitled to determine a royalty in
respect of the timber, products or forest materials so
taken, the commission may certify in writing the
amount that it determines would have been payable by
way of royalty if the timber, products or forest
20 materials had been taken in pursuance of a licence
and may recover that amount from the person as a
debt in any court of competent jurisdiction.

Liability for
royalty if
timber,
products or
forest
materials
taken with-
out licence.

25 (2) Section 30E applies in respect of an
amount recovered by the commission under subsection
(1) in the same way as it applies in respect of a
royalty paid to the commission under section 30c (1).

30 (3) Nothing in subsection (2) requires the
commission, in respect of an amount recovered by it
under subsection (1), to make a payment out of the
amount to the person from whom the amount is
recovered.

Forestry (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

DIVISION 4.—*Taking of Small Quantities from
Certain Lands.*

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30I. The commission may, otherwise than by the issue of a timber licence, products licence or forest materials licence, authorise a person, in such manner and on such terms and conditions as may be determined by the commission, to take on or from—

Taking of small quantities of timber, products and forest materials from certain lands.

(a) land within a State forest, not being—

(i) land set apart as a flora reserve; or

(ii) land which is subject to a lease specified or described in the Second Schedule,

timber, products or forest materials, not having a value in excess of such value as is prescribed; or

(b) Crown lands, not being—

(i) land in respect of which trustees have been appointed for a public purpose; or

(ii) land which is subject to a lease specified or described in the Second Schedule,

timber or products, not having a value in excess of such value as is prescribed.

Forestry (Amendment).

SCHEDULE 6.

Sec. 4.

AMENDMENTS TO PART IV OF THE FORESTRY ACT, 1916.

(1) (a) Section 31 (1)–(2)—

Omit section 31 (1) and (2), insert instead :—

5 (1) A grazing permit under this Act authorises the holder, subject to the regulations and subject to the conditions and limitations of the permit, to graze and water animals.

10 (1A) An occupation permit under this Act authorises the holder, subject to the regulations and subject to the conditions and limitations of the permit, to occupy land—

15 (a) as the site of a sawmill or other building, or any tramway, wharf, or timber depot;

(b) for charcoal burning or bee-farming or any other purpose approved by the commission; or

20 (c) where the permit is in respect of land within a State forest or flora reserve, for any purpose approved by the commission and specified in the permit.

25 (2) An occupation permit may be granted under subsection (1A) (a) only to a person who is the holder of a licence, not being a clearing licence.

(b) Section 31 (3)—

Omit “Such permit”, insert instead “A permit under this section”.

*Forestry (Amendment).*SCHEDULE 6—*continued.*AMENDMENTS TO PART IV OF THE FORESTRY ACT, 1916—
continued.

(c) Section 31 (3)—

- 5 Omit “Any such permit for any of the purposes mentioned in paragraphs (a), (b), (c), or (d) of subsection (1)”, insert instead “A grazing permit or an occupation permit for a purpose mentioned in subsection (1A) (a) or (b)”.

10 (d) Section 31 (3)—

Omit “a permit is granted for purposes mentioned in paragraph (b) aforesaid”, insert instead “an occupation permit is granted for a purpose mentioned in subsection (1A) (a)”.

15 (e) Section 31 (5)—

Omit “Permits”, instead “A permit”.

(f) Section 31 (5)—

- 20 Omit “or by any person authorised by the commission in that behalf for such terms”, insert instead “for such term and on such conditions”.

(2) Section 32—

Omit the section, insert instead :—

- 25 32. (1) A person shall not, without lawful authority, graze or water animals on any land within a State forest, timber reserve or flora reserve.

Penalty : \$500.

- (2) A person shall not, without lawful authority, occupy any land within a State forest, timber reserve or flora reserve.

- 30 Penalty : \$500.

Offences relating to the grazing of animals and the occupation of land.

Forestry (Amendment).

SCHEDULE 6—*continued*

AMENDMENTS TO PART IV OF THE FORESTRY ACT, 1916—
continued.

5 (3) In proceedings for an offence arising under this section, the defendant has the onus of proving lawful authority in relation to the act giving rise to the alleged offence.

10 (4) A penalty may be imposed under this section in relation to the grazing or watering of animals on any land or the occupation of any land in addition to any penalty, fine or forfeiture imposed by any lease from the Crown lawfully in force in respect of that land.

(3) Sections 32A–32G—

15 After section 32, insert :—

32A. In sections 32B and 32C, “animal” includes a reptile but does not include a fish.

Definition of animal for purposes of ss. 32B, 32C.

20 32B. (1) A hunting permit under this Act authorises the holder, subject to the regulations and subject to the conditions and limitations of the permit, to take or kill such birds or animals or birds and animals as are specified in the permit.

Hunting permits.

25 (2) A permit under this section may be granted in respect of land within a State forest, timber reserve or flora reserve.

(3) A permit under this section may be granted and renewed by the commission for such term and on such conditions respectively as the commission thinks fit.

Forestry (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IV OF THE FORESTRY ACT, 1916—
continued.

5 (4) A permit under this section shall not be granted in respect of land within a flora reserve unless the granting of that permit is in accordance with the working plan for the reserve.

10 (5) Nothing in this section affects the Firearms and Dangerous Weapons Act, 1973, or the National Parks and Wildlife Act, 1974.

32c. (1) In this section, "firearm" includes any weapon that is capable of propelling a projectile, whether by use of an explosive or by other means.

Offences relating to hunting and the use of firearms, etc.

(2) A person shall not—

- 15 (a) have in his possession or discharge a firearm in a State forest, timber reserve or flora reserve;
- 20 (b) have in his possession or place or use a net, trap, snare, hunting device, poison or explosive in a State forest, timber reserve or flora reserve;
- (c) discharge a firearm into a State forest, timber reserve or flora reserve;
- 25 (d) take, kill, hunt, shoot, poison, net, snare, spear, capture, lure or injure a bird or an animal in a State forest, timber reserve or flora reserve; or
- 30 (e) cause or knowingly suffer any of the things referred to in paragraphs (a)–(d) to be done.

Penalty : \$500 or imprisonment for 6 months, or both.

Forestry (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IV OF THE FORESTRY ACT, 1916—
continued.

5 (3) A person is not guilty of an offence under subsection (2) by reason of his doing any of the things referred to in subsection (2)—

10 (a) in pursuance of a grazing, occupation or hunting permit under this Act, a forest lease or a tenure specified or described in the First Schedule;

(b) in pursuance of an agreement with the commission; or

15 (c) in relation to a snake, unless it is proved that there were no grounds on which he could reasonably have believed at any relevant time that the snake was endangering, or was likely to endanger, any person or property.

20 32D. (1) Where a member of the police force or a person authorised by the commission in writing to act under this section suspects, on reasonable grounds, that a person has contravened section 32C (2), he—
Delivery up and seizure of firearms, etc.

25 (a) may require the person to deliver up to him any article or thing referred to in section 32C (2) (a) or (b) which is in the possession of the person; or

(b) may—

30 (i) detain and search the person and any vehicle or other property of the person; and

Forestry (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IV OF THE FORESTRY ACT, 1916—
continued.

5 (ii) seize and detain any article or thing referred to in section 32c (2) (a) or (b) found by him as a result of his search.

10 (2) A member of the police force or a person authorised in accordance with subsection (1) may seize and detain any article or thing referred to in section 32c (2) (a) or (b) which he suspects, on reasonable grounds, has been placed in a State forest, timber reserve or flora reserve by a person in contravention of section 32c (2).

15 (3) A person shall not fail to deliver up to a member of the police force or, on production of his authority, a person authorised in accordance with subsection (1), an article or thing referred to in section 32c (2) (a) or (b) which is in his possession or obstruct, hinder, prevent or interfere with a member
20 of the police force or a person so authorised in the exercise or performance of any power, authority, duty or function conferred by this section on him.

25 Penalty for an offence against this subsection : \$500.

32E. Where an article or thing referred to in section 32c (2) (a) or (b) is delivered up under section 32D (1) (a) or seized and detained under section 32D (1) (b) (ii) or (2) and—

Disposal of
firearms,
etc.

30 (a) a person is not, within a period of 30 days after the delivery up or seizure, charged with an offence under section 32c (2) or under any other Act in respect of the article

Forestry (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IV OF THE FORESTRY ACT, 1916—
continued.

5 or thing, a court of petty sessions held
before a stipendiary magistrate may, upon
application made by the person who
delivered up that article or thing or from
whom that article or thing was seized, or
10 any person claiming any right, title or
interest in that article or thing, order that
the article or thing be returned to that
person;

(b) a person is, on or after the expiration of a
15 period of 30 days after the delivery up or
seizure, so charged and—

(i) is found guilty (whether or not he is
convicted) of the offence, the article
or thing shall, unless an order in
20 respect of the article or thing has
been made under paragraph (a) or
the court hearing the charge, upon
an application made at the trial,
otherwise orders, be forfeited to Her
Majesty; or

25 (ii) is found not guilty of the offence,
the article or thing shall, unless an
order in respect of the article or
thing has been made under para-
graph (a) or the court hearing the
30 charge, upon an application made
at the trial, otherwise orders, be
returned to that person; or

Forestry (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IV OF THE FORESTRY ACT, 1916—
continued.

5 (c) an application has not been made in
accordance with paragraph (a) or (b), a
court of petty sessions held before a
stipendiary magistrate may, upon applica-
10 tion made by a member of the police force
or a person authorised in accordance with
section 32D (1) order that the article or
thing be forfeited to Her Majesty.

15 32F. (1) A special purposes permit under this
Act authorises the holder, subject to the regulations
and subject to the conditions and limitations of the
permit, to engage in or conduct such of the activities
prescribed for the purposes of this section as are
specified in the permit. Special
purposes
permits.

20 (2) A permit under this section may be
granted in respect of land within a State forest, timber
reserve or flora reserve.

(3) A permit under this section may be
granted and renewed by the commission for such term
and on such conditions respectively as the commission
thinks fit.

25 (4) A permit under this section shall not be
granted in respect of land within a flora reserve unless
the granting of that permit is in accordance with the
working plan for the reserve.

*Forestry (Amendment).*SCHEDULE 6—*continued.*AMENDMENTS TO PART IV OF THE FORESTRY ACT, 1916—
continued.

5 32G. (1) A person shall not, except in pursuance of a special purposes permit granted under section 32F, engage in or conduct an activity prescribed for the purposes of that section in a State forest, timber reserve or flora reserve. Offences relating to activities prescribed for the purposes of s. 32F.

Penalty : \$500.

10 (2) In proceedings for an offence arising under this section, the defendant has the onus of proving that he has engaged in or conducted the activity prescribed for the purposes of section 32F in respect of which those proceedings have been brought
15 in pursuance of a special purposes permit granted under that section.

(4) (a) Section 33 (1)—

Omit "Such leases are in this Act referred to as "Forest leases."".

20 (b) Section 33 (3) (b) (i)—

Omit "a general or special license issued under this Act", insert instead "a timber licence or products licence".

(c) Section 33 (3) (b) (ii)—

25 Omit "a general or special license issued under this Act", insert instead "a timber licence or products licence".

(d) Section 33 (4)—

Omit the subsection.

Forestry (Amendment).

SCHEDULE 7.

Sec. 4.

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916.

(1) Section 34—

Omit “Licenses,” insert instead “Licences.”

5 (2) (a) Section 35—

Omit “license” wherever occurring, insert instead “licence”.

(b) Section 35—

Omit “and determine”.

10 (3) Section 35A—

After section 35, insert :—

35A. (1) In this section—

“erect” includes place;

“structure” includes—

15

(a) a building;

(b) a tent;

(c) a post, pile, stake, pipe, chain, wire or any other thing, that is fixed to the soil or to anything fixed to the soil;

20

(d) a beehive; and

(e) a work, object or article prescribed for the purposes of this section.

Removal of unauthorised structures.

25

(2) The commission may cause or authorise a structure erected without lawful authority in a State forest, timber reserve or flora reserve to be removed, together with the contents, if any, of the structure.

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

5 (3) If a notice requiring any person who
claims to have authority to erect, maintain or use a
structure erected in a State forest, timber reserve or
flora reserve, or any part of the structure, to deliver
to the commission a statement in writing signed by
that person stating by what authority he erected or is
10 entitled to maintain or use the structure or part or by
what authority he claims any interest in the structure,
is—

- (a) displayed for a period of one month on or
adjacent to the structure; or
- 15 (b) published in a local newspaper or such
other newspaper, if any, as the commission
may determine,

20 any such person who, within one month after the
expiration of that period or within one month after
publication of that notice, fails to deliver such a state-
ment to the commission shall have no claim against
the commission or any other person removing the
structure or contents in accordance with subsection
(2).

25 (4) The commission may, at its option, cause
or authorise a structure or part thereof or the contents
thereof removed in accordance with subsection (2) to
be destroyed or sold, or stored (and, if stored, then
destroyed or sold), or may sell the structure or con-
30 tents on condition that it or they be removed, and
may recover in any court of competent jurisdiction the

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

5 expenses incurred in the removal, destruction, sale or storage of the structure or part thereof or the contents thereof from the person who—

(a) erected the structure or caused it to be erected; or

10 (b) where a notice was displayed under subsection (3) in respect of the structure, has made use of the structure after the expiration of the period of one month for which the notice was so displayed,

or both.

15 (5) Subsection (4) (b) does not apply in relation to a person unless it is established that he knew of, or ought reasonably to have known of, the notice.

20 (6) In proceedings for an offence arising under this section, the defendant has the onus of proving lawful authority in relation to the act giving rise to the alleged offence.

(4) Section 36A—

After section 36, insert :—

25 36A. (1) In this section, “control sign” means a Control standard, sign, notice or device in or similar to a signs. form, or generally answering a description, prescribed for the purposes of this section.

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

5 (2) The commission may give such a direction prohibiting, regulating or controlling the use or enjoyment of a State forest, timber reserve or flora reserve as, in its opinion, may be necessary or desirable and any such direction may be limited as to time, place or subject-matter.

10 (3) A direction given pursuant to subsection (2) shall have effect only while there is erected or displayed upon or near the State forest, timber reserve or flora reserve to which the direction relates a control sign that is notice of the direction.

15 (4) The direction appearing upon, or prescribed as given by, a control sign that is erected or displayed upon or near a State forest, timber reserve or flora reserve with the authority of the commission shall be deemed to be a direction, for the time being in force, given pursuant to subsection (2) in relation to the State forest, timber reserve or flora reserve and the control sign shall, for the purposes of subsection (3), be deemed to be notice of that direction.

20 (5) A direction given pursuant to subsection (2) may be varied or revoked by the commission.

(5) (a) Section 38 (1) (b)—

Omit “a license under this Act”, insert instead “a licence”.

