

FIRST PRINT

## FORESTRY (AMENDMENT) BILL 1992

NEW SOUTH WALES



### EXPLANATORY NOTE

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

The object of this Bill is to amend the Forestry Act 1916 to specify clear objects for that Act and to establish a State Forests Board as the board of management of the Forestry Commission. The Board will be responsible for directing the Commission's operations but is also charged with wider duties in implementing the objects of the Act, with particular emphasis on preserving forests of high conservation value and restricting timber-getting operations in forests to operations that are ecologically sustainable.

The Board is to be required to formulate management plans and pricing policies as public documents.

The Bill provides for the application of a modified version of Part 5 of the Environmental Planning and Assessment Act to logging operations, and provides an avenue for legal action by members of the community to remedy breaches of the Forestry Act.

The Bill also makes a consequential amendment to the Land and Environment Court Act 1979.

---

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on 1 November 1992, except for section 5, which commences on the date of assent.

Clause 3 gives effect to the amendments to the Forestry Act 1916 set out in Schedule 1.

Clause 4 gives effect to the amendment to the Land and Environment Court Act 1979 set out in Schedule 2.

Clause 5 allows the first members of the State Forests Board to be appointed by the Minister, and ancillary matters to be attended to, during the interval between the date of assent to the proposed Act and 1 November 1992.

*Forestry (Amendment) 1992*

---

**SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916****Objects of the Forestry Act**

Schedule 1 (1) inserts a new section 3A, stating the objects of the Forestry Act 1916. The main priority is to achieve ecologically sustainable forest management.

**Establishment of State Forests Board**

Schedule 1 (7) inserts a new Part 7A, which establishes the State Forests Board. The Board is an unincorporated body to which the Forestry Commission is to be responsible in the exercise by the Commission of its powers and functions. It is the Board's task to see that the Commission complies with the objects of the Act. Its annual budget (including the costs of its staff and consultants) is to be funded by 10 per cent of the income derived each year by the Commission. The Board's first task is to examine and assess current policies and practices of the Commission.

A new Fourth Schedule to the Forestry Act (inserted by Schedule 1 (12)) makes further provision with respect to the constitution, membership and procedure of the Board.

**Plans and policies affecting forestry**

The State Forests Board is to formulate and publish forestry management plans and timber pricing policies in accordance with the new Part 1A inserted by Schedule 1 (7). These plans and policies are to be put out to public scrutiny and must be periodically reviewed.

**Scientific committee**

Division 3 of the proposed new Part 1A provides for the establishment of a committee of environmental science experts to oversee forest-based research and assist the board with its work. Public authorities proposing to undertake research relating to forests must submit the terms of reference of any proposed research project to the board for assessment by its scientific committee, which will monitor research undertaken by them.

A new Fifth Schedule to the Forestry Act (inserted by Schedule 1 (12)) makes further provision with respect to the membership and procedure of the committee.

**Environmental impact statements**

A new Part 3A, to be inserted by Schedule 1 (10), provides that proposed logging operations identified by order of the Board must be dealt with according to the procedure set out in Part 5 of the Environmental Planning and Assessment Act 1979, with certain modifications. The modified procedure requires the environmental impact statement relating to the logging proposals to be assessed by the Director of Planning with the assistance of a committee consisting of representatives of scientific groups.

The constitution of the committee is set out in proposed section 30R and a new Sixth Schedule to the Forestry Act (inserted by Schedule 1 (12)) makes further provision with respect to its membership and procedure.

The proposed new Part cannot be applied to logging on private land before 1 August 1993.

*Forestry (Amendment) 1992*

---

**Logging on private land**

A new Part 3B, to be inserted by Schedule 1 (7), requires the Commission's consent to carry out commercial timber-getting on private land. The Commission is to refer applications for its consent to the National Parks and Wildlife Service and the Soil Conservation Service, and may if it so chooses advertise the application and invite public comment.

The new Part takes effect from 1 August 1993.

