



ANALYSIS

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1983, No. 136

An Act to amend the Forests Act 1949

[16 December 1983]

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

1. Short Title—This Act may be cited as the Forests Amendment Act 1983, and shall be read together with and deemed part of the Forests Act 1949 (hereinafter referred to as the principal Act).

2. Interpretation—(1) Section 2 of the principal Act is hereby amended by inserting, after the definition of the expression “Minister”, the following definition:

“‘Organism’ means a living animal or plant; and includes any micro-organism not classifiable as either but having the properties of living matter:”.

(2) Section 69 (1) of the principal Act (as amended by section 5 (a) of the Forests Amendment Act 1953) is hereby amended by omitting the words “insect, fungus, bacterium, or virus in any of the life stages of those organisms” in both places where they occur, and substituting in each case the word “organism”.

(3) Section 70 of the principal Act is hereby amended by omitting from subsection (3) (as substituted by section 6 of the

Forests Amendment Act 1967) the words “fungus, bacterium, or virus, or any living stage of any invertebrate animal”, and substituting the word “organism”.

3. Control of injurious importations and exportations—

Section 69 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Subject to section 71B of this Act, any officer authorised in that behalf by the Minister may at any time—

“(a) Enter any land, premises, vehicle, conveyance, ship, aircraft, or drilling rig for the purpose of inspecting any tree, tree seed, timber, or timber product; and

“(b) Search therein for any tree, tree seed, timber, or timber product; and

“(c) Examine and carry out any tests on and remove, treat, disinfect, destroy, or otherwise dispose of any sample of any tree, tree seed, timber, or timber product found therein.”

4. Regulations as to control and eradication of diseases affecting trees, etc.—Section 70 (2) of the principal Act is hereby amended by adding the following paragraphs:

“(f) Subject to section 71B of this Act, authorising Forest Officers to enter any land or premises to inspect and, if necessary, remove any document, where that document may contain information which would assist in the location of forest produce affected by disease or likely to be affected by disease, for the purpose of making a copy thereof, and return the document to the person entitled thereto:

“(g) Authorising Forest Officers to destroy trees, tree seed, timber, forests, forest products, buildings or other structures, debris from tree felling operations, or the refuse from sawmilling operations, in any case where destruction is necessary to eradicate or prevent the outbreak or possible outbreak or spread or possible spread of any disease.”

5. Regulations as to establishment and powers of Timber Preservation Authority—(1) The principal Act is hereby amended by inserting, after section 71, the following section:

“71A. (1) The Governor-General may from time to time make regulations constituting an authority with power to authorise, specify, control, and enforce by prosecution or other means

standards, methods, materials, and equipment for the preservative treatment of timber and of the produce of trees and other plants.

“(2) Without limiting the general power conferred by subsection (1) of this section, it is hereby declared that regulations may be made under this section for the purpose of empowering an authority constituted under regulations made under this section for all or any of the following purposes:

“(a) Prescribing requirements with regard to the condition of timber and produce of trees and other plants, and the manner in which it is stored and seasoned, before it is treated:

“(b) Licensing persons, plants, and equipment used for carrying out the preservative treatment of timber and the produce of trees and other plants:

“(c) Requiring any person engaged in timber preservation or carrying on any timber preservation operation to cease operation and to cease to sell or dispose of timber unless he is the holder of a current licence, authorisation, or approval granted by the Authority:

“(d) Controlling the description of, or any representations as to whether, timber or the produce of trees or other plants has been preserved or treated in any manner:

“(e) Requiring persons owning or in possession of timber not suitable for preservative treatment to inform the Authority or its officers as to its disposal:

“(f) Subject to section 71B of this Act, authorising officers of the Authority to enter any land or premises connected in any way with timber preservation and—

“(i) Inspect and remove any document for the purpose of making a copy thereof and return the document to the person entitled thereto:

“(ii) Carry out tests and remove from the land or premises for testing purposes any material relating to timber, timber products, or timber preservation:

“(g) Keeping the public informed on timber preservation matters generally and, in particular, the dangers of using untreated or inadequately treated timber for inappropriate purposes.”

