



No. 1 of 1993.

Forestry (Amendment) Act 1993.

Certified on : 21 APRIL, 1993

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1993.

Forestry (Amendment) Act 1993.

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S C H E D U L E.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1993.

AN ACT

entitled

Forestry (Amendment) Act 1993,

Being an Act to amend the *Forestry Act 1991,*

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS (AMENDMENT OF SECTION 1).

Section 1(3) of the Principal Act is repealed and is replaced with the following:-

"(3) For the purposes of Section 53(1) (*Protection from unjust deprivation of property*) of the *Constitution* and of the *Land Act* (Chapter 185) it is hereby declared that -

(a) forestry purposes; and
(b) the purchase of logs under Section 115(1)(a),
are public purposes."

2. INTERPRETATION (AMENDMENT OF SECTION 2).

Section 2 of the Principal Act is amended -

(a) by inserting after the definition of "Chairman" the following:-

"'consultant' means a person (whether natural or corporate) holding himself out as having expertise particular to the forest industry and offering for reward (otherwise than as an employee of another consultant or of a forest industry participant) services related to that expertise;" and

'customary owners', in relation to an area of customary land, means persons having customary rights -

(a) of ownership over the land; or
(b) of ownership over forest produce growing on the land; or
(c) relating to the use of the land;" and

(b) by repealing the definition of "Director-General"; and

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- (c) by inserting after the definition of "forest development project" the following:-

"forest industry activities" means any commercial activities within Papua New Guinea directly connected with -

- (a) harvesting or processing timber or rattan; or
 - (b) buying unprocessed timber or rattan for processing or export; or
 - (c) selling or, on behalf of another person or other persons, arranging or procuring the sale or purchase of, timber or rattan (whether unprocessed or processed but not including manufactured items made from timber or rattan materials);"; and
- (d) by repealing the definition of "forest industry operations"; and
- (e) by inserting after the definition of "forest industry activities" the following:-

"forest industry participant" means any person engaging in, or intending to engage in, forest industry activities (otherwise than as an employee of a forest participant or in the capacity of a common carrier) where the timber or rattan harvested, processed, bought, sold or arranged or procured to be sold or purchased, by that person in a calendar year exceeds -

- (a) 500m³ in volume; or
 - (b) in the case of sandalwood timber or rattan - K20,000.00 in market value;"; and
- (f) by repealing the definition of "forest operations"; and
- (g) by inserting after the definition of "licence" the following:-

"Managing Director" means the Managing Director of the National Forest Service appointed under Section 34;"; and

- (h) in the definition of "timber authority", by adding the following:-

"and includes an authority granted under the *Forestry Act* (Chapter 216) (*repealed*) and continued by virtue of Section 137;"; and

- (i) in the definition of "timber permit", by adding the following:-

"and includes -

- (a) a permit or licence granted under the *Forestry Act* (Chapter 216) (*repealed*) continued by virtue of Section 137; and
- (b) an agreement deemed to be a timber permit by virtue of Section 137(1A);".

3. FUNCTIONS OF THE AUTHORITY (AMENDMENT OF SECTION 7).

Section 2 of the Principal Act is amended -

- (a) in Subsection (1), by repealing Paragraph (f); and

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- (b) by repealing Subsection (2) and replacing it with the following:-

"(2) Subject to this Act and any other law, the Minister may give to the Authority, through the Board, any direction in regard to the carrying out of the functions of the Authority as he considers necessary for the purpose of achieving the objectives of the Authority."

4. REPEAL AND REPLACEMENT OF SECTION 10.

Section 10 of the Principal Act is repealed and is replaced with the following:-

"10. MEMBERSHIP OF THE BOARD.

- (1) The Board shall consist of -

- (a) the Managing Director, *ex officio*; and
- (b) the President of the Forest Industries Association, *ex officio*, or his nominee; and
- (c) one member to represent non government organizations appointed from a list of persons recommended to the Minister by the National Alliance of Non-Governmental Organizations; and
- (d) one member appointed from a list of persons recommended to the Minister by the National Premiers Council; and
- (e) the Departmental Heads or their nominees, *ex officio*, of two Departments nominated from time to time by the National Executive Council, in consultation with the Minister, by notice in the National Gazette.

