

**AUSTRALIAN PINES AND PRODUCTS  
AFFORESTATION CONTRACTS ACT.**

**Elizabeth II** An Act to make provision for facilitating the realization and development by Australian Pines and Products Limited of certain forestry lands and plantations and the produce thereof; and for purposes connected therewith. [Assented to, 24th November, 1966.]

**WHEREAS**

**W**HEREAS Australian Pines and Products Limited incorporated in New South Wales and having its registered office at 247 George Street, Sydney (hereinafter referred to as "the Company") acquired certain lands at Port Stephens in the said State more particularly described as Woodlands No. 1 Plantation being the whole of the land in the Certificates of Title Vol. 5259 Fol. 142 Vol. 5484 Fol. 78 and Vol. 6659 Fol. 101 for the purpose of making and maintaining plantations of trees thereon intended to be used for commercial purposes AND WHEREAS the Company has from time to time entered into contracts for the sale of subdivisional allotments of the said lands to various persons in New South Wales and elsewhere whereby the Company agreed with the various purchasers to plant tend and cultivate trees on the land included in the agreement and in due course to harvest and realize the same for commercial purposes and divide the proceeds between the Company and the purchaser in the proportions stated in such agreement and to transfer to the purchaser the fee simple in the said land AND WHEREAS large areas of the said lands have from time to time been planted with trees and are still being improved and maintained pursuant to the said contracts AND WHEREAS in all cases the whole of the purchase money has been paid by the respective purchasers AND WHEREAS the Company holds for its own benefit certain areas of the said land AND WHEREAS it has become impracticable to carry out the said contracts according to the terms and conditions thereof and it is expedient that provision should be made for the modification thereof as hereinafter provided :—

**Elizabeth II**  
Preamble.

**B**E it therefore 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 :—

1. This Act may be cited as the "Australian Pines and Products Afforestation Contracts Act, 1966".

2.

**Elizabeth II**  
 Interpretation.

**2.** In this Act unless inconsistent with the context or subject-matter—

“Afforestation contract.”

“Afforestation contract” means any existing agreement for sale of land subject to this Act made by the Company with any person at any time prior to the commencement of this Act whereby the Company agreed to plant tend and cultivate trees on the land included in the agreement and in due course to harvest and realize the same for commercial purposes and divide the proceeds between the Company and the purchaser in the proportions stated in such agreement and to transfer to the purchaser the fee simple in the said land.

“Company.”

“Company” means the Australian Pines and Products Limited.

“Company’s afforested acres.”

“Company’s afforested acres” means so much of the land subject to this Act as has been planted with trees tended and cultivated for its own benefit amounting to two hundred and three acres.

“Purchaser.”

“Purchaser” means a purchaser under an afforestation contract or any person claiming through or under him either at law or in equity, and “purchase money” means the purchase money payable by the purchaser under an afforestation contract.

“Purchase money.”

“Stock Unit.”

“Stock unit” means one six thousand and forty-seventh part of the total assets of the Company as is held in trust for the purchasers pursuant to section four of this Act, and “Stockholder” means a registered holder of a stock unit.

“Stockholder.”

Commencement.

**3.** This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Government Gazette.

4. As on and from three months after the commencement of this Act and notwithstanding any provision in an afforestation contract or in the memorandum or articles of association of the Company or any other Act to the contrary the following real and personal property shall be held by a trustee appointed by the Company and approved by the Minister or, where no trustee is so appointed and approved, appointed by the Supreme Court or a judge thereof in trust for all purchasers and for the Company as to the Company's afforested acres in manner hereinafter provided : —

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Vesting of  
real and  
personal  
property in  
trustee.

(a) All land in Certificates of Title Vol. 5259 Fol. 142 Vol. 5484 Fol. 78 and Vol. 6659 Fol. 101 acquired by the Company for afforestation purposes and whether included in any afforestation contract or not except—

(i) any parcel of land at any time prior to the expiration of three months after the commencement of this Act transferred or conveyed in fee simple by the Company to any purchaser or by his direction and any parcel of land the subject of an application for subdivision for the purpose of transfer provided that such application be approved within three months after the commencement of this Act;

(ii) any parcel of land not planted and land on which buildings or mills are now or hereafter erected;

(iii) any land used for access or subdivision roads; and

(b) All trees timber and the produce and products of the trees and timber grown upon any land referred to in paragraph (a) of this section and not excepted under subparagraphs (i) (ii) and (iii) thereof.

**Elizabeth II** 5. (1) The Company shall issue—

Issue of  
stock  
units.

(a) to every purchaser one stock unit for each acre in respect of which the purchaser has entered into an afforestation contract with the Company and the same shall be accepted by the purchaser in full satisfaction and discharge of all his right title and interest under any such contract without prejudice to any right which the Company may have under the terms of any such contract to enter upon the land comprised therein for the purpose of performing its obligations to the purchaser as provided in this Act;

(b) to the Company itself one stock unit in respect of each of the Company's afforested acres.