(b) Section 38 (1) (b)—

30 Omit “license” where secondly occurring, insert instead “licence”.

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

(c) Section 38 (2)—

5 Omit “fifty dollars”, insert instead “\$500”.

(6) Sections 38A–38C—

After section 38, insert :—

38A. (1) In this section—

10 (a) a reference to the driver of a motor vehicle includes a reference to the rider of a motor cycle; and

Require-
ment to
state
name and
address.

15 (b) a reference to a driver’s licence is a reference to a licence of any kind issued under any Act, or under the regulations made under any Act, to drive or learn to drive a motor vehicle, or to ride or learn to ride a motor cycle.

20 (2) Any person authorised by the commission in writing to act under this section may require a person whom he suspects on reasonable grounds to be offending against this Act or the regulations to state his full name and his place of abode.

25 (3) Any person authorised in accordance with subsection (2) may require the driver of a motor vehicle in a State forest, timber reserve or flora reserve to produce any driver’s licence which he is, by any Act, or the regulations made under any Act, required to hold and to state his full name and his place of abode.

30 (4) A person shall not—

(a) fail or refuse to comply with a requirement under subsection (2) or (3); or

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

5 (b) in purported compliance with such a requirement, state a name that is not his name or a place of abode that is not his place of abode.

Penalty for an offence against this subsection :
\$200.

10 38B. (1) In this section, a reference to the driver of a motor vehicle includes a reference to the rider of a motor cycle.

Require-
ment for
owner of
motor
vehicle
and others
to give
informa-
tion.

15 (2) Where the driver of a motor vehicle is alleged to be guilty of an offence against this Act or the regulations, any person authorised by the commission in writing to act under this section may—

20 (a) require the owner of the vehicle, or the person in whose name it is registered, or the person having the custody of the vehicle, to give forthwith information (which shall, if so required, be given in the form of a statement in writing, signed by that owner or person) as to the name and place of abode of the driver of the motor vehicle at the time of the offence; or

25 (b) require any other person to give any information which it is in his power to give and which may lead to the identification of the driver of the motor vehicle at the time of the offence.

30

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

(3) A person shall not—

- 5 (a) fail or refuse to comply with a requirement
 under subsection (2); or
- (b) in purported compliance with such a
 requirement, give any information that is
 false or misleading in a material particular.

10 Penalty : \$200.

 (4) In a prosecution for an offence in respect
 of a failure or refusal to comply with a requirement
 under subsection (2) (a), it is a defence if the
15 defendant satisfies the court that he did not know and
 could not with reasonable diligence have ascertained
 the name or place of abode of the driver concerned,
 or both, as the case may require.

 (5) Where a statement in writing purporting
 to be furnished under subsection (2) (a) and to
20 contain particulars of the name and place of abode of
 the driver of a motor vehicle at the time of commission
 of an alleged offence against this Act or the regula-
 tions is produced in any court in proceedings for the
 offence against the person named therein as the driver,
25 the statement shall, if that person does not appear
 before the court, be evidence without proof of
 signature that he was the driver of the vehicle at that
 time.

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

38c. (1) In this section—

Liability of
vehicle
owners for
parking
offences.

5 “owner”, in relation to a motor vehicle,
includes—

10 (a) a person who is the owner or joint
owner or part owner of the vehicle
and any person, other than the
lessor under a hire-purchase agree-
ment relating to the vehicle, who
has the use of the vehicle under such
an agreement;

15 (b) the person in whose name the
vehicle is registered under the
regulations made under the Motor
Traffic Act, 1909, except where that
person has sold or otherwise dis-
posed of the vehicle and has
20 complied with the provisions of
those regulations applicable to him
with respect to that sale or disposal;
and

25 (c) where the vehicle has affixed to it a
trader’s plate issued under that Act
for use as prescribed by those regu-
lations—the person to whom that
trader’s plate is on issue;

30 “parking offence” means the offence committed
by a person who, in contravention of the
regulations—

(a) parks a motor vehicle; or

(b) causes or permits a motor vehicle to
be parked or to stand or wait.

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

5 (2) Where a parking offence occurs, the
person who, at the time of the occurrence of the
offence, is the owner of the motor vehicle to which the
offence relates is, by virtue of this section, guilty of an
offence under the regulations relating to the parking
10 offence in all respects as if he were the actual offender
guilty of the parking offence unless—

(a) in any case where the parking offence is
dealt with under section 46A, the owner
satisfies the authorised person referred to in
that section that the vehicle was, at the
15 relevant time, a stolen vehicle or a vehicle
illegally taken or used; or

(b) in any other case, the court is satisfied that
the vehicle was, at the relevant time, a
stolen vehicle or a vehicle illegally taken or
20 used.

(3) Nothing in this section affects the
liability of an actual offender in respect of a parking
offence but, where a penalty has been imposed on, or
recovered from, any person in relation to any parking
25 offence, no further penalty shall be imposed on or
recovered from any other person in relation thereto.

(4) Notwithstanding anything in subsection
(2) or (3), no owner of a motor vehicle is, by virtue
of this section, guilty of an offence if—

30 (a) in any case where the offence is dealt with
under section 46A, he—

(i) within 21 days after service on him
of a notice under that section
alleging that he has been guilty of

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

- 5 that offence, supplies by statutory
declaration to the authorised person
referred to in that section the name
and address of the person who was
in charge of the vehicle at all
10 relevant times relating to the parking
offence concerned; or
- (ii) satisfies the authorised person so
referred to that he does not know,
and cannot with reasonable dili-
15 gence ascertain, that name and
address; or
- (b) in any other case, he—
- (i) within 21 days after service on him
of a summons in respect of that
20 offence, supplies by statutory
declaration to the informant the
name and address of the person who
was in charge of the vehicle at all
relevant times relating to the
parking offence concerned; or
- 25 (ii) satisfies the court that he did not
know and could not with reasonable
diligence have ascertained that
name and address.

30 (5) A statutory declaration that relates to
more than one parking offence shall be deemed not to
be a statutory declaration supplying a name and
address for the purposes of subsection (4).

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

5 (6) Where a statutory declaration supplying
the name and address of a person for the purposes
of subsection (4) is produced in any proceedings
against the person in respect of the parking offence to
which the statutory declaration relates, the statutory
10 declaration is prima facie evidence that the person
was, at all relevant times relating to that parking
offence, in charge of the motor vehicle to which the
parking offence relates.

15 (7) The provisions of this section shall be
construed as supplementing, and not as derogating
from, any other provision of this Act or the regula-
tions or any other Act or any regulation, by-law or
ordinance under any other Act.

(7) (a) Section 39 (1)—

20 Omit “as referred to in subsection (2) of section
30, or any part of royalties payable to a lessee
under a forest lease in accordance with section
33,” insert instead “pursuant to a direction under
section 30F (2) (a),”.

(b) Section 39 (1)—

25 Omit “, or any person authorised by the com-
mission,”.

(c) Section 39 (2)—

30 Omit “as referred to in subsection (2) of section
30, or any part of royalties payable to a lessee
under a forest lease in accordance with section
33,” insert instead “pursuant to a direction under
section 30F (2) (a),”.

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

(8) Section 40—

5 Omit the section.

(9) (a) Section 41 (1) (a)—

Omit “and issuing and granting,” insert instead
“and issuing, granting, transferring, suspending
and cancelling.”

10 (b) Section 41 (1) (a)—

Omit “licenses”, insert instead “licences”.

(c) Section 41 (1) (d)—

Omit “licenses”, insert instead “licences”.

(d) Section 41 (1) (e)—

15 Omit “license”, insert instead “licence”.

(e) Section 41 (1) (e)—

Omit “licenses”, insert instead “licences”.

(f) Section 41 (1) (n1)–(n7)—

After section 41 (1) (n), insert :—

20 (n1) regulating the use and enjoyment of State
forests, timber reserves and flora reserves;

(n2) prohibiting or regulating the entry of
persons into and providing for the safety
of persons in State forests, timber reserves
and flora reserves;

25

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

- 5 (n3) regulating or controlling camping or residence in State forests, timber reserves and flora reserves and the making, collecting and receiving of charges therefor or prohibiting camping or residence in State forests, timber reserves and flora reserves;
- 10 (n4) securing decency and order in State forests, timber reserves and flora reserves;
- 15 (n5) providing for the removal of trespassers and other persons causing annoyance or inconvenience in State forests, timber reserves and flora reserves;
- (n6) prohibiting or regulating the taking of intoxicants into, and the consumption thereof in, State forests, timber reserves and flora reserves;
- 20 (n7) providing for the reservation of any portion of a State forest, timber reserve or flora reserve for separate or exclusive use in such circumstances as the regulations may prescribe;
- 25 (g) Section 41 (1) (o1), (p)—

Omit the paragraphs.

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

(h) Section 41 (1) (p1)–(p8)—

5 Before section 41 (1) (q), insert :—

10 (p1) prohibiting or regulating the taking of
 animals on or into State forests, timber
 reserves and flora reserves, providing for
 the care and protection of animals in
 State forests, timber reserves and flora
15 reserves, prescribing the conditions on
 which animals may be permitted or
 suffered to be on or in State forests, tim-
 ber reserves and flora reserves and regu-
 lating the removal of animals from State
 forests, timber reserves and flora reserves;

20 (p2) prohibiting or regulating the entry of
 vehicles into and the use of vehicles in
 State forests, timber reserves and flora
 reserves;

25 (p3) regulating and controlling the parking of
 vehicles in State forests, timber reserves
 and flora reserves and providing for the
 making, collecting and receiving of
 charges therefor;

(p4) prescribing the speed and load limits of
 vehicles in State forests, timber reserves
 and flora reserves;

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

- 5 (p5) regulating, controlling or prohibiting the use of roads, tracks, trails and other ways in State forests, timber reserves and flora reserves and the circumstances under which roads, tracks, trails and other ways therein shall be open or may be closed to public traffic or use;
- 10
- 15 (p6) prohibiting the obstruction of roads, tracks, trails and other ways in State forests, timber reserves and flora reserves and controlling and regulating the use of gates in State forests, timber reserves and flora reserves or on the boundaries thereof;
- 20
- 25 (p7) prohibiting the damaging or destruction of trees and other vegetation, standards, signs, notices, devices, buildings, roads, fences, dams, lookout towers and other improvements, structures and installations and the plant and equipment of the commission, its lessees, licensees and permittees;
- 30 (p8) with respect to a control sign within the meaning of section 36A—
- (i) prohibiting, regulating or controlling the use or enjoyment of a State forest, timber reserve or flora reserve by means of a control sign;
 - (ii) prescribing the form or description of control signs;

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

- 5 (iii) providing for the interpretation of words, figures, symbols or abbreviations appearing on a control sign;
- 10 (iv) specifying or otherwise providing for the direction represented by a standard, sign, notice or device comprising, or partly comprising, a control sign;
- 15 (v) providing for the observance of a direction appearing on, or prescribed as being represented by, a control sign;

(i) Section 41 (1)—

20 Omit “And may in such regulations impose a penalty not exceeding one hundred dollars for any breach of the same or any contravention or failure to comply with any provision or condition contained in any right, license, or permit granted in pursuance of this Act.”.

(j) Section 41 (1A)—

25 After section 41 (1), insert :—

(1A) The regulations may impose a penalty not exceeding \$500 for—

- (a) an offence against the regulations;
- 30 (b) a failure to comply with a direction given pursuant to section 36A (2); or

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

5 (c) a failure to comply with a provision or condition contained in a licence, permit or other authority issued or granted in pursuance of this Act.

(k) Section 41 (2), (3)—

Omit section 41 (2), insert instead :—

10 (2) Regulations may be made so as to apply differently according to such factors as may be specified in the regulations.

15 (3) The regulations may authorise any matter or thing to be from time to time determined, applied or regulated by any person specified therein, either generally or for any class of cases or in a particular case.

(10) (a) Section 43 (1) (b)—

20 Omit “; and any timber, products or forest materials so seized shall thereupon become and remain the property of the Crown until otherwise ordered by a court of petty sessions”.

(b) Section 43 (2)—(2D)—

Omit section 43 (2), insert instead :—

25 (2) Where property is seized under subsection (1) (b), the person making the seizure shall—

30 (a) where the identity of the person in possession of, or reasonably believed to be the person who has cut, removed or otherwise dealt with the timber,

Forestry (Amendment).

SCHEDULE 7—*continued.*AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

5 products or forest materials contrary
to the provisions of this Act or the
regulations, is known to the person
making the seizure, the person making
the seizure shall inform that other
10 person of the seizure unless the where-
abouts of that person cannot with
reasonable diligence be ascertained;
and

(b) whether or not the identity of the
15 person in possession of, or reasonably
believed to be the person who has cut,
removed or otherwise dealt with the
timber, products or forest materials
contrary to the provisions of this Act
or the regulations, is known to the
20 person making the seizure, the person
making the seizure shall affix a notice
of the seizure—

(i) on the property so seized; and
25 (ii) at the court of petty sessions
nearest to the place of the
seizure.

(2A) Where any property seized under sub-
30 section (1) (b) is perishable, the commission
may forthwith dispose of that property, by sale
or otherwise.

(2B) The proceeds of any sale under sub-
section (2A) shall be paid into the Treasury and
carried to the Consolidated Revenue Fund.

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

5 (2C) The payment to a person by the commis-
sion of an amount equal to the proceeds of the
sale of any property under subsection (2A)
operates as a discharge of any obligation to
deliver up that property to that person and such
10 a payment in discharge of any such obligation
imposed by an order of a court under subsection
(2D) in relation to that property is hereby
authorised.

(2D) Where property is seized under subsec-
tion (1) (b) and—

15 (a) a person is not, within a period of 30
days after the seizure, charged with an
offence under this Act or any other
Act, or the regulations, in respect of
20 that property, a court of petty sessions
held before a stipendiary magistrate
may, upon application made by the
person from whom that property was
seized, or any person claiming any
25 right, title or interest in that property,
order that that property be returned
to that person;

(b) a person is, on or after the expiration
of a period of 30 days after the seizure,
so charged and—

30 (i) is found guilty (whether or not
he is convicted) of the offence,
that property shall, unless an
order in respect of that property

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

- 5 has been made under paragraph
(a) or the court hearing the
charge, upon an application
made at the trial, otherwise
orders, be forfeited to Her
Majesty; or
- 10 (ii) is found not guilty of the
offence, that property shall,
unless an order in respect of
that property has been made
under paragraph (a) or the
15 court hearing the charge, upon
an application made at the
trial, otherwise orders, be
returned to that person; or
- 20 (c) an application has not been made in
accordance with paragraph (a) or (b),
a court of petty sessions held before a
stipendiary magistrate may, upon
application made by a member of the
25 police force or a person authorised in
accordance with subsection (1),
order that that property be forfeited to
Her Majesty.
- (11) Section 44 (1)—
- 30 Omit “two hundred dollars”, insert instead “\$500 or
to imprisonment for a period not exceeding 6 months,
or both”.