- "(2) The members referred to -

- (a) in Subsection (1)(c) and (d), shall be appointed by the Minister by notice in the National Gazette for a term of two years and are eligible for re-appointment; and
- (b) in Subsections (b), (c) and (d), shall be entitled to such fees and allowances as are determined by the Minister.

"(3) A nominee referred to in Subsection (1)(e) shall be an officer of a level not less than that of an Assistant Secretary."

5. ALTERNATE MEMBERS (AMENDMENT OF SECTION 11).

Section 11(1) of the Principal Act is amended by repealing the words, figures and letters "Section 10(1)(e), (g) and (h)" and replacing them with the following:-

"Section 10(1)(c) and (d)".

6. REPEAL AND REPLACEMENT OF SECTION 12.

Section 12 of the Principal Act is repealed and is replaced with the following:-

"12. CHAIRMAN AND DEPUTY CHAIRMAN.

- (1) The Managing Director is Chairman of the Board, *ex officio*.

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"(2) The members of the Board shall elect one of their number to be Deputy Chairman of the Board."

7. MEETINGS OF THE BOARD (AMENDMENT OF SECTION 17).

Section 17(1)(a) is repealed and is replaced with the following:-

"(a) four members constitute a quorum;"

8. REPEAL AND REPLACEMENT OF SECTION 34.

Section 34 of the Principal Act is repealed and is replaced with the following:-

"34. MANAGING DIRECTOR.

(1) There shall be a Managing Director of the National Forest Service who -

- (a) shall be appointed by notice in the National Gazette by the Head of State, acting on the advice of the Minister after consultation with the Board; and
- (b) shall be appointed for a period of four years; and
- (c) shall be the chief executive officer and Head of the National Forest Service.

"(2) Subject to the *Salaries and Conditions Monitoring Committee Act 1988*, the terms and conditions of the appointment of the Managing Director are as determined by the Head of State, acting on the advice of the Minister."

9. FUNCTIONS OF THE DIRECTOR-GENERAL (AMENDMENT OF SECTION 35).

Section 35 of the Principal Act is amended -

(a) by repealing the heading and replacing it with the following:-

"FUNCTIONS, ETC., OF THE MANAGING DIRECTOR."; and

(b) in Subsection (1), by repealing the words "Director-General" and replacing them with the following:-

"Managing Director"; and

(c) in Subsection (2), by repealing the words "Director-General" and replacing them with the following:-

"Managing Director"; and

(d) by adding the following new subsection:-

"(3) The Managing Director may, by written instrument, delegate to an officer of the National Forest Service all or any of his functions or powers under this Act (except this power of delegation)."

10. PROVINCIAL FOREST PLANS TO BE SUBMITTED TO BOARD, ETC., (AMENDMENT OF SECTION 50).

Section 50(2) of the Principal Act is amended by repealing the words "National Forest Plan" and replacing them with the following:-

"National Forest Policy".

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**11. PROVINCIAL FOREST PLAN TO BE SENT TO MINISTER, ETC.,
(AMENDMENT OF SECTION 51).**

Section 51 of the Principal Act is amended by repealing the words "National Forest Plan" and replacing them with the following:-

"National Forestry Development Guidelines".

12. REPEAL AND REPLACEMENT OF SECTION 55.

Section 55 of the Principal Act is repealed and is replaced with the following:-

**"55. TYPES OF LAND ON WHICH, AND MANNER IN WHICH
FOREST INDUSTRY ACTIVITIES MAY BE PERMITTED.**

(1) Subject to Subsection (2), a forest industry participant may exercise timber rights on land which is -

- (a) Government land - as approved by the Board; and
- (b) State leasehold land - where the lessee consents and subject to the conditions of the lease; and
- (c) private leasehold - where the owner consents; and
- (d) private freehold - where the owner consents; and
- (e) customary land - where -
 - (i) a Forest Management Agreement in accordance with this Division has been entered into between the customary owners and the Authority; or
 - (ii) a timber authority has been granted.

"(2) A forest industry participant may carry out forest industry activities only under and in accordance with -

- (a) a timber permit granted under Section 73; or
- (b) a timber authority granted under Section 87; or
- (c) a licence issued under Section 92."