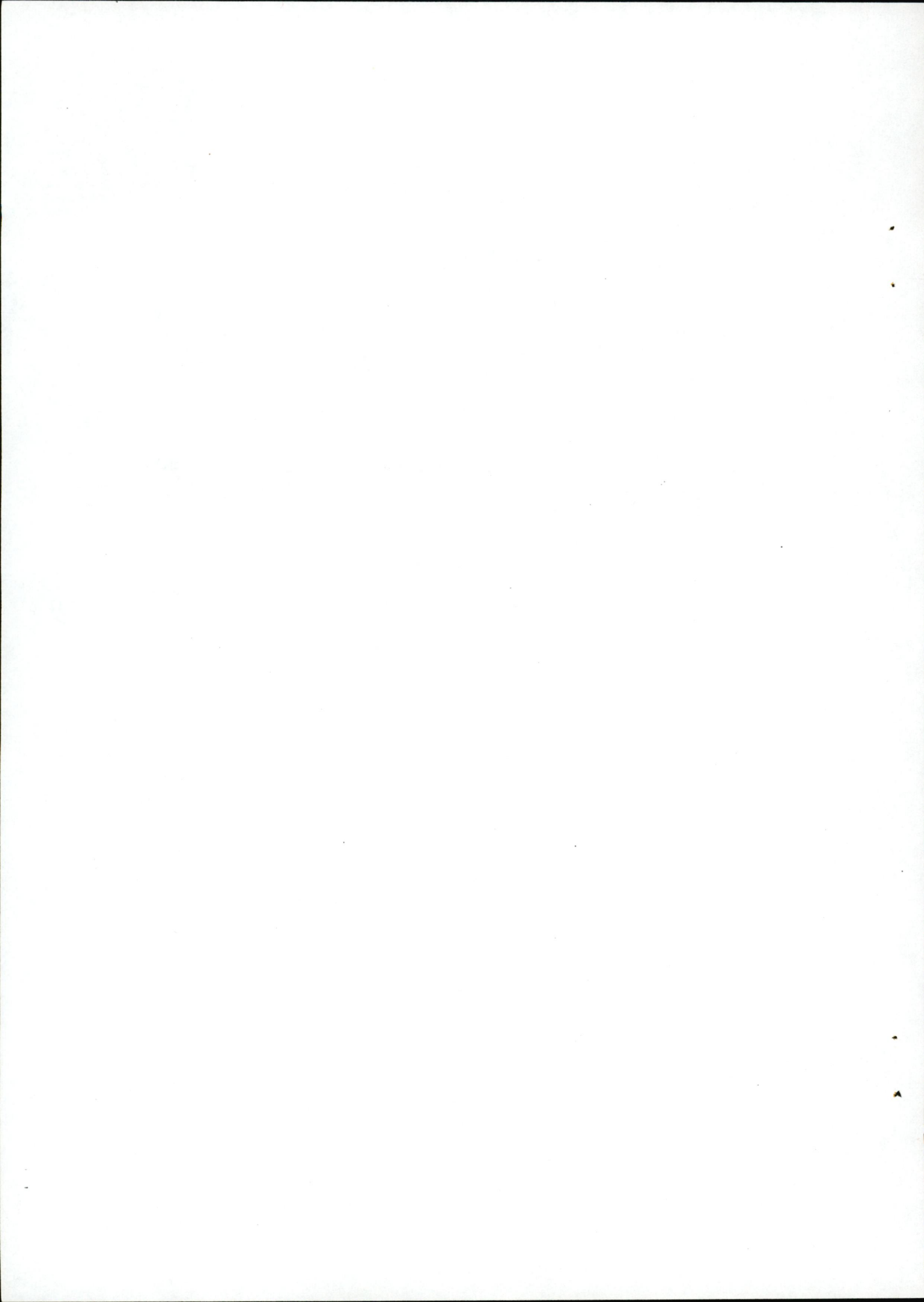
**Action to stop breaches of the Act**

Schedule 1 (11) inserts new sections 39 and 40, which allow action to be taken in the Land and Environment Court by citizens to remedy contraventions of the Forestry Act. The provisions are similar to provisions of the Environmental Planning and Assessment Act 1979 in relation to planning laws.

**SCHEDULE 2—AMENDMENT OF LAND AND ENVIRONMENT COURT  
ACT 1979**

This Schedule contains an amendment consequential on the amendment made by Schedule 1 (11).

---



FIRST PRINT

**FORESTRY (AMENDMENT) BILL 1992**

NEW SOUTH WALES

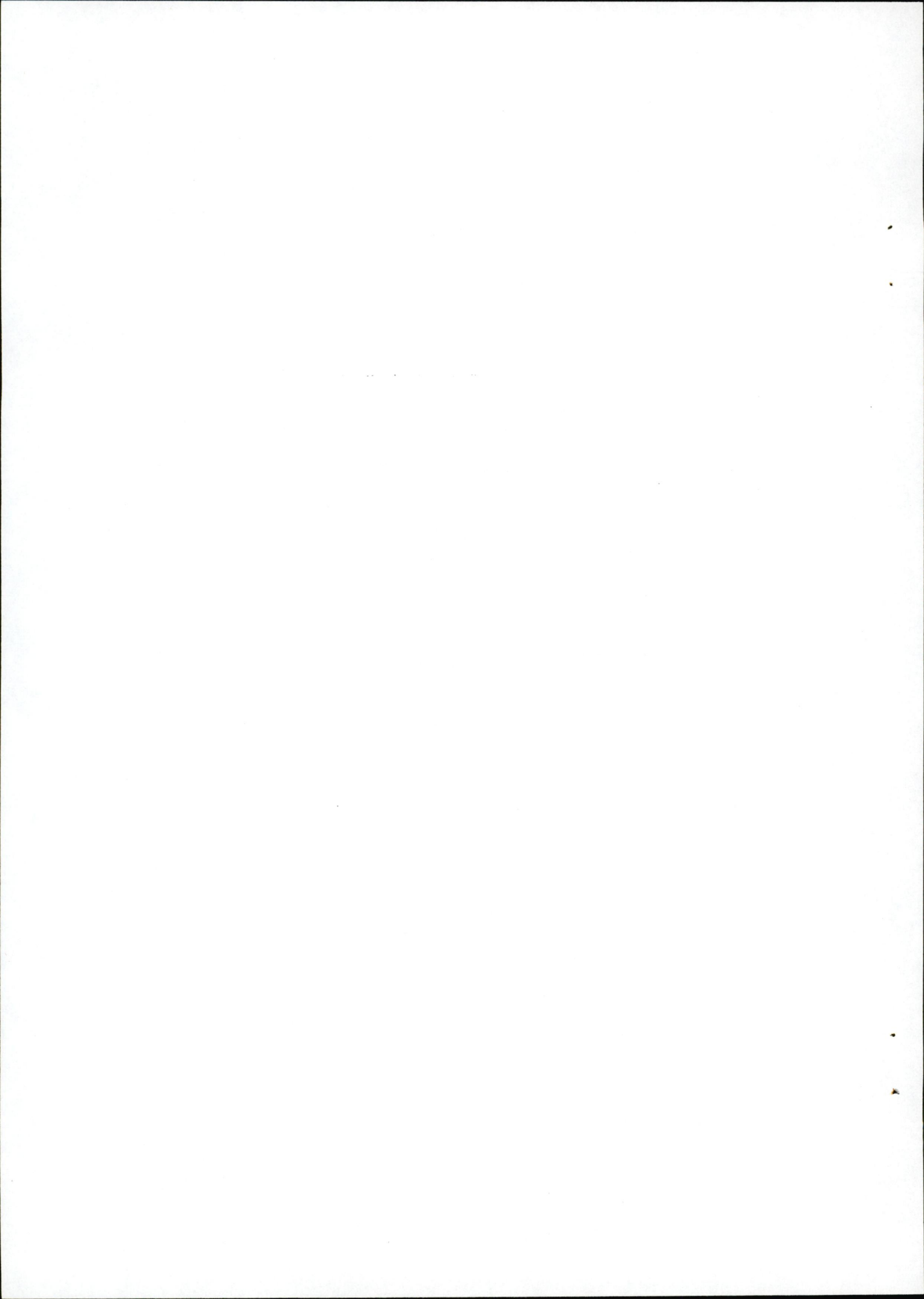


**TABLE OF PROVISIONS**

1. Short title
2. Commencement
3. Amendment of Forestry Act 1916 No. 55
4. Amendment of Land and Environment Court Act 1979 No. 204
5. Transitional provision

SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916  
SCHEDULE 2—AMENDMENTS OF LAND AND ENVIRONMENT COURT ACT  
1979

---



**FORESTRY (AMENDMENT) BILL 1992**

NEW SOUTH WALES



No. , 1992

---

---

**A BILL FOR**

An Act to amend the Forestry Act 1916 to specify appropriate objects for that Act; to establish a State Forests Board and to define its powers and functions; and for other purposes.

---

---

*Forestry (Amendment) 1992***The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the Forestry (Amendment) Act 1992.

**Commencement**

- 5 2. (1) This Act (section 5 excepted) commences on 1 November 1992.  
(2) Section 5 commences on the date of assent.

**Amendment of Forestry Act 1916 No. 55**

3. The Forestry Act 1916 is amended as set out in Schedule 1.

**Amendment of Land and Environment Court Act 1979 No. 204**

- 10 4. The Land and Environment Court Act 1979 is amended as set out in Schedule 2.

**Transitional provision**

- 15 5. At any time after the date of assent to this Act, the Minister may appoint the members of the State Forests Board, the Governor may appoint such officers and other persons as may be necessary to serve it, and such other administrative measures as may be necessary may be taken for the constitution of that board on 1 November 1992, as if this Act had commenced on the date of assent.

**SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916**

20

(Sec. 3)

## (1) Section 3A:

After section 3, insert:

*Objects***Objects**

25

3A. The principal object of this Act is to provide a scheme for forest management based on principles of ecologically sustainable development. Other objects of this Act are:

- (a) to provide for supplies of timber from Crown timber lands; and



*Forestry (Amendment) 1992*

---

SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*

- (b) to provide for a rapid transition from logging forests of high conservation value to plantation and other logging; and 5
- (c) to provide for public access to information concerning forests and forest management; and
- (d) to allow for public participation in decisions affecting forests; and
- (e) to provide control measures for logging on private land. 10
- (2) Section 4 (**Definitions**):
- (a) Insert in alphabetical order:
- “**Board**” means the State Forests Board constituted by this Act. 15
- “**Development**”, in relation to a forest, means the carrying out of work in, over or under the forest.
- “**Ecologically sustainable development**” has the same meaning as under section 6 (2) of the Protection of the Environment Administration Act 1991. 20
- “**Environment**” has the same meaning as in the Protection of the Environment Administration Act 1991.
- “**National park land**” means land reserved or dedicated for any purpose under the National Parks and Wildlife Act 1974. 25
- “**Public authority**” means a public or local authority constituted by or under any Act, a government Department or a statutory body representing the Crown, and includes a person exercising or performing any powers, authorities, duties or functions on behalf of any such authority, Department or body. 30
- (b) At the end of the section, insert:
- (2) For the purposes of this Act, a forest has **high conservation value** if it has any one or more of the following characteristics: 35
- (a) it consists substantially of old growth or undisturbed forest;
- (b) it is the habitat of endangered or vulnerable species of flora or fauna;

*Forestry (Amendment) 1992*


---

 SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*

- 5 (c) it consists of substantially undisturbed catchment;  
 (d) it is a rainforest;  
 (e) it has distinctive scenic value;  
 (f) it is of significance to the Aboriginal heritage;  
 (g) it has other values identified by the National Parks and  
 Wildlife Service or the Australian Heritage  
 Commission as environmental values;  
 10 (h) it consists (or a substantial part of it consists) of lands  
 that the Director of National Parks and Wildlife has  
 identified as wilderness in accordance with the  
 Wilderness Act 1987.

15 (3) Section 8A (**Objects of the commission**):

Omit section 8A and the heading immediately preceding it.

(4) Section 9:

From section 9, omit the paragraph beginning "In the exercise and discharge", insert instead:

- 20 (2) In the exercise and performance of its powers, authorities, duties and functions, whether conferred or imposed on the commission by or under this or any other Act, the commission is to be in all respects (including its control and management of money appropriated for the purposes of this Act) subject to the control and direction of  
 25 the board. In particular, the commission is to provide the board with such reports and information, and is to undergo such review and assessment, as the board may require.

(5) Section 10A (**Delegation**):

After section 10A (6), insert:

- 30 (7) In exercising a delegation under this section, a delegate is to be subject to any direction given to the delegate by the board as to the manner in which any of the delegated powers, authorities, duties and functions should be discharged by the delegate concerned.

*Forestry (Amendment) 1992*


---

 SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*
(6) Section 13 (**Application of money**):

Omit section 13 (1)–(3), insert instead:

(1) There is established in the Special Deposits Account an account to be known as the Forestry Commission Fund, to which all money received by the commission is to be credited. 5

(2) From the Fund, an amount equal to 10 per cent of the gross income of the commission is to be set aside for the use of the board to meet any costs (including the costs of staff salaries and consultants' fees) incurred in the exercise and performance of its powers, authorities, duties and functions. The remainder of the Fund forms part of the Consolidated Fund and is to be applied for the purposes of this Act. 10

(3) All money received by the commission is to be paid into a bank account referred to in section 12. 15

## (7) Part 1A:

After Part 1, insert:

**PART 1A—THE STATE FORESTS BOARD 20****Division 1—Constitution of the board****The board**

14B. (1) There is constituted by this Act a board, to be known as the State Forests Board.

(2) The board is to consist of the following 9 persons: 25

(a) the Commissioner for the time being constituting the commission;

(b) the Director of National Parks and Wildlife;

(c) the Director-General of the Environment Protection Authority; 30

(d) a nominee of the Nature Conservation Council;

(e) a nominee of the Forest Products Association;

(f) a nominee of the Ecological Society of Australia;

(g) a nominee of the National Parks Association;

(h) a nominee of the Wilderness Society; 35

*Forestry (Amendment) 1992*


---

 SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*

5 (i) a person, not being an officer or employee of the commission and not being a member of an organisation or body referred to in this subsection, who in the opinion of the Premier is suitably qualified or experienced in native forest protection and resolution of environmental conflicts.

10 (3) The member referred to in subsection (2) (i) is to be the Chairperson of the board.

(4) The members of the board are to be appointed by the Governor.

(5) The Fourth Schedule has effect in relation to the membership and procedure of the board.

15 **Objects and functions of the board**

14C. (1) The board must endeavour to achieve the objects of this Act. In particular, the board must:

- encourage the reservation of high conservation value forests as national parks; and
- 20 • establish and maintain plantations to provide for the timber needs of the State; and
- encourage the use of timber where that use meets the criteria for ecologically sustainable development.

25 (2) The board must ensure that, in the exercise by the commission of its powers, authorities, duties and functions, the commission's environmental policies, impact statements, pricing policies and scientific research are subject to periodic review by the board and to external audit and assessment and are maintained in a state of consistency with the objects of this Act.

30 (3) The board has such other powers, authorities, duties and functions as are conferred or imposed on it by or under any Act.

**Public information**

35 14D. The board and the commission and, where applicable, their local offices must make available for inspection during office hours (and, at a reasonable cost, provide copies of) the following:

*Forestry (Amendment) 1992*

---

SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*

- harvesting plans and draft harvesting plans for all Crown-timber lands;
  - logging timetables for all Crown-timber lands; 5
  - yield and predicted resources of timber harvesting on Crown-timber lands;
  - timber and sawmill licences and wood supply agreements;
  - management plans (or, where a draft management plan is used as the basis for logging operations, the draft management plan); 10
  - inventories of forestry research projects;
  - environmental reviews prepared for the purposes of section 111 of the Environmental Planning and Assessment Act 1979; 15
  - applications for licences under legislation relating to endangered fauna and flora;
  - applications and decisions concerning logging on private property; 20
  - minutes of board meetings.
- Consultants**
- 14E. The board may engage such consultants as it thinks necessary to assist it in the exercise and performance of its powers, authorities, duties and functions, in addition to any staff appointed under section 10. 25

**Division 2—Plans and policies of the board**

*Review of commission's operations*

**Review of practices and policies**

14F. (1) Within the year commencing on 1 November 1992, the board must review the commission's environmental, conservation, pricing and logging policies and all aspects of its practices. 30

(2) As soon as practicable following the review, the board is to take such action as it considers necessary to improve any such policies and practices, having regard to the objects of this Act. 35

*Forestry (Amendment) 1992*


---

 SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*
**Board to sanction licences and agreements**

5 14G. (1) From 1 November 1992, no timber licence or wood supply agreement is to be made, granted or entered into for a term exceeding 12 months, or for a term that can be extended by the exercise of an option of renewal, without the express consent in writing of the board.

