

PAPUA NEW GUINEA.

Forest Industries Council Ordinance 1973.

No. 68 of 1973.

ARRANGEMENT OF SECTIONS.

PART I.—PRELIMINARY.

1. Short title.
2. Commencement.
3. Parts.
4. Definitions.
 - "Committee".
 - "forest industries".
 - "major forest products".
 - "major forest products operator".
 - "marketing".
 - "member".
 - "recognized association".
 - "registered major forest products operator".
 - "the Chairman".
 - "the Council".
 - "the Executive Committee".
 - "the Forest Industries Association".
 - "the Forestry Ordinance".
 - "the Regulations".
 - "this Ordinance".
5. Declaration of major forest products.

PART II.—CONSTITUTION, ETC. OF THE COUNCIL.

Division 1.—General.

6. Establishment of the Council.
7. Constitution of the Council.
8. Vacation of office of members of the Council.
9. Meetings of the Council.
10. Special meetings of the Council.
11. Delegation by the Council.

Division 2.—The Executive Committee.

12. Constitution, etc., of the Executive Committee of the Council.
13. Powers and functions of the Executive Committee.
14. Meetings of the Executive Committee.

PRICE 15c.

ARRANGEMENT OF SECTIONS—*continued.*

Division 3.—Finance.

15. Application of the Public Bodies (Financial Administration) Ordinance.
16. Security for repayment of advances and loans.
17. Winding up.

Division 4.—Staff.

18. Appointment of officers.
19. Temporary and casual employees.

PART III.—POWERS AND FUNCTIONS OF THE COUNCIL.

Division 1.—General.

20. General powers and functions of the Council.
21. Additional powers of the Council.

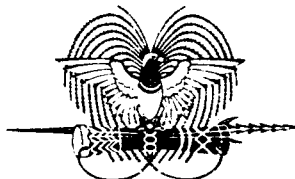
Division 2.—Registration and levy.

22. Registration of major forest products operators.
23. Offences.
24. Forfeiture.
25. Distinguishing marks.
26. Levy.

PART IV.—MISCELLANEOUS.

27. Appointment of agents.
28. Indemnity of members of the Council, etc.
29. Application of Forestry Ordinance.
30. Regulations.

PAPUA NEW GUINEA.



No. 68 of 1973.

AN ORDINANCE

To establish a Forest Industries Council of Papua New Guinea for the promotion of the interests of forest industries in Papua New Guinea.

[Assented to 12th October, 1973]

BE it ordained by the House of Assembly, in pursuance of the powers conferred by the *Papua New Guinea Act 1949-1973*, as follows:—

PART I.—PRELIMINARY.

1. SHORT TITLE.

This Ordinance may be cited as the *Forest Industries Council Ordinance 1973*.

2. COMMENCEMENT.

This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. PARTS.

This Ordinance is divided into Parts, as follows:—

PART I.—PRELIMINARY (Sections 1-5).

PART II.—CONSTITUTION, ETC., OF THE COUNCIL.

Division 1.—General (Sections 6-11).

Division 2.—The Executive Committee (Sections 12-14).

Division 3.—Finance (Sections 15-17).

Division 4.—Staff (Sections 18-19).

PART III.—POWERS AND FUNCTIONS OF THE COUNCIL.

Division 1.—General (Sections 20-21).

Division 2.—Registration and Levy (Sections 22-26).

PART IV.—MISCELLANEOUS (Sections 27-30).

4. DEFINITIONS.

In this Ordinance, unless the contrary intention appears—

“Committee” means the Executive Committee;

“forest industries” means the major forest products industries;

“major forest products” means logs (other than firewood), sawn timber, plywood, veneer, wood chips or a major forest product declared under Section 5 of this Ordinance;

“major forest products operator” means a person engaged in the logging, sawing, milling or marketing of major forest products;

“marketing” means trading in locally-produced major forest products;

“member” means a member of the Council and includes the Chairman and the Deputy Chairman;