13. ACQUISITION OF TIMBER RIGHTS, ETC., BY THE AUTHORITY (AMENDMENT OF SECTION 56).

Section 56(1) of the Principal Act is repealed and is replaced with the following:-

"(1) Subject to this Division, the Authority may acquire timber rights from customary owners pursuant to a Forestry Management Agreement between the customary owners and the Authority."

14. VERIFICATION OF TENURE OF CUSTOMARY OWNERS (AMENDMENT OF SECTION 57).

Section 57 of the Principal Act is amended -

- (a) by repealing the heading and replacing it with the following:-

**"OBTAINING CONSENT OF CUSTOMARY OWNERS TO FOREST
MANAGEMENT AGREEMENT."; and**

- (b) by repealing Subsection (2) and replacing it with the following:-

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"(2) Where it is impractical to give effect to the requirements of Subsection (1)(a) or (b), a Forest Management Agreement may be executed on behalf of customary groups who are customary owners in respect of the land covered by the Agreement, by agents of such groups, provided that -

- (a) such agents are authorized to so act in a manner which is consistent with the custom of the group they represent; and
- (b) 75% of the adult members resident on the land of each such group give written consent to their group entering into the Agreement."

15. FOREST MANAGEMENT AGREEMENT (AMENDMENT OF SECTION 58).

Section 58(g) of the Principal Act is repealed.

16. REPEAL AND REPLACEMENT OF SECTION 60.

Section 60 of the Principal Act is repealed and is replaced with the following:-

"60. RIGHTS UNDER FOREST MANAGEMENT AGREEMENT.

Where the Authority enters into a Forest Management Agreement -

- (a) subject to this Act and the terms and conditions of the Agreement, the Authority may assign timber rights acquired under the Agreement to one or more other persons; and
- (b) for the purposes of exercising timber rights, the Authority, and persons claiming under the Authority may, according to the terms of the Agreement -
 - (i) enter on land covered by the Agreement; and
 - (ii) build, maintain and use roads, wharves, bridges, buildings and other infrastructure on land covered by the Agreement; and
 - (iii) use gravel on land covered by the Agreement free of charge for the purposes of Subparagraph (ii)."

17. FEASIBILITY STUDY BY THE BOARD (AMENDMENT OF SECTION 62).

Section 62 of the Principal Act is amended -

- (a) in the heading, by repealing the words "FEASIBILITY STUDY" and replacing them with the following:-

"DEVELOPMENT OPTIONS STUDY"; and

- (b) in Subsection (1), by repealing the words "undertake a feasibility study" and replacing them with the following:-

"arrange for a development options study to be carried out"; and

- (c) in Subsection (2) -

- (i) by repealing the words "feasibility study" and replacing them with the following:-

"development options study"; and

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- (ii) by repealing Paragraph (c) and replacing it with the following:-

"(c) for logging within an area designated as a salvage forest in the National Forest Plan."; and

- (d) by repealing Subsection (3) and replacing it with the following:-

"(3) A development options study under Subsection (1) shall -

- (a) be carried out by the National Forest Service or as contracted out by the Board; and
- (b) be carried out in accordance with directions given by the appropriate Provincial Forest Management Committee; and
- (c) provide an inventory of the forest resources in the proposed project area; and
- (d) identify feasible options for development of the area and investigate -
 - (i) means of landowner participation in such development; and
 - (ii) possible environmental and social impacts of such development; and
 - (iii) in respect of any forest products to be harvested from the area - the feasibility of local processing and marketing prospects generally."

18. REGISTERED FOREST INDUSTRY PARTICIPANT MAY APPLY FOR PERMISSION TO CARRY OUT FEASIBILITY STUDIES, ETC., (AMENDMENT OF SECTION 65).

Section 65 of the Principal Act is amended by repealing the words "permission to enter" and replacing them with the following:-

"permission for himself or for a registered consultant engaged by him to enter".

19. BOARD TO CONSIDER REPORT, ETC., (AMENDMENT OF SECTION 70).

Section 70 of the Principal Act is amended -

- (a) by repealing Paragraph (b) and replacing it with the following:-

"(b) subject to Subsection (2), direct the Provincial Forest Management Committee with which proponents, if any, it should enter into further negotiations with a view to negotiating a project agreement and advise the Provincial Forest Management Committee of any comments by the Minister;" and

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(b) by adding the following subsection:-

"(2) A project agreement referred to in Subsection (1)(b) may be entered into with a person (natural or corporate) other than a proponent with whom further negotiations were entered into under Subsection (1)(b), provided that the proponent is a shareholder of or contractor in the project to that person."