10 (2) A licence or agreement entered into in contravention of this section is void.

*Plans of management and pricing policies***Preparation of transitional plans**

15 14H. (1) For the purposes of this section, one or more forests may be nominated by the National Parks and Wildlife Service or the Australian Heritage Commission as high conservation value forests.

20 (2) Within the period of 12 months following the nomination of a forest for the purposes of this section, the board must prepare and publish in the Gazette a transitional management plan for the forest.

(3) Each such plan must endeavour to:

25 (a) prohibit logging in the forest and provide instead, where necessary, for obtaining a timber harvest by logging in a plantation (or, if it is not practicable to obtain it from a plantation, then by logging in a forest which does not have a high conservation value) or for a reduction in quotas; and

30 (b) minimise any adverse effects of the prohibition of logging (for example, by creating opportunities for alternative employment of any timber workers affected by it).

(4) Any arrangements made by a plan for a plantation or alternative forest to be available for logging must be capable of operating as soon as the prohibition comes into effect.

35 (5) The fact that a transitional management plan has not been prepared in respect of a forest does not, if the forest is a

*Forestry (Amendment) 1992*


---

 SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*

high conservation value forest, preclude the revocation of its dedication for any purpose under this Act and its reservation or dedication for any purpose under the National Parks and Wildlife Act 1974. 5

(6) The succeeding provisions of this Part do not, unless expressly provided, apply to a transitional management plan made under this section. 10

**Review of transitional plans** 10

14I. (1) The board may review and, where necessary, amend a transitional management plan from time to time.

(2) An amendment takes effect on the date of publication of the amendment in the Gazette, or on such later date as may be specified by the terms of the amendment. 15

**Plans and policies**

14J. (1) The board may make and determine such plans (to be known as “forestry management plans”), concerning the impact of timber-getting operations on the environment, and such policies (to be known as “timber pricing policies”) concerning the price of timber, as it thinks fit. 20

(2) A forestry management plan may revoke a transitional management plan prepared under this Division, or may be made in respect of separate subject matter, including any matter that, at the commencement of this Part, was dealt with in an existing plan of management or policy of the commission. 25

(3) Any such plan or policy may amend or revoke a previous plan or policy. 30

**Notice to be given** 30

14K. (1) The board must give public notice, in a form and manner to be determined by it, of its intention to make any forestry management plan or timber pricing policy.

(2) The notice must state that the board will accept submissions concerning the proposed terms of reference and content of the plan or policy up to 28 days after the giving of the notice, and must specify the place to which those submissions should be addressed. 35

*Forestry (Amendment) 1992*


---

 SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*
*Public involvement in plans and policies***Public exhibition of draft plans and policies**

5 14L. (1) When a draft forestry management plan or a draft timber pricing policy has been prepared, the board must:

(a) give public notice (an “**exhibition notice**”), in a form and manner determined by the board, of the places where, and the dates and times when, the draft plan or policy may be inspected by the public; and

10 (b) publicly exhibit the draft plan or policy (together with any supporting documents) at the places, on the dates and during the times set out in the exhibition notice; and

15 (c) specify, in that notice, the period during which submissions may be made to the board in respect of the draft plan or policy; and

20 (d) make available at the place of exhibition copies of the draft plan or policy and its supporting documents for purchase by the public at reasonable cost.

(2) The period of public exhibition must be not less than 56 days. The period that may be fixed by the exhibition notice as the period during which submissions may be made to the board is not to be less than the period of 72 days after the date on which the draft plan or policy is placed on public exhibition.

**Making and consideration of submissions**

30 14M. (1) Any person may, during the period referred to in an exhibition notice, make submissions to the board in writing in respect of the draft plan or policy concerned.

(2) The board must keep a register of all submissions received in due time and make copies of them available for inspection by the public at the place of exhibition.

35 (3) The board must review the draft plan or policy in the light of those submissions, and prepare a final draft of the plan or policy by making any alterations to the exhibited version that it considers necessary in view of the submissions received.



*Forestry (Amendment) 1992*


---

 SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*
**Submission of final draft to other authorities**

14N. (1) The board must provide a copy of the final draft of any of its forestry management plans to the Environment Protection Authority, the National Parks and Wildlife Service and the Soil Conservation Service. 5

(2) If any of those public authorities has any objections to the final draft it must advise the board of them within 28 days after being provided with the copy. Otherwise, it is taken to have approved of the draft. 10

(3) The board is to take all proper steps, including any amendment of the plan, to overcome any objection from any of the public authorities mentioned in this section. Any dispute arising that cannot be resolved between the parties is to be referred to the Premier for resolution. 15

(4) The Premier may resolve any such dispute by whatever means the Premier considers appropriate, and may for that purpose call a public inquiry. 20

**Gazettal of plan or policy**

14O. (1) The board is to publish a forestry management plan or timber pricing policy in the Gazette as soon as practicable after complying with the requirements of this Part. 20

(2) The plan or policy takes effect on the date of its gazettal, or on such later date as may be specified in it. 25

**Variation or rescission of plan or policy**

14P. (1) The board must give notice of its intention to vary or rescind any plan (including any transitional management plan) or policy in force under this Division. 30

(2) In the case of a proposed variation, the board must:

- (a) exhibit a draft of the proposed variation; and
- (b) invite and consider submissions; and
- (c) notify public authorities,

as if the proposed variation were a proposed new plan or policy. 35

*Forestry (Amendment) 1992*

SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*

- (3) In the case of a proposed rescission, the board must:
- 5 (a) invite and consider submissions concerning the proposed rescission in the same way as for a proposed new plan or policy; and
- 10 (b) in the case of a forestry management plan, give special notice to those public authorities to whom final drafts of new forestry management plans are required to be submitted.

*Other requirements***Review of plans and policies**

15 14Q. The board must review each forestry management plan and timber pricing policy made and published under this Division within 5 years after its publication.

**Content of plans and policies**

20 14R. (1) A forestry management plan or timber pricing policy must contain the following:

- a clear description of its objectives;
- 20 • a clear description of the environment to which it relates;
- 25 • an explanation of the relationship between its objectives and that environment, including any cumulative effects anticipated by a plurality of development proposals;
- a clear description of the timber resources in that environment;
- proposals for the amelioration of any adverse environmental or social impact of the policy.

30 (2) The policy must be accompanied by any consultants' reports used in the drafting of the plan or policy. Those reports are to be reproduced without any editing by the commission or the board.

**Public inquiries**

35 14S. The board may at any time hold a public inquiry into any plan or policy it is considering making or any environmental impact statement prepared, or research undertaken, for or on behalf of the commission.