(2) The stock units shall be issued within six months from the date of commencement of this Act.

Stock unit  
certificate.

First  
Schedule.

6. To every purchaser and to the Company the Company shall issue a stock unit certificate in the form set out in the First Schedule to this Act. Where the address of the purchaser is not known such certificates shall be issued to the trustee under this Act.

Register of  
stockholders.

7. The Company shall from time to time cause the names and last known addresses of stockholders with the number of stock units to which they are respectively entitled to be entered in a register to be kept for the purpose at the registered office of the Company and called "Register of Stockholders" and such register shall be accessible at all reasonable times to any stockholders. The surnames or corporate names of the stockholders shall be entered therein in alphabetical order.

Stock units  
in name  
of deceased  
purchaser.

8. If any purchaser (not being a joint purchaser with any other) be dead at the date of the issue of stock units his name may be entered in the register for such stock units as it would  
have

have been if he had been then alive and his executors or administrators may upon application to the Company become registered as the stockholders in respect of such stock units as such executors or administrators.

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**9.** A stock unit certificate shall be admitted in all courts as prima facie evidence of the title of such stockholder his executors administrators or assigns to the number of stock units therein specified subject to the conditions appearing thereon.

Certificate to be evidence.

**10.** A stock unit certificate registered in the names of two or more persons shall be delivered to the person first named in the register.

Two or more stockholders.

**11.** The several stockholders may transfer one or more of their stock units by a transfer in the form set forth in the Second Schedule to this Act or as near thereto as circumstances will admit.

Right to transfer stock units. Second Schedule.

**12.** The said transfer (when duly executed) shall, together with the stock unit certificate relating to the stock units covered by the said transfer be delivered to the secretary of the Company to be kept by him and the secretary shall enter a memorial of the said transfer in a register to be called "Register of Transfers" and shall endorse such entry on the instrument of transfer.

Registration of transfer.

Where all the stock units to which a stock unit certificate relates—

- (a) are transferred by the said transfer the secretary shall on demand deliver a new stock unit certificate for such stock units to the transferee;

(b)

**Elizabeth II** (b) are not transferred by the said transfer the secretary shall deliver a new stock unit certificate for the stock units which are so transferred to the transferee and a new stock unit certificate for the stock units which are not so transferred to the stockholder of such stock units.

Until the said transfer has been so delivered to the secretary the person to whom stock units are thereby transferred shall not be entitled to receive any distribution declared in respect of the stock units thereby transferred.

**Registered holder.** **Joint stockholders.** **13.** Save as in this Act otherwise provided the Company shall be entitled to treat the registered holder of any stock units as the absolute owner thereof and in case of the death of any one or more joint registered stockholders the Company will recognize only the survivor or survivors as the absolute owner or owners thereof and accordingly shall not except as ordered by a court of competent jurisdiction be bound to recognize any equitable or other claim to or interest in such stock units on the part of any other person.

Unless otherwise inconsistent with this Act the provisions of the Companies Act, 1961, or any Act amending or replacing that Act, relating to the transmission of shares shall apply, mutatis mutandis, to and in respect of the transmission of stock units.

**Defaced or lost certificate.** **14.** If any stock unit certificate be worn out or defaced then upon production thereof to the directors they may order the same to be cancelled and may issue a new stock unit certificate in lieu thereof; and if the directors are satisfied that any stock unit certificate has been lost or destroyed then on such indemnity as the directors deem adequate being given a new stock unit certificate in lieu thereof shall be given to the party entitled to such lost or destroyed certificate.

15. Any one of several persons who are registered as the joint stockholders of any stock units may give effectual receipts for any distribution and payments on account of distribution in respect of such stock units.

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Receipt by  
joint  
stockholders.

16. Unless otherwise directed by the trustee any distribution may be paid by cheque or warrant sent through the post to the registered address of the stockholders or in the case of joint stockholders to the registered address of that one whose name stands first on the register in respect of the joint stockholders; and every cheque or warrant so sent shall be made payable to the order of the person to whom it is sent.

Payment of  
distribution.

17. Notice of the declaration of any distribution shall be given to the stockholder and to the trustee in manner hereinafter provided.

Notice of  
distribution.

18. The trustee appointed under this Act shall have such rights powers duties and remuneration as shall be set out in the deed of appointment approved under this Act.

Trustee.

19. Until harvesting first commences the Company at its own expense shall—

Obligation of  
Company to  
cultivate and  
maintain  
plantations.

- (a) tend cultivate and maintain under properly qualified supervision all the lands held by the trustee under section four hereof;
- (b) take all such measures and precautions as shall be reasonably necessary or expedient for the protection and safety and cultivation of the said lands;
- (c) pay all municipal or shire rates and charges and any land tax payable with respect to such lands.

20.



**Elizabeth II**  
 Obligation of  
 Company to  
 harvest, mill  
 and realize  
 timber.

**20.** (1) The Company shall in due course harvest the timber grown on such lands and market and realize the same for the trustee at such time or times and in such manner as the Company in its discretion thinks proper and may provide out of its own funds and credits all such mills buildings wharves boats railways plant and other assets now owned or hereafter acquired by the Company as may be deemed by it necessary for the efficient harvesting milling marketing and realization of the said timber or may arrange by contract or otherwise for any harvesting milling marketing and realization of the said timber.