20. DUTIES OF MINISTER ON RECOMMENDATION (AMENDMENT OF SECTION 73).

Section 73 of the Principal Act is amended -

(a) by repealing Subsection (1) and replacing it with the following:-

"(1) Where the Minister accepts a recommendation from the Board under Section 72, he shall invite the person with whom the Authority has entered into a project agreement under Section 72(1)(b)(i) to make an application under Section 77 and, within 30 days of a duly completed application being made, grant a timber permit to that person."; and

(b) in Subsection (3), by adding the following:-

"and in accordance with the project statements, five year working plans and annual logging plans in respect of the project as from time to time are approved by the Board under Section 99."

21. DUTIES OF MINISTER ON RECEIPT OF FINAL RECOMMENDATION FROM THE BOARD (AMENDMENT OF SECTION 75).

Section 75(1) of the Principal Act is repealed and is replaced with the following:-

"(1) Where the Minister accepts a final recommendation from the Board under Section 74, he shall invite the person with whom the Authority has entered into a project agreement under Section 72(1)(b)(i) to make an application under Section 77 and, within 30 days of a duly completed application being made, grant a timber permit to that person."

22. NATIONAL EXECUTIVE COUNCIL TO DIRECT MINISTER TO ACCEPT OR REJECT RECOMMENDATION (AMENDMENT OF SECTION 76).

Section 76 of the Principal Act is amended by adding the following subsection:-

"(4) Where a direction under Subsection (1) is to reject the recommendation of the Board, the National Executive Council shall direct the Minister to refer the matter back to the Board for the Board either to -

- (a) renegotiate such terms and conditions in the project agreement executed under Section 72(1)(b)(i) as are specified by the National Executive Council as requiring renegotiation; or
- (b) re-advertise the forest development project under Section 64 and take action thereafter in the manner required under this Division."

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23. REPEAL AND REPLACEMENT OF SECTION 77.

Section 77 of the Principal Act is repealed and is replaced with the following:-

"77. APPLICATION FOR A TIMBER PERMIT.

(1) A person who is invited to do so under Section 73(1) or 75(1) may make application for a timber permit.

"(2) An application under Subsection (1) shall be -

(a) in the prescribed form; and

(b) lodged with the Managing Director; and

(c) accompanied by -

(i) the prescribed fee; and

(ii) the prescribed particulars; and

(iii) an environmental plan which has been approved under the *Environmental Planning Act* (Chapter 370).".

24. NATIONAL EXECUTIVE COUNCIL TO DIRECT MINISTER TO ACCEPT OR REJECT RECOMMENDATION (AMENDMENT OF SECTION 84).

Section 84(3) of the Principal Act is repealed and is replaced with the following:-

"(3) A direction under Subsection (1)(b) to reject an application shall give the reasons for the rejection, but this shall not preclude the applicant from making a further application to the Board where the circumstances giving rise to the reasons have been resolved or no longer apply.".

25. SUSPENSION OF RIGHTS (AMENDMENT OF SECTION 85).

Section 85 of the Principal Act is amended -

(a) in Subsection (1), by repealing the word "and" conjoining Paragraphs (b) and (c) and replacing it with the following:-

"or"; and

(b) in Subsection (2), by repealing Paragraph (a) and replacing it with the following:-

"(a) specifying the alleged misrepresentation, omission or mis-statement or failure of performance or compliance;".

26. CONVICTION OF THE HOLDER OF A TIMBER PERMIT, ETC., (AMENDMENT OF SECTION 86).

Section 86 of the Principal Act is amended -

(a) in Subsection (6), by repealing the words "or hearing under Subsection (4)"; and

(b) by adding the following subsection:-

"(7) Where there has been a hearing under Subsection (4) -

(a) the Managing Director shall make and forward to the Board a written report on the hearing; and

(b) the Board shall consider the report and forward it, together with its recommendations thereon, to the Minister; and

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- (c) the Minister shall consider the report and the recommendations from the Board and, where appropriate, shall cancel the permit."