*Forestry (Amendment) 1992*


---

 SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*
**Division 3—Scientific Committee of the board***Scientific Committee***Committee to be established**

5

14T. (1) The board is to establish a Scientific Committee.

(2) The committee is to consist of one nominee from each of the following:

- the commission;
- the National Parks and Wildlife Service;
- the Institute of Foresters;
- the Australian Museum;
- the Ecological Society of Australia;
- the Nature Conservation Council of New South Wales.

10

(3) The Fifth Schedule has effect in relation to the membership and procedure of the committee.

15

**Functions of committee**

14U. (1) The functions of the Scientific Committee are:

- (a) to advise the board of research it considers necessary;  
and
- (b) to maintain a register of research projects, their state of progress and the published reports arising from them;  
and
- (c) to arrange peer review of the reports when in draft form; and
- (d) to ensure prompt publication of the reports when in final form; and
- (e) to supervise, examine and review all research relating to forests that is conducted or commissioned by the commission or any public authority; and
- (f) generally to assist the board by undertaking such scientific research or other projects as the board may require.

20

25

30

(2) The committee is to report directly to the board.

*Forestry (Amendment) 1992*


---

 SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*

5 (3) A public authority must not undertake or commission research relating to forests until the board, on the advice of the committee, has concurred with its proposed terms of reference and (where the research is to be commissioned) with the choice of consultant to carry it out.

10 (4) Each public authority must provide the committee, at intervals of not more than three months, with details of the progress of each current research project it is conducting or has commissioned.

(8) Section 17 (Classification of forest lands):  
Omit section 17 (1).

15 (9) Part 3, heading:  
Omit the heading, insert instead:

**PART 3—TAKING OF TIMBER, PRODUCTS AND MATERIALS FROM CROWN-TIMBER LANDS**

(10) Parts 3A, 3B:  
After Part 3, insert:

20 **PART 3A—APPLICATION OF PART 5 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

**Definition**

25 30M. In this Part:  
“logging operations” means the cutting and removal of timber from land and the provision of access roads necessary to enable or assist the cutting and removal of the timber.

**Operation of this Part**

30 30N. (1) This Part applies to logging operations proposed to be conducted anywhere in the State, subject to the limitations provided by this section.

35 (2) This Part does not apply to logging operations to which, by virtue of their insignificant effect on the environment, Part 5 of the Environmental Planning and Assessment Act 1979 would not apply. For the purposes of

*Forestry (Amendment) 1992*SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*

this subsection, no regard is to be had to any suspension of the provisions of Part 5 of the Environmental Planning and Assessment Act 1979 by the Timber Industry (Interim Protection) Act 1992. 5

(3) This Part does not apply to logging operations to be conducted in any area affected by the Timber Industry (Interim Protection) Act 1992 except to the extent that the board, by order published in the Gazette, declares that it does. 10

(4) An order of the board under subsection (3) takes effect on the date of its publication in the Gazette or on a later date specified in the order.

(5) An order under subsection (3) cannot be made so as to affect any private land (that is, land that is not Crown-timber land) before 1 August 1993. 15

(6) When an order under subsection (3) takes effect, the Timber Industry (Interim Protection) Act 1992 (except in so far as it requires the commission to obtain any environmental impact statement) ceases to apply to proposed logging operations affected by the order. 20

**Logging activities to be subject to Part 5 of the Environmental Planning and Assessment Act 1979**

300. Part 5 of the Environmental Planning and Assessment Act 1979 applies to logging operations to which this Part applies and that are proposed to be carried out or authorised by the commission (or by the commission jointly with some other person or body). The provisions of that Part have effect, however, subject to this Part, and as though: 25 30

(a) the commission were the proponent of all such operations; and

(b) the Minister for Planning, by virtue of the power conferred on that Minister by this Part, were the determining authority or nominated determining authority. 35

**Impact of logging activities to be independently assessed**

30P. (1) The commission must not carry out, or approve or permit, logging operations to which this Part applies to be carried out on any land unless the Minister for Planning 40

*Forestry (Amendment) 1992*


---

 SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*

determines that it may do so. The Minister's determination, and any decision to revoke or vary a condition of the determination, are to be made public.

(2) The Minister for Planning may make such a determination unconditionally or subject to conditions and may revoke or vary any such condition, except as provided by subsection (3).

(3) It is to be a condition of every determination in favour of logging operations to which this Part applies that the operations be subject to a system of periodic review of their environmental impact and public reporting of the outcome of each review. The review procedures are to be established by the Director of Planning as a condition of the determination.

(4) The Minister of Planning is not to make such a determination until the commission has complied with the provisions of Part 5 of the Environmental Planning and Assessment Act 1979 relating to the public exhibition of the environmental impact statement.

(5) Before making such a determination, the Minister is to obtain a report from the Director of Planning, who is to refer the environmental impact statement to the Forest Environmental Impact Statement Assessment Committee established under this Part for assessment.

**Report of the Director of Planning**

30Q. (1) When preparing the required report for the Minister for Planning, the Director of Planning is to take into account the representations of:

- (a) members of the public, in response to the public exhibition of the statement; and
- (b) the Forest Environmental Impact Statement Assessment Committee; and
- (c) the commission; and
- (d) in relation to land proposed to be dedicated or reserved for any purpose under the National Parks and Wildlife Act 1974 or the Wilderness Act 1987, the Director of National Parks and Wildlife.

*Forestry (Amendment) 1992*


---

 SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*

(2) Representations referred to in subsection (1) (b), and a summary of any other representations referred to in subsection (1), are to form part of the Director's report, which is to be made public. 5

**Assessment Committee**

30R. (1) The Director of Planning is to appoint a Forest Environmental Impact Statement Assessment Committee for the purposes of this Part. 10

(2) The committee is to consist of 5 persons, namely:

(a) a nominee of the Australian Museum;

(b) a nominee of the Ecological Society of Australia;

(c) a nominee of the National Herbarium;

(d) a resource economist and a soil conservation expert nominated by a tertiary institution. 15

(3) Nominations may be made from time to time as occasion requires for the purposes of this section.

(4) No member of the committee is to be an officer or employee of the commission. 20

(5) The Sixth Schedule has effect in relation to the membership and procedure of the committee.

**Determination of the Minister for Planning**

30S. (1) In making a determination in accordance with this Part, the Minister for Planning must consider the report of the Director of Planning and the representations of any party that are set out or summarised in it. 25

(2) The determination, when made, operates for the purposes of Part 5 of the Environmental Planning and Assessment Act 1979 as a decision of the appropriate determining authority. 30

**PART 3B—TIMBER LOGGING ON PRIVATE LAND**  
**Application for approval to log**

30T. (1) A person must not, on or after 1 August 1993, carry on a business of extracting timber for sale from land other than Crown-timber land without the consent of the commission. 35

Maximum penalty: 10 penalty units.

*Forestry (Amendment) 1992*SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*

5 (2) An application for the commission's consent must be accompanied by a plan giving full details of the proposed logging.