*Forestry (Amendment).*SCHEDULE 7—*continued.*AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

(12) Section 45B—

5 After section 45A, insert :—

10 45B. (1) An allegation, in an information in respect of an offence under this Act or the regulations, that any lands in question form part of a State forest, timber reserve or flora reserve or otherwise comprise Crown-timber lands shall be sufficient without proof of the matter so alleged unless the defendant proves to the contrary. Certain allegations in informations.

15 (2) An allegation, in an information in respect of an offence under this Act or the regulations, that a standard, sign, notice or device was erected or displayed with the authority of the commission, or that a standard, sign, notice or device was erected, displayed, interfered with, altered or removed without the authority of the commission, shall be accepted
20 by the court as evidence of the truth of the allegation, unless the defendant proves to the contrary.

(13) Section 46—

Omit the section, insert instead :—

25 46. (1) Proceedings in respect of an offence or forfeiture under this Act or the regulations and proceedings for the recovery or enforcement of a penalty, fine or fee imposed or made payable by a licence or permit under this Act or by a lease of land within a State forest, timber reserve or flora reserve
30 may be taken in a summary manner before a stipendiary magistrate sitting alone. Recovery of penalties, etc.

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

5 (2) Any such proceedings may be commenced
within 12 months after the time when the matter
giving rise to those proceedings occurred.

(14) Section 46A—

After section 46, insert :—

46A. (1) In this section—

10 “authorised person” means an officer of the
Public Service employed in the administra-
tion of this Act and appointed by the
commission to be an authorised person for
15 the purposes of this section, or an employee
of the commission so appointed;

“owner”, in relation to a motor vehicle, has the
meaning ascribed thereto in section 38c;

“parking offence” has the meaning ascribed
thereto in section 38c;

20 “royalty”, in relation to a notice under subsection
(2), means the amount, if any, referred to
in subsection (2) (d) and specified in the
notice.

25 (2) Where it appears to an authorised per-
son that another person—

(a) has committed, or by virtue of section 38c
is guilty of, a parking offence; or

(b) has committed any prescribed offence under
this Act or the regulations,

Penalty
notice for
certain
offences.

Forestry (Amendment).

SCHEDULE 7—*continued.*AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

- 5 the authorised person may serve a notice on that other person to the effect that, if that other person does not desire to have the matter determined by a court he may, within a time specified in the notice, pay to the commission—
- 10 (c) the amount of penalty prescribed for the offence if dealt with under this section; and
- (d) where the commission has certified an amount under subsection (3), not exceeding the prescribed amount, the amount so certified.
- 15 (3) Where it appears to an authorised person that another person has committed an offence referred to in subsection (2) (b) involving the taking or destruction of any timber, products or forest materials, the commission may certify to that authorised person
- 20 the amount that it determines would have been payable by way of royalty if the timber, products or forest materials had been taken in pursuance of a timber licence, products licence or forest materials licence.
- 25 (4) A notice under subsection (2)—
- (a) may be served personally or by post; or
- (b) where the notice relates to a parking offence, may be addressed to the owner of the vehicle to which the parking offence relates without naming him or stating his address and may
- 30 be served by leaving it on, or attaching it to, the vehicle.

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

5 (5) A person alleged to have committed an
offence referred to in subsection (2) shall not be
dealt with under this section if he declines so to be
dealt with and, if any such person fails within the
10 time specified in a notice given to him under subsection
(2) (or within such further time as, in his case,
may have been allowed) to pay the penalty and any
royalty so specified he shall be deemed to have
declined to be dealt with under this section.

15 (6) Where the penalty for an offence dealt
with under this section and any royalty is or are paid
pursuant to this section in respect of an alleged
offence—

- (a) no person may be proceeded against for the
alleged offence;
- 20 (b) no person may be proceeded against for
recovery of the royalty; and
- (c) the payment shall not be construed as an
admission of liability for the purpose of, nor,
except as provided in paragraph (b), in
any way affect or prejudice, any civil claim,
25 action or proceeding arising out of the facts
constituting the alleged offence.

30 (7) The penalty prescribed for an offence
dealt with under this section shall not exceed the
maximum penalty that might be imposed by a court if
the offence were dealt with otherwise than under this
section.

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

5 (8) Section 30E applies in respect of any royalty paid to the commission pursuant to this section in the same way as it applies in respect of a royalty paid to the commission under section 30C (1).

10 (9) Nothing in subsection (8) requires the commission, in respect of any royalty paid to it pursuant to this section, to make a payment out of the royalty to the person by whom that royalty is paid.

15 (10) This section shall be construed as supplementing, and not as derogating from, any other Act in relation to proceedings that may be taken in respect of offences.

(11) Nothing in section 30H or 39 prevents the recovery of any royalty pursuant to this section.

(15) Section 47—

Omit “license”, insert instead “licence”.

20 (16) Section 48—

After section 47, insert :—

Compensation.

25 48. (1) In this section, a reference to the conviction of a person includes a reference to the making of an order in respect of a person under section 556A of the Crimes Act 1900. Payment of compensation by persons convicted of offences.

Forestry (Amendment).

SCHEDULE 7—*continued.*AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

- 5 (2) Where a person is convicted of an offence under this Act or the regulations whereby the commission incurs any charge, cost or expense or which results in or causes loss of or damage to—
- 10 (a) any Crown-timber lands or any road, improvement or structure thereon, under the control of or the property of the commission; or
- (b) any other property of the commission,
- the stipendiary magistrate before whom he was convicted—
- 15 (c) shall, where the offence in respect of which he was convicted involved the taking or destruction of any timber, products or forest materials and the commission has certified the amount that it determines would have been payable by way of royalty if the
- 20 timber, products or forest materials had been taken in pursuance of a timber licence, products licence or forest materials licence, order payment by that person to the
- 25 commission of that amount; and
- (d) may order payment by that person to the commission of such other amount as he thinks fit by way of compensation for any other charge, cost, expense, loss or damage.
- 30 (3) Except as provided in subsection (4), an order under subsection (2) (c) or (d) shall be deemed to be a conviction or order whereby a sum of money is adjudged to be paid within the meaning of the Justices Act, 1902.

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

5 (4) The maximum period for which a person shall be imprisoned and kept in default of payment of a sum ordered to be paid under subsection (2) (c) or (d) or the aggregate of any such sums so ordered to be paid is 4 months.

10 (5) Where an amount is ordered to be paid to the commission under subsection (2) (c), section 30E applies in respect of the amount in the same way as it applies in respect of a royalty paid to the commission under section 30c (1).

15 (6) Nothing in subsection (5) requires the commission, in respect of an amount ordered to be paid to it under subsection (2) (c), to make a payment out of the amount to the person by whom that amount was paid.

SCHEDULE 8.

Sec. 4.

20 AMENDMENTS TO THE FORESTRY ACT, 1916, BY WAY OF
STATUTE LAW REVISION.

(1) Section 2—

Omit the matter relating to Part II, insert instead :—

25 PART II.—STATE FORESTS, TIMBER RESERVES AND
FLORA RESERVES.

(2) Section 4, definitions of “The Minister”, “Prescribed”—

Omit the definitions.

Forestry (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO THE FORESTRY ACT, 1916, BY WAY OF
STATUTE LAW REVISION—*continued.*

(3) (a) Section 5 (2) (b)—

5 Omit “or any Act amending that Act”.

(b) Section 5 (2) (b)—

Omit “any such Act”, insert instead “that Act”.

(c) Section 5 (8) (a) (ii)—

10 After “bankrupt,” insert “applies to take the
benefit of any law for the relief of bankrupt or
insolvent debtors”.

(d) Section 5 (8) (a) (iv)—

Omit the subparagraph, insert instead :—

15 (iv) becomes a temporary patient, a con-
tinued treatment patient, a protected
person or an incapable person within the
meaning of the Mental Health Act, 1958,
or a person under detention under Part
VII of that Act;

20 (e) Section 5 (9) (a)—

Omit “the Superannuation Act, 1916, or any Act
amending such Acts,” insert instead “or the
Superannuation Act, 1916”.

(f) Section 5 (9) (a)—

25 Omit “, or any amendment thereof”.

Forestry (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO THE FORESTRY ACT, 1916, BY WAY OF
STATUTE LAW REVISION—*continued.*

- 5 (g) Section 5 (9) (b)—
Omit “or any amendment thereof”.
- (h) Section 5 (9) (b)—
Omit “or any Acts amending such Acts,”.
- (4) Section 8—
Omit “common seal”, insert instead “seal of office”.
- 10 (5) Section 9—
Omit “or any Act amending it,”.
- (6) Section 9A—
Omit “as amended by subsequent Acts,”.
- 15 (7) Section 9B (2)—
Omit “as amended by subsequent Acts,”.
- (8) Section 10 (1)—
Omit “or any Act amending it,”.
- (9) (a) Section 11A (1)—
20 Omit “Water Conservation and Irrigation Commission”, insert instead “Water Resources Commission”.

Forestry (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO THE FORESTRY ACT, 1916, BY WAY OF
STATUTE LAW REVISION—*continued.*

- 5 (b) Section 11A (2)—
Omit “Forestry Commission”, insert instead
“commission”.
- 10 (c) Section 11A (4) (a)—
Omit “Water Conservation and Irrigation Com-
mission”, insert instead “Water Resources
Commission”.
- (d) Section 11A (4) (b)—
Omit “Water Conservation and Irrigation Com-
mission”, insert instead “Water Resources
Commission”.
- 15 (10) Part II, heading—
Omit the heading, insert instead :—

PART II.

STATE FORESTS, TIMBER RESERVES AND FLORA
RESERVES.

- 20 (11) Section 15 (2)—
Omit “as subsequently amended,”
- (12) Section 16—
Omit “Secretary for Lands”, insert instead “Minister
for Lands”.

Forestry (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO THE FORESTRY ACT, 1916, BY WAY OF
STATUTE LAW REVISION—*continued.*

- (13) (a) Section 19 (b)—
5 Omit “Crown land”, insert instead “Crown
lands”.
- (b) Section 19 (b)—
Omit “of 1901”, insert instead “, 1901”.
- (c) Section 19 (b)—
10 Omit “, or any Act amending them,”.
- (14) Section 19B (1)—
Omit “as subsequently amended,”.
- (15) Section 21—
Omit “and of the Acts amending the same”.
- 15 (16) (a) Section 22—
Omit “Secretary for Lands”, insert instead
“Minister for Lands”.
- (b) Section 22—
20 Omit “Crown land”, insert instead “Crown
lands”.
- (c) Section 22—
Omit “of 1901”, insert instead “, 1901”.
- (d) Section 22—
Omit “or any Act amending the same,”.

Forestry (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO THE FORESTRY ACT, 1916, BY WAY OF
STATUTE LAW REVISION—*continued.*

- (17) (a) Section 24—
5 Omit “of 1901”, insert instead “, 1901”.
- (b) Section 24—
Omit “or any Act amending the same,”.
- (18) Section 25 (1)—
10 Omit “Secretary for Lands” wherever occurring,
insert instead “Minister for Lands”.
- (19) Section 25A (2)—
Omit “Secretary for Lands”, insert instead “Minister
for Lands”.
- (20) Section 25C—
15 Omit “of 1901” wherever occurring, insert instead
“, 1901”.
- (21) Section 25I (2) (a) (ii)—
Omit “of 1901”, insert instead “, 1901”.
- (22) Section 27 (3) (a) (ii)—
20 Omit “Mining Act, 1906, or any tenure granted under
that Act”, insert instead “Mining Act, 1973, or the
Coal Mining Act, 1973, or any tenure granted under
either of those Acts”.

Forestry (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO THE FORESTRY ACT, 1916, BY WAY OF
STATUTE LAW REVISION—*continued.*

- (23) (a) Section 31 (3)—
5 Omit “Crown land”, insert instead “Crown
lands”.
- (b) Section 31 (3)—
Omit “Secretary for Lands”, insert instead
“Minister for Lands”.
- 10 (c) Section 31 (4)—
Omit “of 1901”, insert instead “, 1901”.
- (24) (a) Section 33A (1) (a)—
Omit “, as subsequently amended”.
- (b) Section 33A (3)—
15 Omit “as subsequently amended”.
- (25) (a) Section 36—
20 Omit “For the purpose of carrying out the pro-
vision aforesaid, every member of the police
force and person authorised as aforesaid shall
have the same powers as if he were an occupant
within the meaning of the Impounding Act, 1898,
and the said animals were trespassing on his
land.”.

Forestry (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO THE FORESTRY ACT, 1916, BY WAY OF
STATUTE LAW REVISION—*continued.*

(b) Section 36 (2)—

5 At the end of section 36, insert :—

10 (2) For the purposes of subsection (1),
a member of the police force and a person
authorised by the commission under that sub-
section shall have the same powers as he would
have if he were an occupant within the meaning
of the Impounding Act, 1898, and the animals
were trespassing on his land.

(26) Section 42—

Omit the section, insert instead :—

15 42. Section 41 of the Interpretation Act, 1897, ^{Publication,}
applies in respect of a regulation as if this Act had ^{etc., of}
been passed after the commencement of the Interpreta- ^{regula-}
tion (Amendment) Act, 1969. ^{tions.}

(27) Section 43 (1) (a)—

20 Omit "Crown land", insert instead "Crown lands".

SCHEDULE 8—continued

AMENDMENTS TO THE FOREST ACT, 1916 BY WAY OF STATUTE LAW

(b) Section 42—

At the end of section 42, insert—

(2) For the purposes of section (1) a member of the police force and a person authorized by the Director under the provisions of the Act shall be deemed to be a person who is engaged in the business of logging or the transportation of logs, and the provisions of the Act shall apply to him as if he were engaged in that business.