27. TIMBER AUTHORITY (AMENDMENT OF SECTION 87).

Section 87(5) of the Principal Act is amended by inserting after the word "harvested" the following:-

"annually".

28. REPEAL AND REPLACEMENT OF SECTION 91.

Section 91 of the Principal Act is repealed and is replaced with the following:-

"91. ISSUE OF A LICENCE.

(1) The Board may, on the application of a registered forest industry participant, issue to that registered forest industry participant, a licence to engage in forest industry activities other than those carried out, or proposed to be carried out, under a timber permit or timber authority held by the forest industry participant.

"(2) A licence shall -

- (a) be in the prescribed form; and
- (b) include as a condition compliance with the terms and conditions of any timber permit or timber authority or permit to which the activities authorized by the licence are related; and
- (c) specify the activity or activities in respect of which the licence is granted; and
- (d) require a performance bond in accordance with Section 98 for an amount specified in the licence; and
- (e) include such other conditions in accordance with the National Forest Policy as are applicable."

29. EXTENSION OF TERM OF LICENCE (AMENDMENT OF SECTION 95).

Section 95 of the Principal Act is amended -

- (a) in Subsection (1), by repealing the word "Minister" (twice occurring) and replacing it in each case with the following:-

"Board"; and

- (b) in Subsection (2), by repealing the word "Minister" and replacing it with the following:-

"Board".

30. CONVICTION OF THE HOLDER OF A LICENCE, ETC., (AMENDMENT OF SECTION 97).

Section 97 of the Principal Act is amended by adding the following subsections:-

"(3) Where it is proposed to cancel a licence under Subsection (1), the Managing Director shall serve a notice on the holder -

- (a) advising him of the intention to cancel the licence and of the reason for the intended cancellation; and

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- (b) requiring him, within 14 days from the date of service of the notice to make representations as to why the licence should not be cancelled.

"(4) On the request of the holder within 14 days from the date of service, the Managing Director shall allow the holder an opportunity to be heard.

"(5) Where the holder does not, within the 14 days period, make representations under Subsection (3)(b) or a request to be heard under Subsection (4), the Minister shall cancel the licence.

"(6) The Minister shall consider any representations made under Subsection (3)(b) and, where appropriate, shall cancel the licence.

- "(7) Where there has been a hearing under Subsection (4) -
- (a) the Managing Director shall make and forward to the Board a written report on the hearing; and
 - (b) the Board shall consider the report and forward it, together with its recommendations thereon, to the Minister; and
 - (c) the Minister shall consider the report and the recommendations from the Board and, where appropriate, shall cancel the licence."

31. REPEAL AND REPLACEMENT OF SECTION 100.

Section 100 of the Principal Act is repealed and is replaced with the following:-

"100. PROJECT STATEMENT.

(1) A project statement shall be submitted to the Board by the holder of a timber permit -

- (a) before any rights under that timber permit are exercised; and
- (b) one month prior to the end of each three years of operations under the permit.

"(2) The project statement shall be a general outline of the objectives and strategies of the holder of a timber permit in relation to the project over the succeeding five years and shall contain details as prescribed."

32. REPEAL AND REPLACEMENT OF SECTION 101.

Section 101 of the Principal Act is repealed and is replaced with the following:-

"101. FIVE YEAR WORKING PLAN.

(1) A five year working plan shall be submitted to the Board by the holder of a timber permit -

- (a) before any rights under that timber permit are exercised; and
- (b) one month prior to the end of each three years of operations under the permit.

"(2) The five year working plan shall describe the proposed activities under the permit over the succeeding five years and shall contain details as prescribed."

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33. REPEAL AND REPLACEMENT OF SECTION 102.

Section 102 of the Principal Act is repealed and is replaced with the following:-

***102. ANNUAL LOGGING PLAN.**

(1) An annual logging plan shall be submitted to the Board by the holder of a timber permit -

(a) before any timber rights under that timber permit are exercised; and

(b) one month prior to the end of each year of operations under the permit.

"(2) The annual logging plan shall detail the proposed work to be carried out under the permit over the succeeding 12 months and shall contain details as prescribed.

"(3) A Forest Inspector or Forest Officer shall check on work as prescribed and, where satisfied that a unit of work has been completed as detailed in the annual logging plan, shall issue a certificate to that effect.