“recognized association” means a body, corporate or unincorporate, associated with a forest industry of Papua New Guinea and declared by the Administrator, by notice in the *Gazette*, upon the recommendation of the Council, to be a recognized association for the purposes of this Ordinance;

“registered major forest products operator” means a person registered as a major forest products operator under this Ordinance;

“the Chairman” means the Chairman of the Council and includes the Deputy Chairman acting in his place;

“the Council” means the Forest Industries Council of Papua New Guinea established by this Ordinance;

“the Executive Committee” means the Executive Committee of the Council established under this Ordinance;

“the Forest Industries Association” means the Papua New Guinea Forest Industries Association;

“the Forestry Ordinance”—

(a) in relation to the Territory of Papua, means the *Forestry Ordinance* 1936-1937, of the Territory of New Guinea in its application to that Territory; and

(b) in relation to the Territory of New Guinea, means the *Forestry Ordinance* 1936-1971 of that Territory.

“the Regulations” means the regulations made under this Ordinance;

“this Ordinance” includes the Regulations.

5. DECLARATION OF MAJOR FOREST PRODUCTS.

The Administrator may, by notice in the *Gazette*, declare a tree or plant, or a part or product of a tree or plant, to be a major forest product for the purposes of this Ordinance.

PART II.—CONSTITUTION, ETC. OF THE COUNCIL.

Division 1.—General.

6. ESTABLISHMENT OF THE COUNCIL.

(1) For the purposes of this Ordinance, there shall be a Forest Industries Council of Papua New Guinea.

(2) The Council—

- (a) is a body corporate, with perpetual succession; and
- (b) shall have a common seal; and
- (c) may acquire, hold or dispose of real and personal property; and
- (d) may sue and be sued in its own name.

(3) All courts, Judges and persons acting judicially shall take judicial notice of the seal of the Council affixed to a document, and shall presume that it was duly affixed.

7. CONSTITUTION OF THE COUNCIL.

(1) The Council shall consist of—

- (a) six persons appointed from a panel of names submitted by the Forest Industries Association as the representative of the forest industries in Papua New Guinea; and
- (b) four other persons, one of whom shall be a representative of the major forest products operators referred to in Subsection (2) of Section 23 of this Ordinance.

(2) The members of the Council—

- (a) shall be appointed by the Administrator by notice in the *Gazette*; and
- (b) hold office for a term of three years; and
- (c) are eligible for re-appointment.

(3) The members shall, from among their own number, elect a Chairman and a Deputy Chairman.

(4) If the Administrator is not satisfied that there are on a panel of names submitted to him in accordance with paragraph (a) of Subsection (1) of this section the names of a sufficient number of persons suitable for appointment, the Administrator may request the Forest Industries Association to submit a further name or further names.

(5) In the event of a failure on the part of the Forest Industries Association to submit a panel of names in accordance with paragraph (a) of Subsection (1) of this section, within what, in the opinion of the Administrator, is a reasonable period after being requested by him so to do, the Administrator may appoint the necessary number of persons.

(6) In the event of the illness, absence from Papua New Guinea or inability to act of the Chairman, the Deputy Chairman has and may exercise all the powers and functions of the Chairman.

(7) The Chairman and members of the Council shall be paid by the Council such remuneration (if any) as the Administrator determines.

8. VACATION OF OFFICE OF MEMBERS OF THE COUNCIL.

(1) If a member of the Council—

- (a) becomes permanently incapable of performing his duties; or

- (b) becomes bankrupt or insolvent, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration or allowances for their benefit; or
 - (c) resigns his office by writing under his hand addressed to the Administrator, the Administrator shall terminate his appointment.
- (2) If a member of the Council is absent, except on leave granted by the Council, from three consecutive meetings (other than special meetings) of the Council, the Administrator may terminate his appointment.