(3) The application must also be accompanied by:

10 (a) any documentation relating to it which the applicant will be required to provide under other legislation (for example, an environmental impact statement under the Environmental Planning and Assessment Act 1979); and

(b) the fee prescribed by the regulations.

**Notification of application**

15 30U. (1) The commission must notify the Environment Protection Authority, the National Parks and Wildlife Service and the Soil Conservation Service of the application, provide each of those bodies with a copy of the plan and any accompanying documentation and invite them to make submissions in respect of it if they so wish.

20 (2) The commission may also advertise the application publicly in such manner as the board may direct and invite public submissions in respect of it.

**Consideration of application**

25 30V. The commission must consider the application having regard to:

- 30 (a) the objects of this Act; and  
(b) principles of ecologically sustainable development; and  
(c) the provisions of any other relevant legislation; and  
(d) any comments made on the application by the Environment Protection Authority, the National Parks and Wildlife Service, the Soil Conservation Service or the public.

**Determination of application**

35 30W. (1) The commission must determine the application either by consenting to it (either unconditionally or subject to conditions) or by refusing it.

(2) The commission must notify the applicant of its decision and the reasons for it.



*Forestry (Amendment) 1992*


---

 SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*

(3) If the commission received any submission from a public authority or person to whom the application was referred under this Part, it must also notify that public authority or person of the commission's reasons in deciding the application. Notice may be individually given or may be given by publication in a daily newspaper circulating throughout the State.

5

(11) Sections 40, 40A:

10

After section 39, insert:

**Restraint etc. of breaches of this Act**

40. (1) Any person may bring proceedings in the Land and Environment Court for an order to remedy or restrain a breach of this Act, whether or not any right of that person has been or may be infringed by or as a consequence of that breach.

15

(2) Proceedings under this section may be brought by a person on the person's own behalf or on behalf of himself or herself and on behalf of other persons (with their consent), or a body corporate or unincorporated (with the consent of its committee or other controlling or governing body), having like or common interests in those proceedings.

20

(3) Any person on whose behalf proceedings are brought is entitled to contribute to or provide for the payment of the legal costs and expenses incurred by the person bringing the proceedings.

25

**Order of the Land and Environment Court**

40A. (1) Where the Land and Environment Court is satisfied that a breach of this Act has been committed or that a breach of this Act will, unless restrained by order of the Court, be committed, it may make such order as it thinks fit to remedy or restrain the breach.

30

(2) Without limiting the powers of the Land and Environment Court under this section, the Court by order may:

35

(a) if the breach of this Act comprises the carrying out of a work otherwise than in compliance with this Act or the Environmental Planning and Assessment Act 1979—require the cessation of that work; or

40

*Forestry (Amendment) 1992*

SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*

5 (b) if the breach of this Act has the effect of altering the condition or state of any land—require the reinstatement, so far as is practicable, of that land to the condition or state the land was in immediately before the breach was committed.

10 (3) The powers of the Land and Environment Court under this section are in addition to, and do not limit in any way, any other powers of the Court.

(12) Fourth, Fifth and Sixth Schedules:

After the Third Schedule, insert:

15 **FOURTH SCHEDULE—PROVISIONS RELATING  
TO THE MEMBERS AND PROCEDURE OF THE  
BOARD**

(Sec. 14B)

**Chairperson and Deputy Chairperson of the board**

20 1. (1) One of the members of the board (not being the Chairperson) is, in and by his or her instrument of appointment as such a member, or by another instrument executed by the Governor, to be appointed as Deputy Chairperson of the board.

(2) The Governor may remove a member of the board from the office of Chairperson or Deputy Chairperson.

25 (3) A person who is the Chairperson or Deputy Chairperson vacates office as Chairperson or Deputy Chairperson if the person:

- 30 (a) is removed from that office by the Governor; or  
(b) resigns that office by instrument in writing addressed to the Minister; or  
(c) ceases to be a member of the board.

**Acting members and acting Chairperson**

35 2. (1) The Governor may, from time to time, appoint a person to act in the office of a member of the board during the illness or absence of the member, and the person, while so acting, has all the powers, authorities, duties and functions of the member and is taken to be the member.

*Forestry (Amendment) 1992*


---

 SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*

(2) The Deputy Chairperson of the board may act in the office of Chairperson during the illness or absence of the Chairperson, and while so acting has all the powers, authorities, duties and functions of the Chairperson and is taken to be the Chairperson. 5

(3) The Governor may, from time to time, appoint a member of the board to act in the office of Chairperson during the illness or absence of both the Chairperson and Deputy Chairperson, and the member, while so acting, has all the powers, authorities, duties and functions of the Chairperson and is taken to be the Chairperson. 10

(4) A person while acting in the office of a member of the board is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person. 15

(5) The Governor may remove any person from any office to which the person was appointed under this clause. 20

(6) For the purposes of this clause, a vacancy in the office of a member of the board, the Chairperson or the Deputy Chairperson is taken to be an absence from office of the member, Chairperson or Deputy Chairperson. 20

**Terms of office**

3. Subject to this Schedule, a member of the board holds office for such period (not exceeding 5 years) as may be specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment. A member of the board may not hold office for more than 3 consecutive terms. 25 30

**Remuneration**

4. A member of the board is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member. 35

**Vacancy in office of member**

5. (1) The office of a member of the board becomes vacant if the member:

- (a) dies; or

*Forestry (Amendment) 1992*


---

 SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*

- 5 (b) completes a term of office and is not re-appointed; or  
 (c) resigns the office by instrument in writing addressed to the Minister; or  
 (d) is removed from office by the Governor under this clause or under Part 8 of the Public Sector Management Act 1988; or  
 10 (e) is absent from 4 consecutive meetings of the board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for being absent from those meetings; or  
 15 (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or  
 20 (g) becomes a mentally incapacitated person; or  
 (h) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted outside New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.

(2) The Governor may remove a member of the board from office at any time.

30 (3) Without affecting the generality of subclause (2), the Governor may remove from office a member of the board who contravenes the provisions of clause 7.

**Filling of vacancy in office of member**

35 6. If the office of any member of the board becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

**Disclosure of pecuniary interests**

7. (1) A member of the board who has a direct or indirect pecuniary interest:

- 40 (a) in a matter being considered or about to be considered at a meeting of the board; or

*Forestry (Amendment) 1992*


---

 SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*

(b) in a thing being done or about to be done by the board, must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the board. 5

(2) A disclosure by a member of the board at a meeting of the board that the member:

(a) is a member, or is in the employment, of a specified company or other body; or 10

(b) is a partner, or is in the employment, of a specified person; or

(c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under this clause. 15

(3) Particulars of any disclosure made under this clause are to be recorded by the board in a book kept for the purpose and that book is to be open at all reasonable hours to inspection by any person on payment of the fee determined by the board. 20

(4) After a member of the board has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the board otherwise determines: 25

(a) be present during any deliberation of the board with respect to the matter; or

(b) take part in any decision of the board with respect to the matter. 30

(5) For the purposes of the making of a determination by the board under subclause (4), a member of the board who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:

(a) be present during any deliberation of the board for the purpose of making the determination; or 35

(b) take part in the making by the board of the determination.