"(4) Where a certificate has been issued under Subsection (3), the holder of a timber permit may carry out further work under and in accordance with the permit."

34. REPEAL OF SECTION 104.

Section 104 of the Principal Act is repealed.

35. APPLICATION FOR REGISTRATION (AMENDMENT OF SECTION 107).

Section 107(2)(c) of the Principal Act is amended by repealing the word "activity" and replacing it with the following:-

"activity or activities".

36. DIRECTOR-GENERAL TO REFER APPLICATIONS TO THE BOARD WITH RECOMMENDATION (AMENDMENT OF SECTION 109).

Section 109(2)(b) of the Principal Act is amended by repealing the word "activity" and replacing it with the following:-

"activity or activities".

37. DUTIES OF DIRECTOR-GENERAL (AMENDMENT OF SECTION 111).

Section 111(a) of the Principal Act is amended by repealing the word "activity" and replacing it with the following:-

"activity or activities".

38. CANCELLATION OF REGISTRATION (AMENDMENT OF SECTION 112).

Section 112 of the Principal Act is amended by adding the following subsection:-

"(6) Where the registration of a person is cancelled under this section, any timber permit, timber authority or licence held by that person is suspended with effect on and from the date of cancellation of the registration."

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39. OFFENCE TO PARTICIPATE, ETC., IN FOREST INDUSTRY UNLESS REGISTERED (AMENDMENT OF SECTION 114).

Section 114 of the Principal Act is amended -

- (a) by repealing Subsection (2) and replacing it with the following:-

"(2) A forest industry participant, and any person acting in the capacity of an employee, servant or agent of a forest industry participant, who engages in a forest industry activity without the forest industry participant being registered under this Part in respect of that activity, is guilty of an offence.

Penalty: A fine not exceeding K100,000.00 or imprisonment for a term not exceeding five years, or both."; and

- (b) by adding the following subsection:-

"(5) A consultant, who provides or offers services in the capacity of a consultant, without being registered as a consultant under this Part, is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years or both".

40. REPEAL AND REPLACEMENT OF SECTION 115.

Section 115 of the Principal Act is repealed and is replaced with the following:-

"115. STATE OPTION TO PURCHASE LOGS.

- (1) The State Marketing Agency may, on behalf of the State -

- (a) in any one year purchase compulsorily at the market price from the holder of a timber permit up to 25% of the amount of logs which the holder of the timber permit is permitted to export in that year; and
(b) otherwise by agreement purchase logs from the holder of a timber permit.

"(2) Where the State proposes to exercise its option under Subsection (1)(a), the State Marketing Agency shall give notice in writing to the holder of the timber permit."

"(3) Any exercise of purchase rights under Subsection (1) shall be known as the State Purchase Option.

"(4) The procedures to be followed in the State Purchase Option shall be as prescribed.

41. OFFENCES (AMENDMENT OF SECTION 122).

Section 122 of the Principal Act is amended -

- (a) by repealing Subsection (1) and replacing it with the following:-

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"(1) A forest industry participant, and any person acting in the capacity of an employee, servant or agent of a forest industry participant, who engages in forest industry activities except under and in accordance with a timber permit, timber authority or licence, held by the forest industry participant, is guilty of an offence.

Penalty: A fine not exceeding K100,000.00 or imprisonment for a term not exceeding five years, or both.

Default penalty: A fine not exceeding K10,000.00."; and

(b) by repealing Subsection (2)(a)(v) and replacing it with the following:-

"(v) the project area of a timber authority;"; and

(c) by repealing Subsection (3).

42. REPEAL AND REPLACEMENT OF SECTION 123.

Section 123 of the Principal Act is repealed and is replaced with the following:-

"123. POWER TO SEIZE AND SELL TIMBER, ETC.,

(1) A Forest Inspector or Forest Officer may seize one or more of the following:-

- (a) timber or other forest produce that, on reasonable grounds, he believes was felled, removed, sold or processed in contravention of -
 - (i) this Act; or
 - (ii) a term or condition of a timber permit, timber authority or licence; or
- (b) timber or other forest produce that is mixed with timber or forest produce to which Paragraph (a) applies; or
- (c) a boat, barge or other vessel, truck or trailer in which is found or which is towing, timber or forest produce to which Paragraph (a) or (b) applies.