(2) The Company shall be entitled to retain for its own use in each financial year an amount equal to seven and one half per centum of the gross proceeds of the realization of the said timber and ten per centum on the total of the value at the close of such financial year of all such assets provided by the Company for the purposes of the said harvesting milling marketing and realization. The value of the said assets shall be taken at their cost to the Company including transportation and erection costs less any depreciation and amortisation in relation thereto referable to any prior financial year whilst such assets are or have been the property of the Company.

Accounts to  
 be kept.

**21.** The Company shall cause true accounts to be kept of the sums of money expended by the Company in the harvesting milling marketing and realization of the timber and of all moneys received from such realization and the matters in respect of which such expenditure and receipt take place and of all sales of the said lands and the produce therefrom made by the Company. The books of account shall be kept at the registered office of the Company or at such other place or places as the directors of the Company think fit.

Annual  
 profit  
 and loss  
 account.

**22.** Once at least in every year the Company shall cause to be prepared a profit and loss account of the matters aforesaid made up to a date not more than six months before the  
 preparation

preparation of the same from the date up to which the last preceding account was made up and in the case of the first account from the date of the commencement of this Act. Such account shall disclose the amount available for distribution among the stockholders. Every such account shall be signed by two directors and countersigned by the secretary. The Company shall from time to time distribute to the stockholders or the trustee for the stockholders the net profits disclosed by the profit and loss account.

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23. A printed copy of every profit and loss account shall be—
- (a) furnished to the trustee within seven days after its publication;
  - (b) filed in the office of the Registrar of Companies within twenty-one days after its publication;
  - (c) available for inspection at the registered office of the Company during ordinary business hours by any stockholder or his nominee.

Account to be sent to trustee and filed.

24. (1) The trustee may from time to time sell and convert into money the lands held by him in trust for stockholders pursuant to this Act.
- (2) The net proceeds of any such land so sold shall be divisible from time to time among all the stockholders in proportion to the number of stock units held by them respectively and the trustee shall pay to each stockholder his due proportion thereof.

Conversion by the trustee of lands held for stockholders into cash and distribution of proceeds.

25. Once at least in every year the accounts aforesaid shall be examined and the correctness of the profit and loss account aforesaid ascertained and certified by a duly qualified auditor to be appointed by the trustee.

Audit of accounts.

**Australian Pines and Products Afforestation Contracts Act.**

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Service of notices.

**26.** A notice may be served by the Company upon any registered stockholder either personally or by sending it through the post in a prepaid letter envelope or wrapper addressed to such stockholder at his registered place of address and with respect to any stock unit to which persons are jointly entitled notice to whichever of such persons is named first in the register shall be sufficient notice to all such persons.

Determination of questions relating to trust created by this Act by Supreme Court.

**27.** The Company, the trustee or any stockholder may at any time and from time to time apply to the Supreme Court or a judge thereof for the determination of any question which may arise in relation to the trust created by this Act and the Supreme Court or a judge thereof may make all such orders and give all such directions as the Court or a judge thereof may deem necessary or expedient for the purpose of carrying out such trust or protecting the rights and interest of stockholders. The powers hereby conferred upon the Court or a judge thereof shall be in addition to and not in substitution for any power vested in it or him under the Trustee Act, 1925, or otherwise.

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**SCHEDULES.**

**Sec. 6.**

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**FIRST SCHEDULE.**

**AUSTRALIAN PINES AND PRODUCTS LIMITED.**

No.

This is to certify that A.B. of ..... is the registered holder of..... stock units (fully paid) of the abovenamed Company subject to the provisions of the Australian Pines and Products Afforestation Contracts Act, 1966.

Seal of the Company.

Given under the Common Seal of the Company this ..... day of ....., 19 .

**THE**

**Australian Pines and Products Afforestation Contracts Act.**

THE COMMON SEAL of the Company was hereunto affixed in the presence of— Elizabeth II

..... } Directors.  
..... }  
..... Secretary.

NOTE.—No transfer of the stock units comprised in this certificate will be registered until this certificate is delivered up at the Company's office.

SECOND SCHEDULE.

Sec. 11.

AUSTRALIAN PINES AND PRODUCTS LIMITED.

I, ..... of .....  
being the registered holder of ..... stock units  
numbered ..... of the Australian Pines  
and Products Limited in consideration of .....dollars  
paid to me by ..... of .....

hereinafter called "the transferee" do hereby transfer to the transferee the said stock units to hold unto the transferee his executors administrators and assigns subject to the several conditions on which I held the same immediately before the execution hereof; and I the transferee do hereby agree to take the said stock units subject to the conditions aforesaid.

As witness our hands the ..... day of ..... 19....

Witness ..... Transferor .....

Witness ..... Transferee .....