*Forestry (Amendment) 1992*SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*

(6) A contravention of this clause does not invalidate any decision of the board.

5

(7) A reference in this clause to a meeting of the board includes a reference to a meeting of a committee of the board.

**Effect of certain other Acts**

10

8. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of a member of the board.

(2) If by or under any other Act provision is made:

15

(a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or

(b) prohibiting the person from engaging in employment outside the duties of that office,

20

that provision does not operate to disqualify the person from holding that office and also the office of a member of the board or from accepting and retaining any remuneration payable to the person under this Act as a member of the board.

25

(3) The office of a member of the board is not, for the purposes of any Act, an office or place of profit under the Crown.

**First meeting of board**

9. The Minister, in such manner as the Minister thinks fit, is to call the first meeting of the board within one month after the appointment of its members.

30

**General procedure**

10. The procedure for the calling of meetings of the board and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the board.

*Forestry (Amendment) 1992*


---

 SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*
**Quorum**

11. The quorum for a meeting of the board is 5 members.

5

**Presiding member**

12. (1) The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson or, in the absence of both of them, another member of the board elected to chair the meeting by the members present, is to preside at a meeting of the board.

10

(2) The person presiding at any meeting of the board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

**Voting**

13. A decision supported by a majority of the votes cast at a meeting of the board at which a quorum is present is the decision of the board.

15

**Minutes**

14. The board must cause full and accurate minutes to be kept of the proceedings of each meeting of the board.

20

**Proof of certain matters not required**

15. In any legal proceedings, proof is not required (until evidence is given to the contrary) of:

- (a) the constitution of the board; or
- (b) any resolution of the board; or
- (c) the appointment of, or the holding of office by, any member of the board; or
- (d) the presence of a quorum at any meeting of the board.

25

**FIFTH SCHEDULE—PROVISIONS RELATING TO  
THE MEMBERS OF THE SCIENTIFIC  
COMMITTEE**

30

(Sec. 14T)

**Chairperson of the committee**

1. (1) One of the members of the committee is, in and by his or her instrument of appointment as such a member, or by another instrument executed on behalf of the board, to be appointed as Chairperson of the committee.

35

*Forestry (Amendment) 1992*


---

 SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*

(2) The Chairperson vacates office as Chairperson if the person:

- 5           (a) is removed from that office by the board; or  
             (b) resigns that office by instrument in writing addressed to the board; or  
             (c) ceases to be a member of the committee.

**Acting members and acting Chairperson**

10           2. (1) The board may, from time to time, appoint a person to act in the office of a member of the committee during the illness or absence of the member, and the person, while so acting, has all the powers, authorities, duties and functions of the member and is taken to be the member. The person must,  
 15           however, have been nominated by the same person or body that nominated the member for whom he or she acts.

            (2) The board may, from time to time, appoint a member of the committee to act in the office of Chairperson during the illness or absence of the Chairperson, and the member, while so acting, has all the powers, authorities, duties and functions of the Chairperson and is taken to be the Chairperson.

            (3) A person while acting in the office of a member of the committee is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

            (4) The board may remove any person from any office to which the person was appointed under this clause.

            (5) For the purposes of this clause, a vacancy in the office of a member of the committee or the Chairperson is taken to be an absence from office of the member or Chairperson.

**Terms of office**

30           3. Subject to this Schedule, a member of the committee holds office for such period (not exceeding 5 years) as may be specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment. A  
 35           member of the committee may not hold office for more than 3 consecutive terms.



*Forestry (Amendment) 1992*


---

 SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*
**Remuneration**

4. A member of the committee is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member. 5

**Vacancy in office of member**

5. (1) The office of a member of the committee becomes vacant if the member: 10

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) resigns the office by instrument in writing addressed to the board; or
- (d) is removed from office by the Governor under this clause or under Part 8 of the Public Sector Management Act 1988; or 15
- (e) is absent from 4 consecutive meetings of the committee of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the board for being absent from those meetings; or 20
- (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or 25
- (g) becomes a mentally incapacitated person; or 30
- (h) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted outside New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable. 35

(2) The board may remove a member of the committee from office at any time.

(3) Without affecting the generality of subclause (2), the board may remove from office a member of the committee who contravenes the provisions of clause 7. 40

*Forestry (Amendment) 1992*


---

 SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*
**Filling of vacancy in office of member**

5           6. If the office of any member of the committee becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

**Disclosure of pecuniary interests**

10           7. (1) A member of the committee who has a direct or indirect pecuniary interest:

- (a) in a matter being considered or about to be considered at a meeting of the committee; or
- (b) in a thing being done or about to be done by the committee,

15           must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the committee.

(2) A disclosure by a member of the committee at a meeting of the committee that the member:

- 20           (a) is a member, or is in the employment, of a specified company or other body; or
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

25           is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under this clause.

30           (3) Particulars of any disclosure made under this clause are to be recorded by the committee in a book kept for the purpose and that book is to be open at all reasonable hours to inspection by any person on payment of the fee determined by the committee.

35           (4) After a member of the committee has disclosed the nature of an interest in any matter, the member must not, unless the board or the committee otherwise determines:

*Forestry (Amendment) 1992*


---

 SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*

- (a) be present during any deliberation of the committee with respect to the matter; or
- (b) take part in any decision of the committee with respect to the matter.

5

(5) For the purposes of the making of a determination by the committee under subclause (4), a member of the committee who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:

10

- (a) be present during any deliberation of the committee for the purpose of making the determination; or
- (b) take part in the making by the committee of the determination.

(6) A contravention of this clause does not invalidate any decision of the committee.

15

(7) A reference in this clause to a meeting of the committee includes a reference to a meeting of a committee of the committee.

**Effect of certain other Acts**

20

8. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of a member of the committee.

(2) If by or under any other Act provision is made:

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
- (b) prohibiting the person from engaging in employment outside the duties of that office,

25

that provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member of the committee.

30

(3) The office of a member of the committee is not, for the purposes of any Act, an office or place of profit under the Crown.

35

*Forestry (Amendment) 1992*


---

 SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*
**First meeting of committee**

5 9. The board, in such manner as it thinks fit, is to call the first meeting of the committee within one month after the appointment of its members.

**General procedure**

10 10. The procedure for the calling of meetings of the committee and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the committee.

**Quorum**

15 11. The quorum for a meeting of the committee is 4 members.

**Presiding member**

20 12. (1) The Chairperson or, in the absence of the Chairperson, another member of the committee elected to chair the meeting by the members present, is to preside at a meeting of the committee.

(2) The person presiding at any meeting of the committee has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

**Voting**

25 13. A decision supported by a majority of the votes cast at a meeting of the committee at which a quorum is present is the decision of the committee.