"(2) Timber or other forest produce seized under Subsection (1) may be sold by the Authority.

"(3) A boat, barge or other vessel, truck or trailer seized under Subsection (1)(c) shall be released from seizure when the timber or forest produce thereon or towed thereby is delivered to a location required by the Forest Inspector or Forest Officer who made the seizure.

"(4) Subject to Subsections (5) and (6), the net proceeds of sale of timber or forest produce realized from a seizure and sale under this section shall be paid to the owner of the timber or forest produce at the time of the seizure.

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"(5) Where the owner of timber or forest produce seized and sold under this section is proved to have assisted in, connived at or assented to the contravention as a result of which the timber or forest produce was seized, the net proceeds of the sale shall be forfeited to the Authority.

"(6) Where there is a dispute as to the ownership of any timber or forest produce seized and sold under this section, the net proceeds of the sale shall be held by the Authority pending agreement as to ownership or the determination of ownership by a court of competent jurisdiction."

43. UNLAWFUL POSSESSION OF FOREST PRODUCE (AMENDMENT OF SECTION 124).

Section 124 of the Principal Act is amended -

(a) in Subsection (2), by inserting before the words "Any forest produce" the following:-

"Subject to Subsection (3),"; and

(b) by adding the following subsection:-

"(3) Where the owner of forest produce in respect of which an offence has been committed under Subsection (1) and which has been forfeited to the Authority under Subsection (2) -

(a) is a person other than the person who committed the offence; and

(b) is known to the Authority,
the Authority shall give possession of the forest produce to the owner, or shall pay to the owner the net proceeds realized from a sale of the forest produce."

44. ENTRY AND INSPECTION ON LAND (AMENDMENT OF SECTION 126).

Section 126(1) of the Principal Act is amended by repealing the words "held or occupied by virtue of" and replacing them with the following:-

"on which activities are being carried out under".

45. REPEAL OF SECTION 130.

Section 130 of the Principal Act is repealed.

46. SAVING OF EXISTING PERMITS, ETC., (AMENDMENT OF SECTION 137).

Section 137 of the Principal Act is amended -

(a) in Subsection (1) -

(i) in Paragraph (b), by inserting before the word "licences" the following:-

",timber rights purchase agreements"; and

(ii) by repealing Paragraph (c); and

(b) by inserting after Subsection (1) the following new subsection:-

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"(1A) Subject to Subsection (2), all agreements entered into under the *Forestry (Private Dealings) Act* (Chapter 217) (*repealed*) valid and in force immediately before the coming into operation of this Act are, on that coming into operation deemed to be timber permits granted under this Act (and the purchasers under the agreements shall be deemed to be the holders of the timber permits) and shall have full force and effect as such timber permits for the term for which the agreements were entered into or until they sooner expire or are revoked according to law."; and

(c) in Subsection (2) -

(i) in Paragraph (b), by inserting after the word "licence" the following:-

"timber rights purchase agreement"; and

(ii) in Paragraph (d), by inserting after the word "agreement" the following:-

"or timber rights purchase agreement"; and

(iii) in Paragraph (f), by inserting after the word "agreement" (thrice occurring) the following in each case:-

"or timber rights purchase agreement"; and

(c) by adding the following subsection:-

"(3) In order to achieve the intention of this Act that registrations, permits, licences, agreements, timber purchase agreements and other authorities saved by this section are able to be adapted to conform to the provisions of this Act, the Board may grant in respect of any registration, permit, licence, agreement, timber purchase agreement or other authority a grace period during which -

(a) the provisions of this Act shall not apply; and

(b) the provisions of the repealed Act under which the registration, permit, licence or other authority was granted or the agreement or timber purchase agreement was entered into shall apply."

47. NEW SECTION 143.

The Principal Act is amended by adding the following section:-

"143. BOARD MAY EXTEND SAVED PERMITS, ETC.,

The Board may, until -

(a) the National Forest Plan has been drawn up under Section 47; or

(b) 31 December 1993,

whichever shall first happen, notwithstanding the provisions of this Act -

(c) extend the term of any permit or licence saved by Section 137; or

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(d) grant a timber authority,
for a period not exceeding one year in a form approved by the
Board."