9. MEETINGS OF THE COUNCIL.

- (1) The Chairman shall preside at all meetings of the Council.
- (2) The Council shall meet at such times and places as the Chairman determines, but so that the period between any two successive meetings does not exceed six months.
- (3) Subject to Section 10 of this Ordinance, the Chairman shall give all members at least seven days notice of a meeting of the Council.
- (4) At a meeting of the Council the Chairman or the Deputy Chairman and four other members form a quorum.
- (5) All questions at a meeting of the Council shall be decided by a majority of the votes of the members present at the meeting.
- (6) The Chairman has a deliberative vote and also, in the event of an equality of votes on a matter, a casting vote.
- (7) The Council shall keep a record of its proceedings.
- (8) Subject to this Ordinance, the procedures of the Council are as determined by the Council.

10. SPECIAL MEETINGS OF THE COUNCIL.

- (1) Any three members of the Council may, by notice in writing signed by them, request the Chairman to call a special meeting of the Council for the purposes specified in the notice.
- (2) The Chairman shall, as soon as practicable after receiving a notice under Subsection (1) of this section, summon a special meeting for the purposes specified in the notice.
- (3) A special meeting shall consider only such business as is specified in the notice under Subsection (1) of this section.

11. DELEGATION BY THE COUNCIL.

- (1) The Council may, by writing under its seal, delegate to a person or to the Executive Committee, any of its powers and functions (except this power of delegation) in relation to any matter or class of matters, or in relation to any part of Papua New Guinea, so that the delegated powers and functions may be exercised and performed by the delegate as fully and effectively as by the Council concerning the matter or class of matters specified or the part of Papua New Guinea defined in the instrument of delegation.
- (2) A delegation under this section is revocable, in writing, at will, and no delegation prevents the exercise or performance of a power or function by the Council.

Division 2.—The Executive Committee.

12. CONSTITUTION, ETC., OF THE EXECUTIVE COMMITTEE OF THE COUNCIL.

- (1) There shall be an Executive Committee of the Council consisting of—
 - (a) the Chairman; and

(b) two of the members referred to in paragraph (a) of Subsection (1) of Section 7 of this Ordinance, elected by the Council; and

(c) one of the members referred to in paragraph (b) of Subsection (1) of Section 7 of this Ordinance, elected by the Council.

(2) Two members of the Council shall be appointed by the Council as deputy members of the Executive Committee.

(3) In the event of a member of the Executive Committee being unable, due to illness, absence from Papua New Guinea, or any other cause to act as a member of the Committee, a deputy member appointed under Subsection (2) of this section (and in the event of both deputy members being available, the deputy member nominated by the Chairman) has and may exercise all powers and functions of that member.

(4) The Executive Committee may co-opt any member of the Council to attend such meetings of the Committee as the Committee determines.

(5) A member co-opted under Subsection (4) of this section is not entitled to vote and shall not be counted for the purposes of a quorum.

(6) A member of the Executive Committee and a member co-opted under Subsection (4) of this section shall be paid by the Council such remuneration (if any) as the Administrator determines.

13. POWERS AND FUNCTIONS OF THE EXECUTIVE COMMITTEE.

The Executive Committee has such powers and functions as are delegated by the Council under Section 11 of this Ordinance and in addition may, and shall if directed by the Council, consider any matter related to forest industries and tender advice thereon to the Council.

14. MEETINGS OF THE EXECUTIVE COMMITTEE.

(1) The Executive Committee shall meet at such times and places as the Council or the Chairman determines.

(2) The Chairman shall preside at all meetings of the Executive Committee at which he is present, and in his absence from a meeting a member elected by members present from among their own number shall preside.

(3) At a meeting of the Executive Committee three members form a quorum.

(4) All questions at a meeting of the Executive Committee shall be decided by a majority of the votes of the members present at the meeting.

(5) The person presiding at a meeting of the Executive Committee has a deliberative vote and also, in the event of an equality of votes on a matter, a casting vote.

(6) The Executive Committee shall keep a record of its proceedings.

(7) Subject to this Ordinance, the procedures of the Executive Committee are as determined by the Committee.

Division 3.—Finance.

15. APPLICATION OF THE PUBLIC BODIES (FINANCIAL ADMINISTRATION) ORDINANCE.

(1) Subject to Subsection (2) of this section, the *Public Bodies (Financial Administration) Ordinance* 1969-1970 applies to and in relation to the Council.