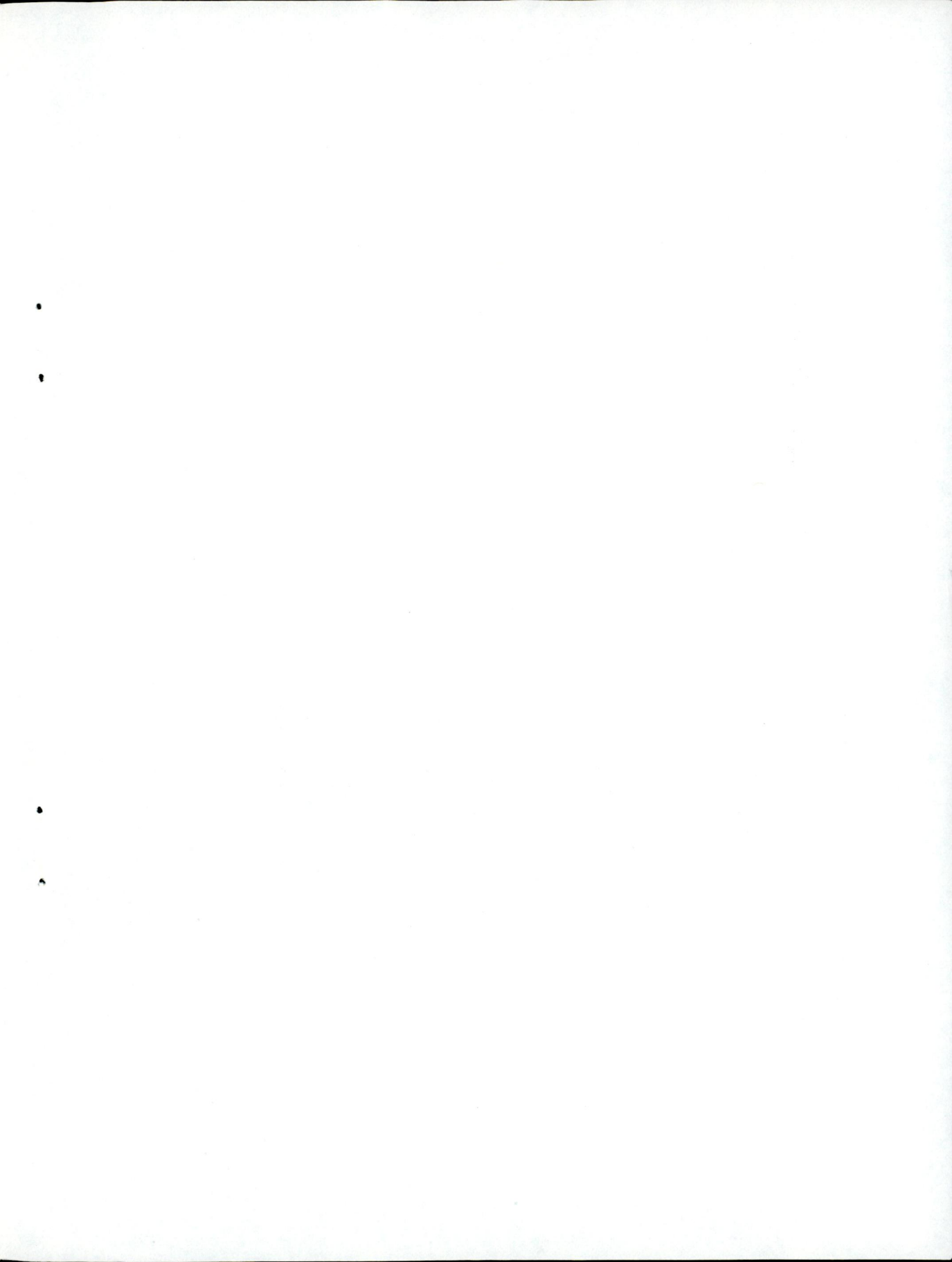
(38) Section 43—

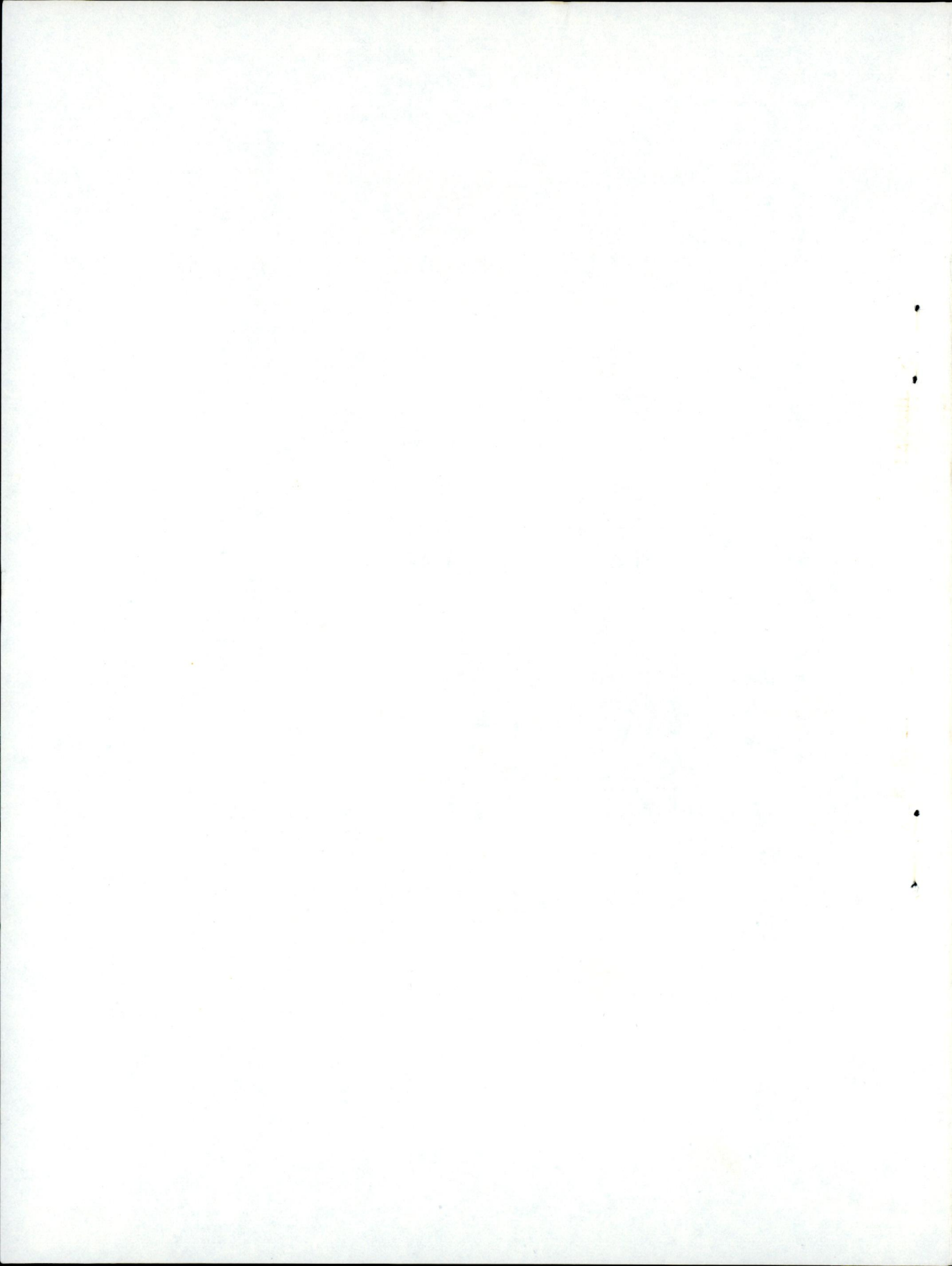
omit the section, insert instead—

43. Section 41 of the Forest Act, 1916, applies in respect of a person who is engaged in the business of logging or the transportation of logs, and the provisions of the Act shall apply to him as if he were engaged in that business.

(37) Section 44 (1) (a)—

omit "owner" and insert "person in charge"





FORESTRY (AMENDMENT) ACT, 1978, No. 101

New South Wales



ANNO VICESIMO SEPTIMO

ELIZABETHÆ II REGINÆ

* * * * *

Act No. 101, 1978.

An Act to amend the Forestry Act, 1916, and the Forestry, Conservation Authority of New South Wales and Other Acts (Amendment) Act, 1972. [Assented to, 20th December, 1978.]

See also Local Government (Forestry) Amendment Act, 1978.

Forestry (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title. **1.** This Act may be cited as the "Forestry (Amendment) Act, 1978".

Commence-
ment. **2.** (1) Except as provided in subsections (2), (3) and (4), this Act shall commence on the date of assent to this Act.

(2) Section 4 shall, in its application to a provision of Schedules 1–8, commence on the day on which that provision commences.

(3) Section 5, Schedule 1, Schedule 2 (3) (e), (f), (j)–(l), (4), (5) (a), Schedule 4, Schedule 5, Schedule 6 (1), (3), (4) and Schedule 7 (1), (2), (5) (a), (b), (7), (9) (b)–(e), (g) and (14)–(16) shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(4) Section 6 shall be deemed to have commenced on 1st February, 1973.

Schedules. **3.** This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO SECTIONS 2 AND 4 OF THE FORESTRY ACT, 1916.

SCHEDULE 2.—AMENDMENTS TO PART I OF THE FORESTRY ACT, 1916.

SCHEDULE 3.—AMENDMENTS TO PART II OF THE FORESTRY ACT, 1916.

SCHEDULE 4.—AMENDMENTS TO PART IIA OF THE FORESTRY ACT, 1916.

Forestry (Amendment).

SCHEDULE 5.—AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916.

SCHEDULE 6.—AMENDMENTS TO PART IV OF THE FORESTRY ACT, 1916.

SCHEDULE 7.—AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916.

SCHEDULE 8.—AMENDMENTS TO THE FORESTRY ACT, 1916, BY WAY OF STATUTE LAW REVISION.

4. The Forestry Act, 1916, is amended in the manner set forth in Schedules 1-8. Amendment of Act No. 55, 1916.

5. (1) In this section, a reference to a section of the Forestry Act, 1916, is a reference to a section of the Forestry Act, 1916, as amended by this Act. Transitional provision—licences and permits.

(2) A licence granted under a provision of the Forestry Act, 1916, repealed by this Act, being a licence in force immediately before the date of repeal, shall be deemed to be—

- (a) where the licence confers authority with respect to the taking of timber—a timber licence under section 27A;
- (b) where the licence confers authority with respect to the taking of products—a products licence under section 27B;
- (c) where the licence confers authority with respect to the taking of forest materials—a forest materials licence under section 27C; or
- (d) where the licence confers authority with respect to the ringbarking or other killing or destruction of trees—a clearing licence under section 27G.

Forestry (Amendment).

(3) A permit granted under a provision of the Forestry Act, 1916, repealed by this Act, being a permit in force immediately before the date of repeal shall be deemed to be—

- (a) where the permit confers authority to graze and water animals—a grazing permit under section 31 (1); or
- (b) where the permit confers authority to occupy land—an occupation permit under section 31 (1A).

Amendment
of Act No.
61, 1972.
Sec. 5.
(Further
amendment
of Act No.
55, 1916.)

6. The Forestry, Conservation Authority of New South Wales and Other Acts (Amendment) Act, 1972, is amended by inserting in section 5 (y) (v) after the words “such timber and products” the words “where secondly occurring”.

Sec. 4.

SCHEDULE 1.

AMENDMENTS TO SECTIONS 2 AND 4 OF THE FORESTRY ACT,
1916.

(1) Section 2—

Omit the matter relating to Part III, insert instead :—

**PART III.—PROVISIONS RELATING TO THE TAKING
OF TIMBER, PRODUCTS AND FOREST
MATERIALS.**

**DIVISION 1.—*Unlawful Taking of Timber,
Products and Forest Materials.***

DIVISION 2.—*Licences.*

DIVISION 3.—*Payment of Royalty.*

**DIVISION 4.—*Taking of Small Quantities from
Certain Lands.***

Forestry (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO SECTIONS 2 AND 4 OF THE FORESTRY ACT,
1916—*continued.*

(2) (a) Section 4, definition of "Clearing licence"—

Before the definition of "Crown lands", insert :—

"Clearing licence" means a licence issued under section 27G which is in force.

(b) Section 4, definition of "Forest lease"—

After the definition of "Flora reserve", insert :—

"Forest lease" means a lease granted under section 33 (1) which is in force.

(c) Section 4, definitions of "Forest materials licence",
"Holder"—

After the definition of "Forest materials",
insert :—

"Forest materials licence" means a licence issued under section 27C which is in force.

"Holder", in relation to a clearing licence, includes, except in section 27G, a successor in title to the land in respect of which the clearing licence is issued.

(d) Section 4, definitions of "Licence", "Motor cycle",
"Motor vehicle"—

After the definition of "Lease", insert :—

"Licence" means a licence issued by the commission under this Act.

"Motor cycle" means any motor vehicle which has 2 wheels or, where a sidecar or sidebox is attached thereto, has 3 wheels.

Forestry (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO SECTIONS 2 AND 4 OF THE FORESTRY ACT,
1916—*continued.*

“Motor vehicle” means a motor car, motor carriage, motor cycle or other apparatus propelled on land, snow or ice wholly or partly by volatile spirit, steam, gas, oil or electricity.

(e) Section 4, definition of “Products licence”—

After the definition of “Products”, insert :—

“Products licence” means a licence issued under section 27B which is in force.

(f) Section 4, definition of “Timber licence”—

After the definition of “Timber”, insert :—

“Timber licence” means a licence issued under section 27A which is in force.

Sec. 4.

SCHEDULE 2.

AMENDMENTS TO PART I OF THE FORESTRY ACT, 1916.

(1) (a) Section 5 (1)—

Omit “a term of seven years from the date of his appointment”, insert instead “such term, not exceeding 7 years, as is specified in the instrument of his appointment”.

(b) Section 5 (3)—

Omit “a term not exceeding seven years”, insert instead “such term, not exceeding 7 years, as is specified in the instrument of his appointment”.

Forestry (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART I OF THE FORESTRY ACT, 1916—
continued.

(c) Section 5 (6)—

Omit the subsection.

(2) (a) Section 10A (1) (a)—

Omit “or”.

(b) Section 10A (1) (b), (c), (d)—

Omit section 10A (1) (b), insert instead :—

(b) to the secretary or any other officer of the commission or an officer of a specified class or description of officers of the commission;

(c) to a person appointed under section 10 or a member of a specified class or description of persons so appointed; or

(d) to any prescribed person or a member of a prescribed class or description of persons,

(c) Section 10A (1)—

After “under this”, insert “or any other”.

(d) Section 10A (1)—

After “delegation” where secondly occurring, insert “, and may, by such an instrument, revoke wholly or in part any such delegation”.

Forestry (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART I OF THE FORESTRY ACT, 1916
—*continued.*

(e) Section 10A (6)—

After section 10A (5), insert :—

(6) An instrument purporting to be signed by a delegate of the commission in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the commission under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the commission under this section.

(3) (a) Section 11 (1) (d1)—

After section 11 (1) (d), insert :—

(d1) may, in respect of timber taken by the commission or any other person on Crown-timber lands, control the utilisation, sale and disposal of bark, sidings, off-cuts, chips, sawdust, shavings and other residues produced as a consequence of the conversion of that timber into logs or any other article;

(b) Section 11 (1) (k)—

After “timber”, insert “, whether or not the timber is incorporated in any structure”.

(c) Section 11 (1) (k1)—

After section 11 (1) (k), insert :—

(k1) may provide a service for the testing of timber and articles and commodities associated with the use of timber;

Forestry (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART I OF THE FORESTRY ACT, 1916
—*continued.*

(d) Section (11) (1) (1)—

Omit “or”.

(e) Section 11 (1) (m) (ii)—

Omit “licenses under section 26”, insert instead
“timber licences or products licences or timber
licences and products licences”.