48. ADDITIONAL AMENDMENTS.

The Principal Act is further amended in accordance with the Schedule.

49. TRANSITIONAL PROVISIONS.

(1) Subject to Subsection (2), the persons who, immediately before the coming into operation of this Act (*Forestry (Amendment) Act 1993*) held office as Chairman, Deputy Chairman and members of the National Forest Board shall, on that coming into operation, cease to hold such office.

(2) The person who, immediately before the coming into operation of this Act (*Forestry (Amendment) Act 1993*), held office as the member of the Board representing non-governmental organizations concerned with environmental, social or developmental issues, shall, on that coming into operation, be deemed to have been appointed as the member of the Board representing non-government organizations under Section 10(1)(c) of the Principal Act (as amended by Section 4 of this Act) and shall so hold office for the balance of the term for which he was originally appointed.

(3) The person who, immediately before the coming into operation of this Act (*Forestry (Amendment) Act 1993*), held office as Director-General of the National Forest Service shall, on that coming into operation, be deemed to have been appointed Managing Director of the National Forest Service and shall hold office as such for the balance of the period for which he was appointed to be Director General, or otherwise according to law, and on the terms and conditions under which he was appointed to be Director General.

50. ACT IN NATIONAL INTEREST.

For the purposes of Section 29 of the *Organic Law on Provincial Government* it is hereby declared that this Act relates to a matter of national interest.

S C H E D U L E.

<u>Provision</u>	<u>Amendment</u>
Sections 7(1)(c); 22(1)(b); 33(1)(a); 37(2)(a) (twice occurring); 39(1); 40(a); 52(1) and (2)	In each case repeal the words "Director-General" and replace with "Managing Director".
Section 56(1)(b)	Repeal "the" and replace with "to".
Section 59	Repeal "Forestry Management Agreement" and replace with "Forest Management Agreement".
Section 61	Repeal "87(3)" and replace with "87(4)".
Section 62(2)	Repeal "cm ³ " and replace with "m ³ ".

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Section 63(1)	Repeal "feasibility study" and replace with "development options study".
Section 65	Repeal "Director-General" and replace with "Managing Director" and in heading and text repeal "feasibility study" and replace with "development options study".
Section 66(1)	Repeal "Forest development project" and replace with "forest industry project".
Section 66(2)(b)	Repeal "Director-General" and replace with "Managing Director".
Section 67(1)	Repeal "67" and replace with "66".
Section 68(1)	Repeal "proponent" and replace with "proponents".
Section 72(1)(c)	Repeal "aspect" and replace with "aspects".
Section 72(2)(b)(ii)	Repeal "applicant" and replace with "person".
Sections 78(2)(c); 79(2)(d); 81(1); 83(1); 85(1), (2), (3), (4) (5); 86(3) and (4); 88(2)(b); 89(1); 92(f); 98(1)(e) and 103(2)	In each case repeal "Director-General" and replace with "Managing Director".
Section 103(3)	Repeal "records" and replace with "record".
Sections 106; 107(1); 108(heading and text); 109(heading)(1) and (2); 110(1); 111(heading and text); 112(1) (twice occurring), (2), (3)(a), (4) and (5)	In each case repeal "Director-General" and replace with "Managing Director".
Section 113(1)(a)	Repeal "108" and replace with "109".
Section 113(2)(d) and (3)	Repeal "Director-General" and replace with "Managing Director".
Section 121(2)	Repeal "as and of licences" and replace with "and of licences as".

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Sections 122(2)(*d*) and (*h*);
126(1) and (2); 129(2)(*a*); 132;
135(1)(*r*)

In each case repeal
"Director-General" and
replace with "Managing
Director".

Section 135(1)(*zg*)

Repeal "national forest
inventory" "national forest
plan" and "forestry
development guidelines" and
replace respectively with
"National Forest Inventory",
"National Forest Plan" and
"Forestry Development
Guidelines".

Section 135(1)(*zk*)

Repeal "K100,000" and
replace with "K100,000.00".

I hereby certify that the above is a fair print of the *Forestry (Amendment) Act 1993* which has been made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that the *Forestry (Amendment) Act 1993* was made by the National Parliament on 17 March 1993 by an absolute majority in accordance with the Constitution.

Speaker of the National Parliament.