(2) Sections 13, 15 and 16 of the *Public Bodies (Financial Administration) Ordinance* 1969-1970 do not apply to or in relation to the Council.

16. SECURITY FOR REPAYMENT OF ADVANCES AND LOANS.

For the purpose of securing repayment of a loan or advance referred to in Sections 9, 10 or 11 of the *Public Bodies (Financial Administration) Ordinance 1969-1970*, the Council may give a legal security over its assets, or any of them, including any major forest products which have been purchased by the Council.

17. WINDING UP.

Upon the cessation of the operation of the Council and the winding up of its affairs, any surplus moneys of the Council (including moneys representing proceeds of the realization of its assets) shall be applied for the benefit of forest industries in Papua New Guinea in such manner as the Administrator in Council determines.

*Division 4.—Staff.***18. APPOINTMENT OF OFFICERS.**

(1) The Council may appoint such officers as are necessary for the purposes of this Ordinance.

(2) Subject to this Division and to the Regulations, officers hold office on such terms and conditions as the Council determines.

(3) If an officer appointed under this section is an officer of the Public Service, his service as an officer of the Council shall be counted as service in the Public Service for the purpose of determining his rights (if any) in respect of—

(a) leave of absence on the grounds of illness; and

(b) long leave, furlough or pay in lieu thereof (including pay to dependants or personal representatives on the death of an officer).

(4) The provisions of Section 109 of the *Public Service (Papua New Guinea) Ordinance 1963-1972* apply in relation to an office under this section as if it had been specifically included in that section.

19. TEMPORARY AND CASUAL EMPLOYEES.

(1) The Council may appoint such temporary and casual employees as are necessary for the purposes of this Ordinance.

(2) Employees so appointed shall be employed on such terms and conditions as the Council determines.

PART III.—POWERS AND FUNCTIONS OF THE COUNCIL.*Division 1.—General.***20. GENERAL POWERS AND FUNCTIONS OF THE COUNCIL.**

(1) Subject to this Ordinance, the Council may, subject to any directions of the Administrator and for the purposes of promoting the development of forest industries in Papua New Guinea.

(a) engage in activities, either on its own behalf or in collaboration with any person or authority which, in the opinion of the Council, are likely to promote forest industries, or to stimulate the use of Papua New Guinean major forest products; and

(b) do those things necessary to assist the product marketing of the persons referred to paragraph (a) of Subsection (2) of Section 23 of this Ordinance; and

(c) formulate, in conjunction with the Department of Forests, standards and methods of grading for the marketing of major forest products; and

- (d) inquire into and report on such matters relating to forest industries as are referred to it by the Administrator, the Forest Industries Association, or a recognized association; and
- (e) do all things which it is required by this Ordinance to do or which are necessary or convenient to be done by the Council for giving effect to, or for the performance of its functions under, this Ordinance.

(2) The Council shall, subject to any directions of the Administrator, exercise its powers and functions under this Ordinance in such manner as, in the opinion of the Council, is in the best interests of the forest industries of Papua New Guinea.

21. ADDITIONAL POWERS OF THE COUNCIL.

In addition to the powers and functions conferred upon it by this Ordinance, the Council shall have and may exercise and perform such other powers and functions (whether of a similar nature to those conferred by this Ordinance or not) as are, from time to time, conferred on or delegated to the Council by or under any other law of Papua New Guinea.

Division 2.—Registration and Levy.

22. REGISTRATION OF MAJOR FOREST PRODUCTS OPERATORS.

(1) The Council may, upon application, register a person as a major forest products operator in such class or classes as may be prescribed.

(2) Subject to Subsection (4) of this section, a registration under this section remains in force until the 13th day of June next following the day of registration.

(3) The Council may refuse to register a person under this section on the ground that in its opinion the person is not a bona fide major forest products operator in Papua New Guinea.