(f) Section 11 (1) (m) (ii)—

After “timber or products”, insert “or timber and
products”.

(g) Section 11 (1) (m) (iv)—

After “incidental to”, insert “the attainment of
its objects or”.

(h) Section 11 (1) (m) (iv)—

Omit “Act.”, insert instead “Act; or”.

(i) Section 11 (1) (n)—

After section 11 (1) (m), insert :—

(n) may determine, from time to time,
whether fees shall be charged in respect of
any activity carried out by the commis-
sion under this section and, if so, the
amounts of those fees and the persons
by whom those fees shall be paid.

(j) Section 11 (4)—

Omit “a license issued under this Act”, insert
instead “a timber licence, products licence or
forest materials licence”.

Forestry (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART I OF THE FORESTRY ACT, 1916
—*continued.*

(k) Section 11 (4)—

Omit “timber and products or forest materials”, insert instead “timber, products or forest materials”.

(l) Section 11 (4)—

Omit “license” where secondly and thirdly occurring, insert instead “licence”.

(4) Section 12 (3)—

Omit “a license issued under this Act and such part of any amounts referred to in paragraph (a) of subsection (4) of section 30”, insert instead “a timber licence, products licence or forest materials licence and such part of any amounts referred to in section 30G (a) and in section 30E as applied by section 30H (2)”.

(5) (a) Section 13 (2)—

Omit “royalties, licenses,”, insert instead “its proportion of royalties or amounts recovered by or paid to it under section 30H, 30I, 46A or 48, from licences,”.

(b) Section 13 (2)—

After “timber” where firstly occurring, insert “and products”.

(c) Section 13 (3)—

Omit “\$25,000”, insert instead “\$50,000”.

Forestry (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART I OF THE FORESTRY ACT, 1916
—*continued.*

(6) Section 14 (2)—

Omit "Any clerk or other person having the custody of any such books who does not on demand permit any person authorised as aforesaid to examine the said books and take copies or extracts therefrom shall be liable to a penalty not exceeding ten dollars."

SCHEDULE 3.

Sec. 4.

AMENDMENTS TO PART II OF THE FORESTRY ACT, 1916.

(1) Section 20—

Omit "or license".

(2) (a) Section 25 (1)—

After "vested in the Minister," insert "or, with the approval of the Minister, in the commission,".

(b) Section 25 (1)—

After "who", insert "or which".

Forestry (Amendment).

Sec. 4.

SCHEDULE 4.

AMENDMENTS TO PART IIA OF THE FORESTRY ACT, 1916.

(1) (a) Section 25F (1)—

Omit “a license is issued under this Act”, insert instead “a timber licence or products licence is issued”.

(b) Section 25F (1)—

Omit “that license”, insert instead “the licence”.

(c) Section 25F (1)—

Omit “timber and products” wherever occurring, insert instead “timber or products”.

(d) Section 25F (3)—

Omit “a license issued under this Act”, insert instead “a timber licence or products licence”.

(e) Section 25F (4)—

Omit “a license issued under this Act”, insert instead “a timber licence or products licence”.

(f) Section 25F (4)—

Omit “timber and products” wherever occurring, insert instead “timber or products”.

(g) Section 25F (4)—

Omit “license” where secondly and thirdly occurring, insert instead “licence”.

(2) Section 25G (2)—

Omit “a license issued under this Act”, insert instead “a timber licence or products licence”.

Forestry (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART IIA OF THE FORESTRY ACT,
1916—*continued.*

(3) (a) Section 25H—

Omit “a license under this Act”, insert instead
“a timber licence or products licence”.

(b) Section 25H—

Omit “license” where secondly occurring, insert
instead “licence”.

(c) Section 25H—

Omit “timber and products”, insert instead
“timber or products”.

(4) (a) Section 25I (1) (a1)—

Omit “a license issued under this Act”, insert
instead “a timber licence or products licence”.

(b) Section 25I (1) (b)—

Omit “license issued under this Act”, insert
instead “timber licence or products licence”.

Forestry (Amendment).

Sec. 4.

SCHEDULE 5.

AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916.

(1) Part III, heading—

Omit "LICENSES.", insert instead :—

PROVISIONS RELATING TO THE TAKING OF TIMBER,
PRODUCTS AND FOREST MATERIALS.DIVISION 1.—*Unlawful Taking of Timber,
Products and Forest Materials.*

(2) Sections 26, 26A—

Omit the sections and short headings thereto.

(3) (a) Section 27 (2)—

Omit "clearing license under this Act", insert
instead "clearing licence".

(b) Section 27 (3) (a) (i)—

Omit the subparagraph, insert instead :—

- (i) in pursuance of a timber licence, products licence, forest materials licence, clearing licence or other authority issued or granted by the commission;

(c) Section 27 (3) (b)—

At the end of the paragraph, insert "or".

(d) Section 27 (3) (c)—

Omit the paragraph.

Forestry (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

(4) Sections 27A–27H—

After section 27, insert :—

DIVISION 2.—*Licences.*

Timber licences.

27A. (1) A timber licence authorises the holder, ^{Timber} subject to the regulations and subject to the conditions ^{licences.} and limitations of the licence, to take timber, or such class or description of timber as is specified in the licence, on Crown-timber lands.

(2) The term of a timber licence—

- (a) shall not exceed 5 years without the prior written approval of the Minister; and
- (b) shall not, in any event, exceed 20 years.

(3) Timber licences shall be issued by the commission.

Products licences.

27B. (1) A products licence authorises the holder, ^{Products} subject to the regulations and subject to the conditions ^{licences.} and limitations of the licence, to take products, or such class or description of products as is specified in the licence, on Crown-timber lands.

(2) The term of a products licence shall be such term, not exceeding 5 years, as is specified in the licence.

*Forestry (Amendment).*SCHEDULE 5—*continued.*AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

(3) Products licences shall be issued by the commission.

Forest materials licences.

Forest
materials
licences.

27C. (1) A forest materials licence authorises the holder, subject to the regulations and subject to the conditions and limitations of the licence, to take forest materials, or such class or description of forest materials as is specified in the licence, from a State forest.

(2) The term of a forest materials licence shall be such term, not exceeding 5 years, as is specified in the licence.

(3) Forest materials licences shall be issued by the commission

Restrictions on issue of timber licences and products licences.

Consents of
lessees and
trustees.

27D. Nothing in section 27A or 27B authorises the commission to issue a timber licence or products licence in respect of—

(a) land held under—

(i) conditional lease and not dedicated as a State forest or reserved from sale; or

(ii) conditional purchase lease,
unless the lessee of that land consents to the issue of the licence; or

Forestry (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

- (b) land in respect of which trustees have been appointed for a public purpose, unless those trustees consent to the issue of the licence.

27E. (1) Where the commission, pursuant to section 25F (5), has formed the opinion, or where the commission is otherwise of the opinion, that any trees on Crown-timber lands (not being Crown-timber lands referred to in paragraph (a) of the definition of "Crown-timber lands" in section 4)—

Trees planted, established or necessary for certain purposes.

- (a) have been planted or established and have been maintained by careful tending and improvement as a woodlot or forest or for the purpose of tree-farming or have been planted or established as a windbreak or for the beautification of the lands; or
- (b) are growing on land that has been substantially improved for farming purposes and which, subject to subsection (2), are necessary for shade or shelter or for the purpose of the farming, improvement or protection of the lands,

the commission shall not issue a timber licence or products licence in respect of those lands unless the licence includes a condition or limitation preventing the holder of the licence from taking from the land to which the licence relates any such trees as are designated or described in the condition or limitation.

Forestry (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

(2) The obligation to impose a condition or limitation in respect of trees referred to in subsection (1) (b) extends only to trees designated or described in the condition or limitation and having a total timber content not exceeding 150 cubic metres, as determined by the commission.

(3) Subsection (1) does not apply to the issue, in relation to Crown-timber lands which are subject to a tenure specified or described in the First Schedule, of a timber licence or products licence to the holder of that tenure or, with the consent of that holder, to any other person.

Issue of licences in respect of flora reserves.

Issue of
licences
in respect
of flora
reserves.

27F. Nothing in section 27A, 27B or 27C authorises the commission to issue a timber licence, products licence or forest materials licence in respect of a flora reserve unless—

- (a) the conditions and limitations of the licence are in accordance with the working plan for that flora reserve; and
- (b) the issue of the licence is approved by the Minister.

Clearing licences.

Clearing
licences.

27G. (1) A clearing licence authorises—

- (a) the holder; and
- (b) a successor in title to the land in respect of which the clearing licence is issued,

subject to the regulations and subject to the conditions and limitations of the licence, to ringbark or otherwise kill or destroy trees, or any specified description thereof, on such Crown-timber lands as are specified

Forestry (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

in the licence, notwithstanding the provisions of any other Act or any terms or conditions subject to which any tenure of those Crown-timber lands is held.

(2) The term of a clearing licence shall be such term as is specified in the licence.

(3) Clearing licences shall be issued by the commission.

27H. Nothing in section 27G authorises the commission to issue a clearing licence—

Restrictions
on issue of
clearing
licences.

- (a) in respect of Crown-timber lands within a State forest that are not the subject of a forest lease or any other lease from the Crown;
- (b) in respect of Crown-timber lands within a flora reserve;
- (c) where the Crown-timber lands are—
 - (i) held subject to a tenure specified or described in the First Schedule—except to the holder of that tenure;
 - (ii) purchase-tenure land, as defined in section 25C—except to the owner, as so defined, of that land; or
 - (iii) held under a forest lease—except to the lessee;

Forestry (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

- (d) in respect of protected land, as defined in section 21A of the Soil Conservation Act, 1938—except with the consent of the Catchment Areas Protection Board constituted under that Act; or
 - (e) to ringbark or otherwise kill or destroy trees having economic value.
- (5) (a) Section 28, short heading—
- Omit “*licenses*”, insert instead “*licences*”.
- (b) Section 28 (1)—
- Omit “*license*” wherever occurring, insert instead “*licence*”.
- (c) Section 28 (1)—
- Omit “*under this Act*”.
- (d) Section 28 (2)—
- Omit “*license*”, insert instead “*licence*”.
- (e) Section 28 (3)—
- Omit “*licenses*”, insert instead “*licences*”.

Forestry (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

(6) (a) Section 29 (1)—

Omit “except under the authority of a license issued and in force under this Act or a sawmill license granted under the authority of the Act hereby repealed, or under the authority of an exemption granted by the commission,” insert instead :—

except—

- (a) under the authority of a sawmill licence issued under section 28 which is in force; or
- (b) in accordance with a written permission of the commission granted in such circumstances, if any, and in respect of such quantity of timber, if any, as may be prescribed,

(b) Section 29 (2)—

Omit “any such license or exemption”, insert instead “a sawmill licence referred to in subsection (1) or a written permission referred to in subsection (1) (b).”.

*Forestry (Amendment).*SCHEDULE 5—*continued.*AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

(c) Section 29 (3)—

After section 29 (2), insert :—

(3) A person who is an officer as defined in section 5 (1) of the Companies Act, 1961, of a corporation which commits an offence under subsection (1) or (2) is guilty of the same offence, and liable to be punished as an individual guilty of that offence, unless he satisfies the court that—

- (a) the offence committed by the corporation was committed without his knowledge;
- (b) he was not in a position to influence the conduct of the corporation in relation to the commission of the offence by it; or
- (c) he, being in such a position, used all due diligence to prevent the commission of the offence by the corporation.

(7) Part II, Divisions 3, 4—

Omit sections 30 and 30A and the short heading before section 30, insert instead :—

DIVISION 3.—*Payment of Royalty.*

30. In this Division—

“owner”, in relation to purchase-tenure land, has the meaning ascribed thereto in section 25C;

“purchase-tenure land” has the meaning ascribed thereto in section 25C;

Forestry (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

“royalty” means a royalty payable under this Division.

30A. (1) The holder of a timber licence, products licence or forest materials licence shall, in accordance with this Division, pay a royalty in respect of the timber, products or forest materials taken in pursuance of the licence. Royalty for timber, products and forest materials.

(2) Nothing in subsection (1) requires the payment of a royalty in respect of timber taken in pursuance of a timber licence from land the subject of a tenure specified or described in the First Schedule where the timber is derived from trees which, in the opinion of the commission, have been planted or established and have been maintained by careful tending and improvement as a woodlot or forest or for the purpose of tree-farming or have been planted or established as a windbreak or for the beautification of the land.

30B. A royalty shall be such amount as the commission may from time to time determine either generally or in a particular case or class of cases. Amount of royalty.

30c. (1) Except as provided by section 30F, a royalty shall be paid to the commission. Payment of royalty to commission.

(2) Subsection (1) has effect notwithstanding the terms of any licence issued under this Act and in force immediately before the date of commencement of this Division.

*Forestry (Amendment).*SCHEDULE 5—*continued.*AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

Timber
organisa-
tions.

30D. The commission may from time to time determine, either generally or in a particular case or class of cases, to pay such part of a royalty as is specified in its determination to such organisation established for the promotion or improvement of the use or marketing of timber or products produced in New South Wales as is so specified.

Apportion-
ment of
royalty.

30E. (1) In this section—

“lessee” means the holder or owner of a lease but does not include a mortgagee of land the subject of a lease;

“prescribed amount”, in relation to a royalty, means the aggregate of—

- (a) the instalments, if any, which the holder of a timber licence, products licence or forest materials licence is entitled, under a contract with the commission, to deduct from the royalty in respect of the construction of roads, bridges, gates and ramps and incidental works constructed by him in connection with the taking of the timber, products or forest materials in respect of which the royalty is payable;
- (b) such instalments, if any, as may be determined by the commission, of the cost of any roads, bridges, gates, ramps, railways and incidental

Forestry (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

works constructed by the commission for, or partly for, the taking or removal of the timber, products or forest materials in respect of which the royalty is payable; and

- (c) such part of that royalty as the commission determines under section 30D to pay to the organisation specified in its determination.

(2) The commission, on receipt of a royalty paid to it under section 30C (1), shall deduct from the royalty the prescribed amount.

(3) Out of the prescribed amount deducted from a royalty under subsection (2), the commission shall, where it has made a determination with respect to the royalty under section 30D, pay such part of the royalty as is specified in its determination to the organisation so specified.

