**FORESTRY (ABOLITION OF BOARD) AMENDMENT BILL 1994**

**Legislative Council, 4 May 1994, pages 739-41**

Second reading

Received from the House of Assembly and read a first time.

**The Hon. K.T. GRIFFIN (Attorney-General):** I move: That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in Hansard without my reading it. Leave granted.

The Forestry Act 1950 is the Act under which the activities of the former Woods and Forests Department were administered.

Prior to October 1992 the Woods and Forests Department was responsible for the establishment and management of the State’s forestry resource and the operation of three sawmills in the southeast of South Australia.

In July 1992, the Government of the day announced a proposal whereby the sawmilling activities of the former Woods and Forests Department would be amalgamated with those of the South Australian Timber Corporation to form a single, commercially oriented, business operation.

This decision was implemented on the 1 October 1992. A proclamation was made purporting to dissolve the Minister of Forests as a body corporate and vesting its assets and liabilities in the Minister of Primary Industries. A further proclamation committed the administration of the Forestry Act to the Minister of Primary Industries.

Concerns were raised as to the validity of the proclamation to dissolve the body corporate and subsequent advice from the Crown Solicitor indicated that the proclamation of the 1 October 1992 was ineffective, as abolition of the body corporate can only be effected by an Act of Parliament.

The advice from the Crown Solicitor at that time also recommended that, in the interests of more efficient administration, several other amendments to the Act were desirable.

The proposal now before the House seeks to address these and other matters; major amendments being:

 Section 3(3) currently allows the Governor to vary or revoke a proclamation declaring Crown lands to be forest reserve. Such a proclamation is subject to disallowance by Parliament if it has the effect of removing land from a forest reserve, and cannot come into operation until the period for disallowance elapses— sometimes a considerable period of time.

To enable more appropriate and efficient management of the forest reserves, it is proposed that variation or revocation of previous proclamations of land used for "commercial" plantation forests be effective upon proclamation.

However, to protect the environmental heritage of the State, it is intended that any proposal to revoke or vary proclamations declaring land to be Native Forest Reserve will remain subject to disallowance by either House of Parliament.

Officers of the Forestry Group of Primary Industries are currently preparing management plans for a number of areas which are to be declared as Native Forest Reserves. The provision creating the Minister of Forests as a body corporate will be repealed. It is proposed that the Forestry Board be abolished. In recent years the Board’s role in forestry activities has been minimal as the strategies, policies, practices and procedures for the management of forests are well established.

The Board has not met during the last 12 months and, at its last meeting, supported its abolition subject to appropriate consultative mechanisms being put in place when it is considered necessary to seek additional advice. The Act does not empower the Minister to enter into joint ventures, or hold shares in companies, involved in the sale of trees and forest produce.

Indeed, the shares in Forwood Products Pty. Ltd., the company established to operate the sawmilling operations of the South Australian Timber Corporation and the former Woods and Forests Department, are held by the South Australian Timber Corporation due to this lack of legal capacity.

It is proposed that the Act be amended to give this power to the Minister. The other proposed amendments are cosmetic and are intended to remove archaic terminology and unnecessary requirements.

I commend this Bill to the honourable members.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement Clauses 1 and 2 are formal.

Clause 3: Amendment of s. 2—Interpretation. Clause 3 makes a number of amendments to the definitions contained in subsection 2(1) of the principal Act to reflect the abolition of the Woods and Forests Department and the Forestry Board. The definition of "the board" is struck out and a definition of "Chief Executive Officer", which refers to the person for the time being holding or acting in the office of Chief Executive Officer of the administrative unit responsible for the administration of the Act, is substituted. The definition of "the Director", which refers to the Director of the Woods and Forests Department, is struck out.

A new definition of "forest warden" is substituted to include all members of the police force as well as persons appointed as forest wardens under the principal Act.

The definition of "the Minister", which refers to the Minister of Forests, is struck out.

Subsection 2(2) of the principal Act is consequentially amended to remove the reference to the Director and substitute a reference to the Chief Executive Officer.

Clause 4: Amendment of s. 3—Forest reserves and native forest reserves. Clause 4 substitutes a new subsection (4) in section 3 of the principal Act. New subsection (4) provides that whenever, by proclamation, land which constitutes the whole or part of a native forest reserve would cease to be such a reserve or within such a reserve a copy of the proclamation and a statement of the reasons for the proclamation must be laid before both Houses of Parliament.

Clause 5: Repeal of ss. 4, 5, 6 and 7. Clause 5 repeals sections 4, 5, 6 and 7 of the principal Act. Sections 4, 5 and 7, which deal, respectively, with administration of the Act by the Minister, incorporation of the Minister and the appointment of officers for the administration of the Act, are either obsolete or unnecessary. Section 6 is repealed to effect the abolition of the Forestry Board.