(2) The principal Act is hereby consequentially amended—

(a) By inserting in section 15 (4B) (as added by section 5 (6) of the *Forests Amendment Act 1976*), after the expression “section 72 (1) (ua)”, the expression “or 71A”:

- (b) By repealing section 72 (1) (ua) (as inserted by section 2 (1) of the Forests Amendment Act 1972):
- (c) By inserting in section 72 (4) (as added by section 10 (1) of the Fees and Travelling Allowances Act 1951 and amended by section 2 (2) of the Forests Amendment Act 1972), after the words “under paragraph (ua) of subsection (1) of this section”, the words “or section 71A of this Act”.

(3) The Forests Amendment Act 1972 is hereby consequentially amended by repealing section 2 (1).

6. Restrictions on exercise of power of entry—(1) The principal Act is hereby amended by inserting, after section 71A (as inserted by section 5 of this Act), the following section:

“71B. (1) Notwithstanding any other provision of this Act but subject to subsection (2) of this section, any provision in this Act or any regulations made under this Act giving any person the power to enter any land or premises (except for State forest land), vehicle, conveyance, ship, vessel, aircraft, railway, or drilling rig without the consent of the owner or occupier shall be subject to the following conditions:

- “(a) Entry shall only be made by the person or class of persons specified in the relevant provision or any member of the Police authorised by the person or a member of that class of persons:
- “(b) Reasonable notice of the intention to enter shall be given unless the giving of the notice would defeat the purpose of the entry:
- “(c) Entry shall be made at times reasonable in the circumstances:
- “(d) The person entering shall carry a warrant of authority or be working under the direction of a person holding such authority which shall be produced on initial entry and, if requested, at any subsequent time:
- “(e) Entry—
 - “(i) Into any dwellinghouse; and
 - “(ii) On to any land or into any premises, vehicle, conveyance, ship, vessel, aircraft, railway, or drilling rig to obtain evidence of an offence—shall be made following application in writing on oath by an authorised person to a District Court

Judge, Justice of the Peace, or Registrar or Deputy Registrar of any Court, who, if he has reason to believe that entry is necessary, may issue a warrant directed to the authorised person by name directing him to enter for the stated purpose:

“(f) Every person shall have the same privileges in relation to—

“(i) The production to an authorised person of any books, accounts, vouchers, records, or documents; and

“(ii) The furnishing to any authorised person of any information or particulars; and

“(iii) The answering of any questions put by any authorised person under this Act—
as witnesses have in Courts of law.

“(2) The conditions specified in subsection (1) of this section, other than that specified in paragraph (a) of that subsection, shall not apply in circumstances where there are reasonable grounds to believe—

“(a) That there is an immediate danger to life or property; or

“(b) That immediate entry is necessary to contain, eradicate, or prevent—

“(i) The outbreak or spread of disease (as defined in section 70 (3) of this Act); or

“(ii) Fire,—
in order to avert serious damage to or destruction of any forest or forest produce:

“(c) That something which appears to have the characteristics of a disease (as defined in the said section 70 (3)) is discovered and must be investigated immediately as its ability to spread and the danger it poses to forests or forest produce are unknown.”

(2) The principal Act is hereby consequentially amended—

(a) By inserting in section 42 (1), before the words “Any Forest Officer”, the words “Subject to section 71B of this Act,”:

(b) By inserting in section 43 (1), after the words “for that purpose may”, the words “, subject to section 71B of this Act,”:

(c) By inserting in section 43 (2), before the words “While any forest produce”, the words “Subject to section 71B of this Act,”.

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

“(w) Prescribing offences for the breach of any regulations under this Act, or of the conditions of any licence, lease, permit, or other authority under this Act and for the breach of any requirement or specification of any authority constituted under regulations made under section 71A of this Act, and prescribing, on summary conviction,—

“(i) In the case of an individual, a term of imprisonment not exceeding one month, or a fine not exceeding \$500, and, if the offence is a continuing one, a further fine not exceeding \$50 for every day during which the offence continues, or to both such imprisonment and fine:

“(ii) In the case of a body corporate, a fine not exceeding \$3,000, and, if the offence is a continuing one, a further fine not exceeding \$300 for every day during which the offence continues.”.

8. Validation—(1) Any regulations made under the principal Act before the passing of this Act which would have been valid if section 5 of this Act had been in force when the regulations were made are hereby validated and declared to have been lawfully made.

(2) Nothing in subsection (1) of this section shall affect any proceedings taken before or after the commencement of this Act in respect of an offence committed before the commencement of this Act.