(4) Out of the balance of the royalty remaining after the commission has deducted the prescribed amount under subsection (2), the commission shall pay—

- (a) where the royalty was paid in respect of timber, products or forest materials taken from land held by a lessee under a lease specified or described in Part 1 of the Second Schedule, not being a lease referred to in paragraph (b) (ii)—an amount equal to one-third of that balance to that lessee;

Forestry (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

- (b) where the royalty was paid in respect of timber, products or forest materials taken from land held by—
- (i) a lessee under a lease specified or described in Part 2 of the Second Schedule; or
 - (ii) a lessee under a lease specified or described in Part 1 of the Second Schedule in respect of which the commission has executed a certificate under subsection (5),
- an amount equal to one-half of that balance to that lessee;
- (c) subject to paragraph (d), where the royalty was paid in respect of timber or products taken from purchase-tenure land—an amount equal to one-third of that balance to the owner of that purchase-tenure land;
- (d) where the royalty was paid in respect of timber or products taken from purchase-tenure land which was, immediately before it became purchase-tenure land, the subject of a lease referred to in paragraph (b) (i) or (ii)—an amount equal to one-half of that balance to the owner of that purchase-tenure land; and

Forestry (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

- (e) where the royalty was paid in respect of timber or products taken from land under the control of a Pastures Protection Board being a travelling stock reserve, a camping reserve or a public watering-place—an amount equal to one-third of that balance to the Pastures Protection Board.

(5) The commission, on the application of a lessee for the time being of land held under a lease specified or described in Part 1 of the Second Schedule, may, if it thinks fit, certify that the timber and products which were on that land were substantially taken from that land at a time (whether before or after the date of commencement of this Division) when that land was held under any lease so specified or described.

30F. (1) A person to whom the commission is, under section 30E (4), required to pay an amount of a royalty may, by notice in writing to the commission, elect to have the amount paid directly to him by the holder of the licence liable to pay the royalty. Election by landholder as to payment of royalty.

(2) Where the commission receives a notice under subsection (1) in respect of the payment of an amount of a royalty, it shall—

- (a) by notice in writing, direct the holder of the licence liable to pay the royalty to pay the amount directly to the person making the election; and

Forestry (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

- (b) forward a copy of the notice referred to in paragraph (a) to the person making the election.

(3) The holder of a licence to whom a direction is given by the commission under subsection (2) (a) shall comply with the direction.

Royalty
payments by
commission.

30G. Where the commission takes timber or products from land held by a lessee under a lease specified or described in the Second Schedule, purchase-tenure land or land under the control of a Pastures Protection Board being a travelling stock reserve, a camping reserve or a public watering-place, the commission—

- (a) shall pay to an organisation referred to in section 30D the amount that would have been payable to the organisation under section 30E (3); and
- (b) shall pay to the lessee, the owner of that purchase-tenure land or the Pastures Protection Board, as the case may be, the amount that would have been payable to the lessee, owner or Board under section 30E (4),

if the timber or products had been taken in pursuance of a timber licence or products licence, as the case may be, and a royalty had been paid to the commission

Forestry (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
continued.

in respect of the taking of the timber or products in pursuance of the licence in accordance with this Division.

30H. (1) Where a person takes or destroys or causes or knowingly suffers the taking or destroying of any timber, products or forest materials otherwise than in pursuance of a licence or other authority issued or granted by the commission (whether or not by doing so he is guilty of an offence against this Act) and the commission would, if the timber, products or forest materials had been taken in pursuance of a licence, have been entitled to determine a royalty in respect of the timber, products or forest materials so taken, the commission may certify in writing the amount that it determines would have been payable by way of royalty if the timber, products or forest materials had been taken in pursuance of a licence and may recover that amount from the person as a debt in any court of competent jurisdiction.

Liability for royalty if timber, products or forest materials taken without licence.

(2) Section 30E applies in respect of an amount recovered by the commission under subsection (1) in the same way as it applies in respect of a royalty paid to the commission under section 30C (1).

(3) Nothing in subsection (2) requires the commission, in respect of an amount recovered by it under subsection (1), to make a payment out of the amount to the person from whom the amount is recovered.

Forestry (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART III OF THE FORESTRY ACT, 1916—
*continued.*DIVISION 4.—*Taking of Small Quantities from
Certain Lands.*

Taking of
small
quantities
of timber,
products
and forest
materials
from
certain
lands.

30I. The commission may, otherwise than by the issue of a timber licence, products licence or forest materials licence, authorise a person, in such manner and on such terms and conditions as may be determined by the commission, to take on or from—

(a) land within a State forest, not being—

(i) land set apart as a flora reserve; or

(ii) land which is subject to a lease specified or described in the Second Schedule,

timber, products or forest materials, not having a value in excess of such value as is prescribed; or

(b) Crown lands, not being—

(i) land in respect of which trustees have been appointed for a public purpose; or

(ii) land which is subject to a lease specified or described in the Second Schedule,

timber or products, not having a value in excess of such value as is prescribed.

Forestry (Amendment).

SCHEDULE 6.

Sec. 4.

AMENDMENTS TO PART IV OF THE FORESTRY ACT, 1916.

(1) (a) Section 31 (1)–(2)—

Omit section 31 (1) and (2), insert instead :—

(1) A grazing permit under this Act authorises the holder, subject to the regulations and subject to the conditions and limitations of the permit, to graze and water animals.

(1A) An occupation permit under this Act authorises the holder, subject to the regulations and subject to the conditions and limitations of the permit, to occupy land—

- (a) as the site of a sawmill or other building, or any tramway, wharf, or timber depot;
- (b) for charcoal burning or bee-farming or any other purpose approved by the commission; or
- (c) where the permit is in respect of land within a State forest or flora reserve, for any purpose approved by the commission and specified in the permit.

(2) An occupation permit may be granted under subsection (1A) (a) only to a person who is the holder of a licence, not being a clearing licence.

(b) Section 31 (3)—

Omit "Such permit", insert instead "A permit under this section".

Forestry (Amendment).

SCHEDULE 6—*continued*AMENDMENTS TO PART IV OF THE FORESTRY ACT, 1916—
continued.

(c) Section 31 (3)—

Omit “Any such permit for any of the purposes mentioned in paragraphs (a), (b), (c), or (d) of subsection (1)”, insert instead “A grazing permit or an occupation permit for a purpose mentioned in subsection (1A) (a) or (b)”.

(d) Section 31 (3)—

Omit “a permit is granted for purposes mentioned in paragraph (b) aforesaid”, insert instead “an occupation permit is granted for a purpose mentioned in subsection (1A) (a)”.

(e) Section 31 (5)—

Omit “Permits”, instead “A permit”.

(f) Section 31 (5)—

Omit “or by any person authorised by the commission in that behalf for such terms”, insert instead “for such term and on such conditions”.

(2) Section 32—

Omit the section, insert instead :—

32. (1) A person shall not, without lawful authority, graze or water animals on any land within a State forest, timber reserve or flora reserve.

Penalty : \$500.

(2) A person shall not, without lawful authority, occupy any land within a State forest, timber reserve or flora reserve.

Penalty : \$500.

Offences
relating
to the
grazing
of animals
and the
occupation
of land.

Forestry (Amendment).

SCHEDULE 6—*continued*

AMENDMENTS TO PART IV OF THE FORESTRY ACT, 1916—
continued.

(3) In proceedings for an offence arising under this section, the defendant has the onus of proving lawful authority in relation to the act giving rise to the alleged offence.

(4) A penalty may be imposed under this section in relation to the grazing or watering of animals on any land or the occupation of any land in addition to any penalty, fine or forfeiture imposed by any lease from the Crown lawfully in force in respect of that land.

(3) Sections 32A–32G—

After section 32, insert :—

32A. In sections 32B and 32C, “animal” includes a reptile but does not include a fish.

Definition
of animal
for purposes
of ss. 32B,
32C.

32B. (1) A hunting permit under this Act authorises the holder, subject to the regulations and subject to the conditions and limitations of the permit, to take or kill such birds or animals or birds and animals as are specified in the permit.

Hunting
permits.

(2) A permit under this section may be granted in respect of land within a State forest, timber reserve or flora reserve.

(3) A permit under this section may be granted and renewed by the commission for such term and on such conditions respectively as the commission thinks fit.

Forestry (Amendment).

 SCHEDULE 6—*continued.*

 AMENDMENTS TO PART IV OF THE FORESTRY ACT, 1916—
continued.

(4) A permit under this section shall not be granted in respect of land within a flora reserve unless the granting of that permit is in accordance with the working plan for the reserve.

(5) Nothing in this section affects the Firearms and Dangerous Weapons Act, 1973, or the National Parks and Wildlife Act, 1974.

Offences relating to hunting and the use of firearms, etc.

32C. (1) In this section, "firearm" includes any weapon that is capable of propelling a projectile, whether by use of an explosive or by other means.

(2) A person shall not—

- (a) have in his possession or discharge a firearm in a State forest, timber reserve or flora reserve;
- (b) have in his possession or place or use a net, trap, snare, hunting device, poison or explosive in a State forest, timber reserve or flora reserve;
- (c) discharge a firearm into a State forest, timber reserve or flora reserve;
- (d) take, kill, hunt, shoot, poison, net, snare, spear, capture, lure or injure a bird or an animal in a State forest, timber reserve or flora reserve; or
- (e) cause or knowingly suffer any of the things referred to in paragraphs (a)–(d) to be done.

Penalty : \$500 or imprisonment for 6 months, or both.

Forestry (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IV OF THE FORESTRY ACT, 1916—
continued.

(3) A person is not guilty of an offence under subsection (2) by reason of his doing any of the things referred to in subsection (2)—

- (a) in pursuance of a grazing, occupation or hunting permit under this Act, a forest lease or a tenure specified or described in the First Schedule;
- (b) in pursuance of an agreement with the commission; or
- (c) in relation to a snake, unless it is proved that there were no grounds on which he could reasonably have believed at any relevant time that the snake was endangering, or was likely to endanger, any person or property.

32D. (1) Where a member of the police force or a person authorised by the commission in writing to act under this section suspects, on reasonable grounds, that a person has contravened section 32C (2), he—

Delivery up and seizure of firearms, etc.

- (a) may require the person to deliver up to him any article or thing referred to in section 32C (2) (a) or (b) which is in the possession of the person; or
- (b) may—
 - (i) detain and search the person and any vehicle or other property of the person; and

Forestry (Amendment).

SCHEDULE 6—*continued.*AMENDMENTS TO PART IV OF THE FORESTRY ACT, 1916—
continued.

- (ii) seize and detain any article or thing referred to in section 32C (2) (a) or (b) found by him as a result of his search.

(2) A member of the police force or a person authorised in accordance with subsection (1) may seize and detain any article or thing referred to in section 32C (2) (a) or (b) which he suspects, on reasonable grounds, has been placed in a State forest, timber reserve or flora reserve by a person in contravention of section 32C (2).

(3) A person shall not fail to deliver up to a member of the police force or, on production of his authority, a person authorised in accordance with subsection (1), an article or thing referred to in section 32C (2) (a) or (b) which is in his possession or obstruct, hinder, prevent or interfere with a member of the police force or a person so authorised in the exercise or performance of any power, authority, duty or function conferred by this section on him.

Penalty for an offence against this subsection : \$500.

Disposal of
firearms,
etc.

32E. Where an article or thing referred to in section 32C (2) (a) or (b) is delivered up under section 32D (1) (a) or seized and detained under section 32D (1) (b) (ii) or (2) and—

- (a) a person is not, within a period of 30 days after the delivery up or seizure, charged with an offence under section 32C (2) or under any other Act in respect of the article

Forestry (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IV OF THE FORESTRY ACT, 1916—
continued.

or thing, a court of petty sessions held before a stipendiary magistrate may, upon application made by the person who delivered up that article or thing or from whom that article or thing was seized, or any person claiming any right, title or interest in that article or thing, order that the article or thing be returned to that person;

- (b) a person is, on or after the expiration of a period of 30 days after the delivery up or seizure, so charged and—
 - (i) is found guilty (whether or not he is convicted) of the offence, the article or thing shall, unless an order in respect of the article or thing has been made under paragraph (a) or the court hearing the charge, upon an application made at the trial, otherwise orders, be forfeited to Her Majesty; or
 - (ii) is found not guilty of the offence, the article or thing shall, unless an order in respect of the article or thing has been made under paragraph (a) or the court hearing the charge, upon an application made at the trial, otherwise orders, be returned to that person; or

Forestry (Amendment).

SCHEDULE 6—*continued.*AMENDMENTS TO PART IV OF THE FORESTRY ACT, 1916—
continued.

- (c) an application has not been made in accordance with paragraph (a) or (b), a court of petty sessions held before a stipendiary magistrate may, upon application made by a member of the police force or a person authorised in accordance with section 32D (1) order that the article or thing be forfeited to Her Majesty.

Special
purposes
permits.

32F. (1) A special purposes permit under this Act authorises the holder, subject to the regulations and subject to the conditions and limitations of the permit, to engage in or conduct such of the activities prescribed for the purposes of this section as are specified in the permit.

(2) A permit under this section may be granted in respect of land within a State forest, timber reserve or flora reserve.

(3) A permit under this section may be granted and renewed by the commission for such term and on such conditions respectively as the commission thinks fit.

(4) A permit under this section shall not be granted in respect of land within a flora reserve unless the granting of that permit is in accordance with the working plan for the reserve.

Forestry (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IV OF THE FORESTRY ACT, 1916—
continued.

32G. (1) A person shall not, except in pursuance of a special purposes permit granted under section 32F, engage in or conduct an activity prescribed for the purposes of that section in a State forest, timber reserve or flora reserve.

Offences relating to activities prescribed for the purposes of s. 32F.

Penalty : \$500.

(2) In proceedings for an offence arising under this section, the defendant has the onus of proving that he has engaged in or conducted the activity prescribed for the purposes of section 32F in respect of which those proceedings have been brought in pursuance of a special purposes permit granted under that section.

(4) (a) Section 33 (1)—

Omit "Such leases are in this Act referred to as "Forest leases."".

(b) Section 33 (3) (b) (i)—

Omit "a general or special license issued under this Act", insert instead "a timber licence or products licence".

(c) Section 33 (3) (b) (ii)—

Omit "a general or special license issued under this Act", insert instead "a timber licence or products licence".

(d) Section 33 (4)—

Omit the subsection.

Forestry (Amendment).

Sec. 4.

SCHEDULE 7.

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916.

(1) Section 34—

Omit "Licenses," insert instead "Licences,".

(2) (a) Section 35—

Omit "license" wherever occurring, insert instead "licence".

(b) Section 35—

Omit "and determine".

(3) Section 35A—

After section 35, insert :—

35A. (1) In this section—

"erect" includes place;

"structure" includes—

(a) a building;

(b) a tent;

(c) a post, pile, stake, pipe, chain, wire or any other thing, that is fixed to the soil or to anything fixed to the soil;

(d) a beehive; and

(e) a work, object or article prescribed for the purposes of this section.

(2) The commission may cause or authorise a structure erected without lawful authority in a State forest, timber reserve or flora reserve to be removed, together with the contents, if any, of the structure.

Removal of
unauthor-
ised
structures.