(4) The Council may cancel the registration of a person under this section on the ground that—

- (a) the registration was obtained by means of or partly by means of a statement which was untrue or misleading, or was otherwise improperly obtained; or
- (b) at the time of cancellation of his registration he is not, in the opinion of the Council, a bona fide major forest products operator in Papua New Guinea; or
- (c) he has been convicted of an offence against this Ordinance; or
- (d) he has been convicted of any other offence which in the opinion of the Council warrants cancellation.

(5) A person aggrieved by a decision of the Council under this section may appeal to the Supreme Court, the decision of which is final.

23. OFFENCES.

(1) Subject to Subsection (2) of this section, no person other than a registered major forest products operator operating in accordance with the conditions of his registration shall engage in the logging, sawing, milling or marketing of major forest products.

Penalty: Five hundred dollars.

Default penalty: Fifty dollars.

(2) The provisions of Subsection (1) of this section do not apply to a person engaged in the logging, sawing, milling or marketing of major forest products—

- (a) in quantities not greater than the equivalent of one million super feet of log in a financial year; or
- (b) for purposes of conversion by him within Papua New Guinea to products other than major forest products; or
- (c) for purposes other than purposes of a business.

24. FORFEITURE.

(1) Where a person is convicted of an offence against Section 23 of this Ordinance in relation to any major forest products, the Court which convicts him may, in addition to or in lieu of any penalty which it may impose, order that the major forest products be forfeited to the Council.

(2) Major forest products which are forfeited to the Council under Subsection (1) of this section are the property of the Council and may be dealt with in such manner as the Council determines.

25. DISTINGUISHING MARKS.

(1) Subject to this section, the Council may, in its discretion, allot to a registered major forest products operator a distinguishing mark, on application by him.

(2) Where a registered major forest products operator is the registered proprietor or registered user of a registered trade mark under the *Trade Marks Act 1955-1966* of the Commonwealth in respect of a major forest product, the distinguishing mark to be allotted to him under this section shall be that registered trade mark.

26. LEVY.

(1) Subject to Subsection (2) of this section, a registered major forest products operator shall pay to the Council a levy at the rates from time to time fixed by the Council by notice in the *Gazette*.

(2) No levy shall be imposed under this section except with the prior approval of the Administrator in Council, and the rates of any levy so imposed shall not be altered except upon the recommendation of not less than two-thirds of the registered forest products operators and with the approval of the Administrator in Council.

(3) A levy payable under this section shall be collected and paid in the prescribed manner.

27. APPOINTMENT OF AGENTS.

(1) The Council may enter into an agreement or arrangement with any person, company or authority (including the Administration or the Commonwealth), providing for that person, company or authority to act as the agent of the Council, in respect of such matters and for such remuneration as are provided for in the agreement or arrangement.

(2) This section authorizes the making of an agreement or arrangement with a person, company or authority to act as the agent of the Council in a place outside Papua New Guinea.

28. INDEMNITY OF MEMBERS OF THE COUNCIL, ETC.

The Council, a member of the Council or a person acting on behalf of the Council is not liable for any act done in good faith by the Council or by the member or person for the purposes of this Ordinance.

29. APPLICATION OF FORESTRY ORDINANCE.

Nothing in this Ordinance affects the operation of the Forestry Ordinance or the *Forestry (Private Dealings) Ordinance 1971*.

30. REGULATIONS.

The Administrator in Council may make regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Ordinance, and in particular for prescribing—

- (a) classes of registration under Section 22 of this Ordinance, and the conditions to be attached to any class of registration; and
- (b) the form of certificates of registration; and
- (c) the particulars to be supplied by a person applying for registration; and
- (d) the manner of collection and payment of levies under Section 26 of this Ordinance; and
- (e) the returns to be furnished to the Council by any registered major forest products operator, verified by statutory declaration, and where applicable, specifying details of production and marketing of major forest products, executed or intended to be executed by him; and
- (f) the terms and conditions of employment of officers of the Council; and
- (g) the fees (if any) which shall be payable to the Council in respect of any matter; and
- (h) penalties not exceeding Two hundred dollars and default penalties not exceeding Twenty dollars for offences against the Regulations.