**Minutes**

30 14. The committee must cause full and accurate minutes to be kept of the proceedings of each meeting of the committee.

**Proof of certain matters not required**

15. In any legal proceedings, proof is not required (until evidence is given to the contrary) of:

- (a) the constitution of the committee; or
- (b) any resolution of the committee; or
- 35 (c) the appointment of, or the holding of office by, any member of the committee; or
- (d) the presence of a quorum at any meeting of the committee.

*Forestry (Amendment) 1992*


---

 SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*
**SIXTH SCHEDULE—PROVISIONS RELATING TO  
 THE MEMBERS AND PROCEDURE OF THE  
 FOREST ENVIRONMENTAL IMPACT STATEMENT  
 ASSESSMENT COMMITTEE**

5

(Sec. 30R)

**Chairperson of the committee**

1. (1) One of the members of the committee is, in and by his or her instrument of appointment as such a member, or by another instrument executed by the Director of Planning, to be appointed as Chairperson of the committee.

10

(2) The Chairperson vacates office as Chairperson if the person:

- (a) is removed from that office by the Director of Planning; or
- (b) resigns that office by instrument in writing addressed to the Director of Planning; or
- (c) ceases to be a member of the committee.

15

**Acting members and acting Chairperson**

20

2. (1) The Director of Planning may, from time to time, appoint a person to act in the office of a member of the committee during the illness or absence of the member, and the person, while so acting, has all the powers, authorities, duties and functions of the member and is taken to be the member.

25

(2) The Director of Planning may, from time to time, appoint a member of the committee to act in the office of Chairperson during the illness or absence of the Chairperson, and the member, while so acting, has all the powers, authorities, duties and functions of the Chairperson and is taken to be the Chairperson.

30

(3) A person while acting in the office of a member of the committee is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

35

(4) The Director of Planning may remove any person from any office to which the person was appointed under this clause.

*Forestry (Amendment) 1992*


---

 SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*

5 (5) For the purposes of this clause, a vacancy in the office of a member of the committee or the Chairperson is taken to be an absence from office of the member or Chairperson.

**Terms of office**

10 3. Subject to this Schedule, a member of the committee holds office for such period (not exceeding 5 years) as may be specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment. A member of the committee may not hold office for more than 3 consecutive terms.

**Remuneration**

15 4. A member of the committee is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

**Vacancy in office of member**

20 5. (1) The office of a member of the committee becomes vacant if the member:

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) resigns the office by instrument in writing addressed to the Director of Planning; or
- 25 (d) is removed from office by the Director of Planning under this clause or under Part 8 of the Public Sector Management Act 1988; or
- (e) is absent from 4 consecutive meetings of the committee of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Director of Planning or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Director of Planning for being absent from those meetings; or
- 30 (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- 35 or
- 40

*Forestry (Amendment) 1992*


---

 SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*

- (g) becomes a mentally incapacitated person; or  
 (h) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted outside New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable. 5

(2) The Director of Planning may remove a member of the committee from office at any time. 10

(3) Without affecting the generality of subclause (2), the Director of Planning may remove from office a member of the committee who contravenes the provisions of clause 7.

**Filling of vacancy in office of member**

6. If the office of any member of the committee becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy. 15

**Disclosure of pecuniary interests**

7. (1) A member of the committee who has a direct or indirect pecuniary interest: 20

- (a) in a matter being considered or about to be considered at a meeting of the committee; or  
 (b) in a thing being done or about to be done by the committee,

must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the committee. 25

(2) A disclosure by a member of the committee at a meeting of the committee that the member:

- (a) is a member, or is in the employment, of a specified company or other body; or 30  
 (b) is a partner, or is in the employment, of a specified person; or

(c) has some other specified interest relating to a specified company or other body or to a specified person, 35

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under this clause.

*Forestry (Amendment) 1992*


---

 SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*

5 (3) Particulars of any disclosure made under this clause are to be recorded by the committee in a book kept for the purpose and that book is to be open at all reasonable hours to inspection by any person on payment of the fee determined by the committee.

10 (4) After a member of the committee has disclosed the nature of an interest in any matter, the member must not, unless the Director of Planning or the committee otherwise determines:

- 15 (a) be present during any deliberation of the committee with respect to the matter; or  
 (b) take part in any decision of the committee with respect to the matter.

20 (5) For the purposes of the making of a determination by the committee under subclause (4), a member of the committee who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:

- (a) be present during any deliberation of the committee for the purpose of making the determination; or  
 (b) take part in the making by the committee of the determination.

25 (6) A contravention of this clause does not invalidate any decision of the committee.

(7) A reference in this clause to a meeting of the committee includes a reference to a meeting of a committee of the committee.

**Effect of certain other Acts**

30 8. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of a member of the committee.

- (2) If by or under any other Act provision is made:  
 35 (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or  
 (b) prohibiting the person from engaging in employment outside the duties of that office,



*Forestry (Amendment) 1992*


---

 SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—  
*continued*

that provision does not operate to disqualify the person from holding that office and also the office of a member of the committee or from accepting and retaining any remuneration payable to the person under this Act as a member of the committee. 5

(3) The office of a member of the committee is not, for the purposes of any Act, an office or place of profit under the Crown. 10

**First meeting of committee**

9. The Director of Planning, in such manner as the Director of Planning thinks fit, is to call the first meeting of the committee within one month after the appointment of its members. 15

**General procedure**

10. The procedure for the calling of meetings of the committee and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the committee. 20

**Quorum**

11. The quorum for a meeting of the committee is 3 members.

**Presiding member**

12. (1) The Chairperson or, in the absence of the Chairperson, another member of the committee elected to chair the meeting by the members present, is to preside at a meeting of the committee. 25

(2) The person presiding at any meeting of the committee has a deliberative vote and, in the event of an equality of votes, has a second or casting vote. 30

**Voting**

13. A decision supported by a majority of the votes cast at a meeting of the committee at which a quorum is present is the decision of the committee. 35

**Minutes**

14. The committee must cause full and accurate minutes to be kept of the proceedings of each meeting of the committee.

*Forestry (Amendment) 1992*

---

**SCHEDULE 1—AMENDMENT OF FORESTRY ACT 1916—**  
*continued*

**Proof of certain matters not required**

- 5           15. In any legal proceedings, proof is not required (until  
evidence is given to the contrary) of:
- (a) the constitution of the committee; or
  - (b) any resolution of the committee; or
  - (c) the appointment of, or the holding of office by, any  
10           member of the committee; or
  - (d) the presence of a quorum at any meeting of the  
committee.

**SCHEDULE 2—AMENDMENT OF LAND AND  
ENVIRONMENT COURT ACT 1979**

(Sec. 4)

- 15           Section 20 (Class 4—environmental planning and protection  
civil enforcement):

Before section 4 (1) (e), insert:

- (dd) proceedings under section 40 of the Forestry Act 1916;
-