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

(3) If a notice requiring any person who claims to have authority to erect, maintain or use a structure erected in a State forest, timber reserve or flora reserve, or any part of the structure, to deliver to the commission a statement in writing signed by that person stating by what authority he erected or is entitled to maintain or use the structure or part or by what authority he claims any interest in the structure, is—

- (a) displayed for a period of one month on or adjacent to the structure; or
- (b) published in a local newspaper or such other newspaper, if any, as the commission may determine,

any such person who, within one month after the expiration of that period or within one month after publication of that notice, fails to deliver such a statement to the commission shall have no claim against the commission or any other person removing the structure or contents in accordance with subsection (2).

(4) The commission may, at its option, cause or authorise a structure or part thereof or the contents thereof removed in accordance with subsection (2) to be destroyed or sold, or stored (and, if stored, then destroyed or sold), or may sell the structure or contents on condition that it or they be removed, and may recover in any court of competent jurisdiction the

*Forestry (Amendment).*SCHEDULE 7—*continued.*AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

expenses incurred in the removal, destruction, sale or storage of the structure or part thereof or the contents thereof from the person who—

- (a) erected the structure or caused it to be erected; or
- (b) where a notice was displayed under subsection (3) in respect of the structure, has made use of the structure after the expiration of the period of one month for which the notice was so displayed,

or both.

(5) Subsection (4) (b) does not apply in relation to a person unless it is established that he knew of, or ought reasonably to have known of, the notice.

(6) In proceedings for an offence arising under this section, the defendant has the onus of proving lawful authority in relation to the act giving rise to the alleged offence.

(4) Section 36A—

After section 36, insert :—

Control
signs.

36A. (1) In this section, “control sign” means a standard, sign, notice or device in or similar to a form, or generally answering a description, prescribed for the purposes of this section.

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

(2) The commission may give such a direction prohibiting, regulating or controlling the use or enjoyment of a State forest, timber reserve or flora reserve as, in its opinion, may be necessary or desirable and any such direction may be limited as to time, place or subject-matter.

(3) A direction given pursuant to subsection (2) shall have effect only while there is erected or displayed upon or near the State forest, timber reserve or flora reserve to which the direction relates a control sign that is notice of the direction.

(4) The direction appearing upon, or prescribed as given by, a control sign that is erected or displayed upon or near a State forest, timber reserve or flora reserve with the authority of the commission shall be deemed to be a direction, for the time being in force, given pursuant to subsection (2) in relation to the State forest, timber reserve or flora reserve and the control sign shall, for the purposes of subsection (3), be deemed to be notice of that direction.

(5) A direction given pursuant to subsection (2) may be varied or revoked by the commission.

(5) (a) Section 38 (1) (b)—

Omit “a license under this Act”, insert instead “a licence”.

(b) Section 38 (1) (b)—

Omit “license” where secondly occurring, insert instead “licence”.

Forestry (Amendment).

 SCHEDULE 7—*continued.*

 AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

(c) Section 38 (2)—

Omit “fifty dollars”, insert instead “\$500”.

(6) Sections 38A–38C—

After section 38, insert :—

38A. (1) In this section—

- (a) a reference to the driver of a motor vehicle includes a reference to the rider of a motor cycle; and
- (b) a reference to a driver’s licence is a reference to a licence of any kind issued under any Act, or under the regulations made under any Act, to drive or learn to drive a motor vehicle, or to ride or learn to ride a motor cycle.

(2) Any person authorised by the commission in writing to act under this section may require a person whom he suspects on reasonable grounds to be offending against this Act or the regulations to state his full name and his place of abode.

(3) Any person authorised in accordance with subsection (2) may require the driver of a motor vehicle in a State forest, timber reserve or flora reserve to produce any driver’s licence which he is, by any Act, or the regulations made under any Act, required to hold and to state his full name and his place of abode.

(4) A person shall not—

- (a) fail or refuse to comply with a requirement under subsection (2) or (3); or

Require-
ment to
state
name and
address.

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

- (b) in purported compliance with such a requirement, state a name that is not his name or a place of abode that is not his place of abode.

Penalty for an offence against this subsection :
\$200.

38B. (1) In this section, a reference to the driver of a motor vehicle includes a reference to the rider of a motor cycle.

(2) Where the driver of a motor vehicle is alleged to be guilty of an offence against this Act or the regulations, any person authorised by the commission in writing to act under this section may—

Require-
ment for
owner of
motor
vehicle
and others
to give
informa-
tion.

- (a) require the owner of the vehicle, or the person in whose name it is registered, or the person having the custody of the vehicle, to give forthwith information (which shall, if so required, be given in the form of a statement in writing, signed by that owner or person) as to the name and place of abode of the driver of the motor vehicle at the time of the offence; or
- (b) require any other person to give any information which it is in his power to give and which may lead to the identification of the driver of the motor vehicle at the time of the offence.

Forestry (Amendment).

SCHEDULE 7—*continued.*AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

(3) A person shall not—

- (a) fail or refuse to comply with a requirement under subsection (2); or
- (b) in purported compliance with such a requirement, give any information that is false or misleading in a material particular.

Penalty : \$200.

(4) In a prosecution for an offence in respect of a failure or refusal to comply with a requirement under subsection (2) (a), it is a defence if the defendant satisfies the court that he did not know and could not with reasonable diligence have ascertained the name or place of abode of the driver concerned, or both, as the case may require.

(5) Where a statement in writing purporting to be furnished under subsection (2) (a) and to contain particulars of the name and place of abode of the driver of a motor vehicle at the time of commission of an alleged offence against this Act or the regulations is produced in any court in proceedings for the offence against the person named therein as the driver, the statement shall, if that person does not appear before the court, be evidence without proof of signature that he was the driver of the vehicle at that time.

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

38C. (1) In this section—

“owner”, in relation to a motor vehicle,
includes—

Liability of
vehicle
owners for
parking
offences.

- (a) a person who is the owner or joint owner or part owner of the vehicle and any person, other than the lessor under a hire-purchase agreement relating to the vehicle, who has the use of the vehicle under such an agreement;
- (b) the person in whose name the vehicle is registered under the regulations made under the Motor Traffic Act, 1909, except where that person has sold or otherwise disposed of the vehicle and has complied with the provisions of those regulations applicable to him with respect to that sale or disposal; and
- (c) where the vehicle has affixed to it a trader's plate issued under that Act for use as prescribed by those regulations—the person to whom that trader's plate is on issue;

“parking offence” means the offence committed by a person who, in contravention of the regulations—

- (a) parks a motor vehicle; or
- (b) causes or permits a motor vehicle to be parked or to stand or wait.

Forestry (Amendment).

SCHEDULE 7—*continued.*AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

(2) Where a parking offence occurs, the person who, at the time of the occurrence of the offence, is the owner of the motor vehicle to which the offence relates is, by virtue of this section, guilty of an offence under the regulations relating to the parking offence in all respects as if he were the actual offender guilty of the parking offence unless—

- (a) in any case where the parking offence is dealt with under section 46A, the owner satisfies the authorised person referred to in that section that the vehicle was, at the relevant time, a stolen vehicle or a vehicle illegally taken or used; or
- (b) in any other case, the court is satisfied that the vehicle was, at the relevant time, a stolen vehicle or a vehicle illegally taken or used.

(3) Nothing in this section affects the liability of an actual offender in respect of a parking offence but, where a penalty has been imposed on, or recovered from, any person in relation to any parking offence, no further penalty shall be imposed on or recovered from any other person in relation thereto.

(4) Notwithstanding anything in subsection (2) or (3), no owner of a motor vehicle is, by virtue of this section, guilty of an offence if—

- (a) in any case where the offence is dealt with under section 46A, he—
 - (i) within 21 days after service on him of a notice under that section alleging that he has been guilty of

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

that offence, supplies by statutory declaration to the authorised person referred to in that section the name and address of the person who was in charge of the vehicle at all relevant times relating to the parking offence concerned; or

- (ii) satisfies the authorised person so referred to that he does not know, and cannot with reasonable diligence ascertain, that name and address; or

(b) in any other case, he—

- (i) within 21 days after service on him of a summons in respect of that offence, supplies by statutory declaration to the informant the name and address of the person who was in charge of the vehicle at all relevant times relating to the parking offence concerned; or
- (ii) satisfies the court that he did not know and could not with reasonable diligence have ascertained that name and address.

(5) A statutory declaration that relates to more than one parking offence shall be deemed not to be a statutory declaration supplying a name and address for the purposes of subsection (4).

Forestry (Amendment).

SCHEDULE 7—*continued.*AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

(6) Where a statutory declaration supplying the name and address of a person for the purposes of subsection (4) is produced in any proceedings against the person in respect of the parking offence to which the statutory declaration relates, the statutory declaration is prima facie evidence that the person was, at all relevant times relating to that parking offence, in charge of the motor vehicle to which the parking offence relates.

(7) The provisions of this section shall be construed as supplementing, and not as derogating from, any other provision of this Act or the regulations or any other Act or any regulation, by-law or ordinance under any other Act.

(7) (a) Section 39 (1)—

Omit “as referred to in subsection (2) of section 30, or any part of royalties payable to a lessee under a forest lease in accordance with section 33,” insert instead “pursuant to a direction under section 30F (2) (a),”.

(b) Section 39 (1)—

Omit “, or any person authorised by the commission,”.

(c) Section 39 (2)—

Omit “as referred to in subsection (2) of section 30, or any part of royalties payable to a lessee under a forest lease in accordance with section 33,” insert instead “pursuant to a direction under section 30F (2) (a),”.

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

(8) Section 40—

Omit the section.

(9) (a) Section 41 (1) (a)—

Omit “and issuing and granting,” insert instead
“and issuing, granting, transferring, suspending
and cancelling.”.

(b) Section 41 (1) (a)—

Omit “licenses”, insert instead “licences”.

(c) Section 41 (1) (d)—

Omit “licenses”, insert instead “licences”.

(d) Section 41 (1) (e)—

Omit “license”, insert instead “licence”.

(e) Section 41 (1) (e)—

Omit “licenses”, insert instead “licences”.

(f) Section 41 (1) (n1)–(n7)—

After section 41 (1) (n), insert :—

(n1) regulating the use and enjoyment of State
forests, timber reserves and flora reserves;

(n2) prohibiting or regulating the entry of
persons into and providing for the safety
of persons in State forests, timber reserves
and flora reserves;

Forestry (Amendment).

SCHEDULE 7—*continued.*AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

- (n3) regulating or controlling camping or residence in State forests, timber reserves and flora reserves and the making, collecting and receiving of charges therefor or prohibiting camping or residence in State forests, timber reserves and flora reserves;
 - (n4) securing decency and order in State forests, timber reserves and flora reserves;
 - (n5) providing for the removal of trespassers and other persons causing annoyance or inconvenience in State forests, timber reserves and flora reserves;
 - (n6) prohibiting or regulating the taking of intoxicants into, and the consumption thereof in, State forests, timber reserves and flora reserves;
 - (n7) providing for the reservation of any portion of a State forest, timber reserve or flora reserve for separate or exclusive use in such circumstances as the regulations may prescribe;
- (g) Section 41 (1) (o1), (p)—
- Omit the paragraphs.

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

(h) Section 41 (1) (p1)–(p8)—

Before section 41 (1) (q), insert :—

- (p1) prohibiting or regulating the taking of animals on or into State forests, timber reserves and flora reserves, providing for the care and protection of animals in State forests, timber reserves and flora reserves, prescribing the conditions on which animals may be permitted or suffered to be on or in State forests, timber reserves and flora reserves and regulating the removal of animals from State forests, timber reserves and flora reserves;
- (p2) prohibiting or regulating the entry of vehicles into and the use of vehicles in State forests, timber reserves and flora reserves;
- (p3) regulating and controlling the parking of vehicles in State forests, timber reserves and flora reserves and providing for the making, collecting and receiving of charges therefor;
- (p4) prescribing the speed and load limits of vehicles in State forests, timber reserves and flora reserves;

Forestry (Amendment).

SCHEDULE 7—*continued.*AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

- (p5) regulating, controlling or prohibiting the use of roads, tracks, trails and other ways in State forests, timber reserves and flora reserves and the circumstances under which roads, tracks, trails and other ways therein shall be open or may be closed to public traffic or use;
- (p6) prohibiting the obstruction of roads, tracks, trails and other ways in State forests, timber reserves and flora reserves and controlling and regulating the use of gates in State forests, timber reserves and flora reserves or on the boundaries thereof;
- (p7) prohibiting the damaging or destruction of trees and other vegetation, standards, signs, notices, devices, buildings, roads, fences, dams, lookout towers and other improvements, structures and installations and the plant and equipment of the commission, its lessees, licensees and permittees;
- (p8) with respect to a control sign within the meaning of section 36A—
 - (i) prohibiting, regulating or controlling the use or enjoyment of a State forest, timber reserve or flora reserve by means of a control sign;
 - (ii) prescribing the form or description of control signs;

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

- (iii) providing for the interpretation of words, figures, symbols or abbreviations appearing on a control sign;
 - (iv) specifying or otherwise providing for the direction represented by a standard, sign, notice or device comprising, or partly comprising, a control sign;
 - (v) providing for the observance of a direction appearing on, or prescribed as being represented by, a control sign;
- (i) Section 41 (1)—
- Omit “And may in such regulations impose a penalty not exceeding one hundred dollars for any breach of the same or any contravention or failure to comply with any provision or condition contained in any right, license, or permit granted in pursuance of this Act.”.
- (j) Section 41 (1A)—
- After section 41 (1), insert :—
- (1A) The regulations may impose a penalty not exceeding \$500 for—
- (a) an offence against the regulations;
 - (b) a failure to comply with a direction given pursuant to section 36A (2); or

Forestry (Amendment).

SCHEDULE 7—*continued.*AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

- (c) a failure to comply with a provision or condition contained in a licence, permit or other authority issued or granted in pursuance of this Act.

(k) Section 41 (2), (3)—

Omit section 41 (2), insert instead :—

(2) Regulations may be made so as to apply differently according to such factors as may be specified in the regulations.

(3) The regulations may authorise any matter or thing to be from time to time determined, applied or regulated by any person specified therein, either generally or for any class of cases or in a particular case.

(10) (a) Section 43 (1) (b)—

Omit “; and any timber, products or forest materials so seized shall thereupon become and remain the property of the Crown until otherwise ordered by a court of petty sessions”.

(b) Section 43 (2)–(2D)—

Omit section 43 (2), insert instead :—

(2) Where property is seized under subsection (1) (b), the person making the seizure shall—

- (a) where the identity of the person in possession of, or reasonably believed to be the person who has cut, removed or otherwise dealt with the timber,

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

products or forest materials contrary to the provisions of this Act or the regulations, is known to the person making the seizure, the person making the seizure shall inform that other person of the seizure unless the whereabouts of that person cannot with reasonable diligence be ascertained; and

- (b) whether or not the identity of the person in possession of, or reasonably believed to be the person who has cut, removed or otherwise dealt with the timber, products or forest materials contrary to the provisions of this Act or the regulations, is known to the person making the seizure, the person making the seizure shall affix a notice of the seizure—
- (i) on the property so seized; and
 - (ii) at the court of petty sessions nearest to the place of the seizure.