Clause 6: Substitution of s. 8. Clause 6 substitutes a new section 8 in the principal Act which provides for the delegation of powers by the Minister and the Chief Executive Officer.

Clause 7: Amendment of s. 8a—Forest wardens. Clause 7 amends section 8a of the principal Act, by striking out subsection (5), to avoid repetition of the matters included in the new definition of "forest warden".

Clause 8: Substitution of s. 8b. Clause 8 substitutes a new section 8b in the principal Act, providing for the issue of identity cards to persons appointed by the Minister to be forest wardens under the Act.

Clause 9: Amendment of s. 8c—Powers of forest warden. Clause 9 substitutes divisional penalty provisions in those subsections of section 8c which create the offences of failing to comply with requirements of, hindering, abusing, threatening or insulting and assaulting a forest warden. The new penalty provisions impose a division 7 fine in respect of all offences except the offence of assaulting a forest warden which would incur a division 5 fine or division 5 imprisonment.

Clause 10: Amendment of s. 8e—False representation. Clause 10 amends the penalty provision of section 8e of the principal Act to provide for a division 7 fine or division 7 imprisonment.

Clause 11: Insertion of s. 8f. Clause 11 inserts a new section 8f into the principal Act. Subsection (1) of new section 8f provides for immunity from liability for forest wardens, and persons assisting forest wardens, for acts or omissions in good faith and in the exercise or discharge, or purported exercise or discharge, of powers or functions under the Act. Subsection (2) provides that a liability that would, but for subsection (1), lie against a forest warden lies instead against the Crown.

Clause 12: Amendment of s. 10—Leases of forest reserves. Clause 12 amends section 10 of the principal Act by striking out the passage in subsection (1) which refers to the need for a recommendation of the board for the Minister to grant a lease, and conferring power on the Minister to grant a lease on such terms and conditions as the Minister thinks fit. Subsection (2) is struck out.

Clause 13: Substitution of s. 11. Clause 13 substitutes a new section 11 in the principal Act. New section 11 gives the Minister power to grant licences and other interests in relation to forest reserves, on such terms and conditions as the Minister thinks fit.

Clause 14: Amendment of s. 12—Planting and milling of timber. Clause 14 amends section 12 of the principal Act by striking out the passage in paragraph (c) which refers to the need for a recommendation of the board for the Minister to establish, maintain and operate mills.

Clause 15: Substitution of s. 13. Clause 15 substitutes a new section 13 in the principal Act, dealing with the sale of timber from forests. New section 13 provides, in subsection (1), that the Minister may sell or otherwise dispose of trees or timber produced in forests under the Minister’s control, or any mill products from the treatment of those trees or timber. Subsection (2), however, provides that this power may not be exercised except on recommendation of the Chief Executive Officer. Subsection (3) then provides that before making any such recommendation the Chief Executive Officer must consult with a person who is a corporate member, or who is eligible to be a corporate member, of the Institute of Foresters of Australia Incorporated and who has, in the Chief Executive Officer’s opinion, appropriate expertise, on the question of whether trees or timber from the forest can, or should, be made available for sale.

Clause 16: Repeal of s. 15. Clause 16 repeals section 15 of the principal Act, which deals with the sale of electricity generated at mills operated under the Act.

Clause 17: Amendment of s. 16—Ancillary powers of Minister. Clause 17 amends section 16(1) of the principal Act which specifies the ancillary powers of the Minister. The current paragraph (c) is struck out and new paragraphs (c), (d) and (e) are substituted. New paragraph (c) provides that the Minister may form bodies corporate, or acquire, hold, deal with and dispose of shares or other interests in, or securities issued by, a body corporate. New paragraph (d) gives the Minister power to enter into partnerships and joint ventures. New paragraph (e) is a general power to enter into such other arrangements as are necessary or expedient. Clause 18: Amendment of s. 18—Injury to forest reserves

Clause 18 amends section 18 of the principal Act to remove the reference to the board contained in subsection (1) and to provide a division 7 fine or division 7 imprisonment for the offence created by this subsection.

Clause 19: Amendment of s. 19—Technical advice and assistance. Clause 19 amends section 19 of the principal Act to remove the reference to the board and to the Director.

Clause 20: Repeal of s. 20. Clause 20 repeals section 20 of the principal Act, which provides that proceedings for all offences are to be disposed of summarily.

Clause 21: Amendment of s. 21—Regulations. Clause 21 amends section 21 of the principal Act by striking out paragraph (c) and substituting a new paragraph (c) which expresses the maximum fine which may be prescribed by the regulations as a division 9 fine.

Clause 22: Transitional provision. This clause declares that the assets and liabilities of the Minister of Forests are vested in the Minister.

Schedule This is a statute law revision schedule to amend various provisions of the Act. None of the amendments are substantive; they merely serve to bring the language of the Act into line with modern drafting style.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.