(2A) Where any property seized under subsection (1) (b) is perishable, the commission may forthwith dispose of that property, by sale or otherwise.

(2B) The proceeds of any sale under subsection (2A) shall be paid into the Treasury and carried to the Consolidated Revenue Fund.

Forestry (Amendment).

SCHEDULE 7—*continued.*AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

(2C) The payment to a person by the commission of an amount equal to the proceeds of the sale of any property under subsection (2A) operates as a discharge of any obligation to deliver up that property to that person and such a payment in discharge of any such obligation imposed by an order of a court under subsection (2D) in relation to that property is hereby authorised.

(2D) Where property is seized under subsection (1) (b) and—

- (a) a person is not, within a period of 30 days after the seizure, charged with an offence under this Act or any other Act, or the regulations, in respect of that property, a court of petty sessions held before a stipendiary magistrate may, upon application made by the person from whom that property was seized, or any person claiming any right, title or interest in that property, order that that property be returned to that person;
- (b) a person is, on or after the expiration of a period of 30 days after the seizure, so charged and—
 - (i) is found guilty (whether or not he is convicted) of the offence, that property shall, unless an order in respect of that property

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

has been made under paragraph (a) or the court hearing the charge, upon an application made at the trial, otherwise orders, be forfeited to Her Majesty; or

(ii) is found not guilty of the offence, that property shall, unless an order in respect of that property has been made under paragraph (a) or the court hearing the charge, upon an application made at the trial, otherwise orders, be returned to that person; or

(c) an application has not been made in accordance with paragraph (a) or (b), a court of petty sessions held before a stipendiary magistrate may, upon application made by a member of the police force or a person authorised in accordance with subsection (1), order that that property be forfeited to Her Majesty.

(11) Section 44 (1)—

Omit “two hundred dollars”, insert instead “\$500 or to imprisonment for a period not exceeding 6 months, or both”.

Forestry (Amendment).

 SCHEDULE 7—*continued.*

 AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

(12) Section 45B—

After section 45A, insert :—

 Certain
 allegations
 in informa-
 tions.

45B. (1) An allegation, in an information in respect of an offence under this Act or the regulations, that any lands in question form part of a State forest, timber reserve or flora reserve or otherwise comprise Crown-timber lands shall be sufficient without proof of the matter so alleged unless the defendant proves to the contrary.

(2) An allegation, in an information in respect of an offence under this Act or the regulations, that a standard, sign, notice or device was erected or displayed with the authority of the commission, or that a standard, sign, notice or device was erected, displayed, interfered with, altered or removed without the authority of the commission, shall be accepted by the court as evidence of the truth of the allegation, unless the defendant proves to the contrary.

(13) Section 46—

Omit the section, insert instead :—

 Recovery
 of penalties,
 etc.

46. (1) Proceedings in respect of an offence or forfeiture under this Act or the regulations and proceedings for the recovery or enforcement of a penalty, fine or fee imposed or made payable by a licence or permit under this Act or by a lease of land within a State forest, timber reserve or flora reserve may be taken in a summary manner before a stipendiary magistrate sitting alone.

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

(2) Any such proceedings may be commenced within 12 months after the time when the matter giving rise to those proceedings occurred.

(14) Section 46A—

After section 46, insert :—

46A. (1) In this section—

“authorised person” means an officer of the Public Service employed in the administration of this Act and appointed by the commission to be an authorised person for the purposes of this section, or an employee of the commission so appointed;

Penalty notice for certain offences.

“owner”, in relation to a motor vehicle, has the meaning ascribed thereto in section 38c;

“parking offence” has the meaning ascribed thereto in section 38c;

“royalty”, in relation to a notice under subsection (2), means the amount, if any, referred to in subsection (2) (d) and specified in the notice.

(2) Where it appears to an authorised person that another person—

- (a) has committed, or by virtue of section 38c is guilty of, a parking offence; or
- (b) has committed any prescribed offence under this Act or the regulations,

Forestry (Amendment).

SCHEDULE 7—*continued.*AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

the authorised person may serve a notice on that other person to the effect that, if that other person does not desire to have the matter determined by a court he may, within a time specified in the notice, pay to the commission—

- (c) the amount of penalty prescribed for the offence if dealt with under this section; and
- (d) where the commission has certified an amount under subsection (3), not exceeding the prescribed amount, the amount so certified.

(3) Where it appears to an authorised person that another person has committed an offence referred to in subsection (2) (b) involving the taking or destruction of any timber, products or forest materials, the commission may certify to that authorised person the amount that it determines would have been payable by way of royalty if the timber, products or forest materials had been taken in pursuance of a timber licence, products licence or forest materials licence.

(4) A notice under subsection (2)—

- (a) may be served personally or by post; or
- (b) where the notice relates to a parking offence, may be addressed to the owner of the vehicle to which the parking offence relates without naming him or stating his address and may be served by leaving it on, or attaching it to, the vehicle.

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

(5) A person alleged to have committed an offence referred to in subsection (2) shall not be dealt with under this section if he declines so to be dealt with and, if any such person fails within the time specified in a notice given to him under subsection (2) (or within such further time as, in his case, may have been allowed) to pay the penalty and any royalty so specified he shall be deemed to have declined to be dealt with under this section.

(6) Where the penalty for an offence dealt with under this section and any royalty is or are paid pursuant to this section in respect of an alleged offence—

- (a) no person may be proceeded against for the alleged offence;
- (b) no person may be proceeded against for recovery of the royalty; and
- (c) the payment shall not be construed as an admission of liability for the purpose of, nor, except as provided in paragraph (b), in any way affect or prejudice, any civil claim, action or proceeding arising out of the facts constituting the alleged offence.

(7) The penalty prescribed for an offence dealt with under this section shall not exceed the maximum penalty that might be imposed by a court if the offence were dealt with otherwise than under this section.

*Forestry (Amendment).*SCHEDULE 7—*continued.*AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

(8) Section 30E applies in respect of any royalty paid to the commission pursuant to this section in the same way as it applies in respect of a royalty paid to the commission under section 30c (1).

(9) Nothing in subsection (8) requires the commission, in respect of any royalty paid to it pursuant to this section, to make a payment out of the royalty to the person by whom that royalty is paid.

(10) This section shall be construed as supplementing, and not as derogating from, any other Act in relation to proceedings that may be taken in respect of offences.

(11) Nothing in section 30H or 39 prevents the recovery of any royalty pursuant to this section.

(15) Section 47—

Omit “license”, insert instead “licence”.

(16) Section 48—

After section 47, insert :—

Compensation.

48. (1) In this section, a reference to the conviction of a person includes a reference to the making of an order in respect of a person under section 556A of the Crimes Act 1900.

Payment of
compensa-
tion by
persons
convicted of
offences.

Forestry (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

(2) Where a person is convicted of an offence under this Act or the regulations whereby the commission incurs any charge, cost or expense or which results in or causes loss of or damage to—

(a) any Crown-timber lands or any road, improvement or structure thereon, under the control of or the property of the commission; or

(b) any other property of the commission,

the stipendiary magistrate before whom he was convicted—

(c) shall, where the offence in respect of which he was convicted involved the taking or destruction of any timber, products or forest materials and the commission has certified the amount that it determines would have been payable by way of royalty if the timber, products or forest materials had been taken in pursuance of a timber licence, products licence or forest materials licence, order payment by that person to the commission of that amount; and

(d) may order payment by that person to the commission of such other amount as he thinks fit by way of compensation for any other charge, cost, expense, loss or damage.

(3) Except as provided in subsection (4), an order under subsection (2) (c) or (d) shall be deemed to be a conviction or order whereby a sum of money is adjudged to be paid within the meaning of the Justices Act, 1902.

Forestry (Amendment).

SCHEDULE 7—*continued.*AMENDMENTS TO PART V OF THE FORESTRY ACT, 1916—
continued.

(4) The maximum period for which a person shall be imprisoned and kept in default of payment of a sum ordered to be paid under subsection (2) (c) or (d) or the aggregate of any such sums so ordered to be paid is 4 months.

(5) Where an amount is ordered to be paid to the commission under subsection (2) (c), section 30E applies in respect of the amount in the same way as it applies in respect of a royalty paid to the commission under section 30C (1).

(6) Nothing in subsection (5) requires the commission, in respect of an amount ordered to be paid to it under subsection (2) (c), to make a payment out of the amount to the person by whom that amount was paid.

 SCHEDULE 8.

Sec. 4.

AMENDMENTS TO THE FORESTRY ACT, 1916, BY WAY OF
STATUTE LAW REVISION.

(1) Section 2—

Omit the matter relating to Part II, insert instead :—

PART II.—STATE FORESTS, TIMBER RESERVES AND
FLORA RESERVES.

(2) Section 4, definitions of “The Minister”, “Prescribed”—

Omit the definitions.

Forestry (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO THE FORESTRY ACT, 1916, BY WAY OF
STATUTE LAW REVISION—*continued.*

(3) (a) Section 5 (2) (b)—

Omit “or any Act amending that Act,”.

(b) Section 5 (2) (b)—

Omit “any such Act”, insert instead “that Act”.

(c) Section 5 (8) (a) (ii)—

After “bankrupt,” insert “applies to take the benefit of any law for the relief of bankrupt or insolvent debtors,”.

(d) Section 5 (8) (a) (iv)—

Omit the subparagraph, insert instead :—

(iv) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;

(e) Section 5 (9) (a)—

Omit “the Superannuation Act, 1916, or any Act amending such Acts,”, insert instead “or the Superannuation Act, 1916,”.

(f) Section 5 (9) (a)—

Omit “, or any amendment thereof”.

Forestry (Amendment).

SCHEDULE 8—*continued.*AMENDMENTS TO THE FORESTRY ACT, 1916, BY WAY OF
STATUTE LAW REVISION—*continued.*

- (g) Section 5 (9) (b)—
Omit “or any amendment thereof”.
- (h) Section 5 (9) (b)—
Omit “or any Acts amending such Acts,”.
- (4) Section 8—
Omit “common seal”, insert instead “seal of office”.
- (5) Section 9—
Omit “or any Act amending it,”.
- (6) Section 9A—
Omit “as amended by subsequent Acts,”.
- (7) Section 9B (2)—
Omit “as amended by subsequent Acts,”.
- (8) Section 10 (1)—
Omit “or any Act amending it,”.
- (9) (a) Section 11A (1)—
Omit “Water Conservation and Irrigation Commission”, insert instead “Water Resources Commission”.

Forestry (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO THE FORESTRY ACT, 1916, BY WAY OF
STATUTE LAW REVISION—*continued.*

(b) Section 11A (2)—

Omit “Forestry Commission”, insert instead
“commission”.

(c) Section 11A (4) (a)—

Omit “Water Conservation and Irrigation Com-
mission”, insert instead “Water Resources
Commission”.

(d) Section 11A (4) (b)—

Omit “Water Conservation and Irrigation Com-
mission”, insert instead “Water Resources
Commission”.

(10) Part II, heading—

Omit the heading, insert instead :—

PART II.

STATE FORESTS, TIMBER RESERVES AND FLORA
RESERVES.

(11) Section 15 (2)—

Omit “as subsequently amended,”

(12) Section 16—

Omit “Secretary for Lands”, insert instead “Minister
for Lands”.

Forestry (Amendment).

SCHEDULE 8—*continued.*AMENDMENTS TO THE FORESTRY ACT, 1916, BY WAY OF
STATUTE LAW REVISION—*continued.*

- (13) (a) Section 19 (b)—
Omit “Crown land”, insert instead “Crown lands”.
- (b) Section 19 (b)—
Omit “of 1901”, insert instead “, 1901”.
- (c) Section 19 (b)—
Omit “, or any Act amending them,”.
- (14) Section 19B (1)—
Omit “as subsequently amended,”.
- (15) Section 21—
Omit “and of the Acts amending the same”.
- (16) (a) Section 22—
Omit “Secretary for Lands”, insert instead “Minister for Lands”.
- (b) Section 22—
Omit “Crown land”, insert instead “Crown lands”.
- (c) Section 22—
Omit “of 1901”, insert instead “, 1901”.
- (b) Section 22—
Omit “or any Act amending the same,”.

Forestry (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO THE FORESTRY ACT, 1916, BY WAY OF
STATUTE LAW REVISION—*continued.*

(17) (a) Section 24—

Omit “of 1901”, insert instead “, 1901”.

(b) Section 24—

Omit “or any Act amending the same,”.

(18) Section 25 (1)—

Omit “Secretary for Lands” wherever occurring,
insert instead “Minister for Lands”.

(19) Section 25A (2)—

Omit “Secretary for Lands”, insert instead “Minister
for Lands”.

(20) Section 25c—

Omit “of 1901” wherever occurring, insert instead
“, 1901”.

(21) Section 25i (2) (a) (ii)—

Omit “of 1901”, insert instead “, 1901”.

(22) Section 27 (3) (a) (ii)—

Omit “Mining Act, 1906, or any tenure granted under
that Act”, insert instead “Mining Act, 1973, or the
Coal Mining Act, 1973, or any tenure granted under
either of those Acts”.

Forestry (Amendment).

SCHEDULE 8—*continued.*AMENDMENTS TO THE FORESTRY ACT, 1916, BY WAY OF
STATUTE LAW REVISION—*continued.*

(23) (a) Section 31 (3)—

Omit “Crown land”, insert instead “Crown lands”.

(b) Section 31 (3)—

Omit “Secretary for Lands”, insert instead “Minister for Lands”.

(c) Section 31 (4)—

Omit “of 1901”, insert instead “, 1901”.

(24) (a) Section 33A (1) (a)—

Omit “, as subsequently amended”.

(b) Section 33A (3)—

Omit “as subsequently amended”.

(25) (a) Section 36—

Omit “For the purpose of carrying out the provision aforesaid, every member of the police force and person authorised as aforesaid shall have the same powers as if he were an occupant within the meaning of the Impounding Act, 1898, and the said animals were trespassing on his land.”.

Forestry (Amendment).

SCHEDULE 8—*continued.*

AMENDMENTS TO THE FORESTRY ACT, 1916, BY WAY OF
STATUTE LAW REVISION—*continued.*

(b) Section 36 (2)—

At the end of section 36, insert :—

(2) For the purposes of subsection (1), a member of the police force and a person authorised by the commission under that subsection shall have the same powers as he would have if he were an occupant within the meaning of the Impounding Act, 1898, and the animals were trespassing on his land.

(26) Section 42—

Omit the section, insert instead :—

42. Section 41 of the Interpretation Act, 1897, Publication, etc., of regulations. applies in respect of a regulation as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

(27) Section 43 (1) (a)—

Omit "Crown land", insert instead "Crown lands".

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 20th December, 1978.*

