

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 217.

Forestry (Private Dealings) Act.

ARRANGEMENT OF SECTIONS.

1. Interpretation—
 "Local Forest Area
2. Application of Forestry Act.
3. Disposal of timber to other automatic citizens.
4. Local Forest Areas.
5. Dealing with timber rights in Local Forest Areas.
6. Assent to dealings.
7. Ascertainment of owners.
8. Appeal against refusal of declaration or assent.
9. Assignment of agreement.
10. Regulations.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 217.

Forestry (Private Dealings) Act.

Being an Act to enable the customary owners of timber to dispose of their timber to any person, subject to certain safeguards, and for related purposes, to be incorporated and read as one with the *Forestry Act*.

1. Interpretation.

In this Act, unless the contrary intention appears "Local Forest Area" means an area declared under Section 4 to be a Local Forest Area for the purposes of this Act.

2. Application of Forestry Act.

Except where the contrary intention appears, this Act does not affect the operation of the *Forestry Act*.

3. Disposal of timber to other automatic citizens.

This Act does not restrict any right of the owners by custom of any timber to sell or otherwise dispose of the timber to automatic citizens.

4. Local Forest Areas.

(1) Where the Minister, on application by any interested person and on payment of the prescribed fee, or of his own motion, is satisfied that—

(a) it is proper to do so having regard to—

(i) the interests of the owners by custom of the timber on any land (including their interests in having their land cleared and so enabling agricultural development to take place on the land); and

(ii) the national interests; and

(iii) the prospects for the economic exploitation of the timber; and

(b) the area is one suitable for exploitation under this Act,

he shall, by notice in the National Gazette, declare the area to be a Local Forest Area for the purposes of this Act.

(2) The Minister shall grant or refuse an application for the declaration of a given area as a Local Forest Area within three months of the application being made.

(3) If the Minister refuses an application under Subsection (1) he shall, within 21 days of refusing the application, deliver to the applicant, in writing, his reasons for doing so.

5. Dealing with timber rights in Local Forest Areas.

(1) Subject to this Act, the owners by custom of any timber in a Local Forest Area may sell or otherwise dispose of the timber, and of any of the other rights to which this subsection applies, to any person, notwithstanding anything in any other law.

(2) The other rights to which Subsection (1) applies are all rights that are necessary or convenient for the felling, cutting, removing or disposal of the timber, including—

(a) rights of way; and

(b) rights to build or use roads and bridges; and

- (c) rights to take and use gravel and other road-making materials for any such roads, and
- (d) rights to erect or use buildings, sawmills or machinery.

(3) The agreement shall make provision for the ownership or disposal, at the end of the term of the agreement, of buildings and other fixtures erected or placed on the land under the agreement.

6. Assent to dealings.

(1) An agreement for the sale or disposal of timber under Section 5 is of no force or effect until assented to by the Minister.

(2) Subject to Section 7, the Minister shall assent to an agreement referred to in Subsection (1) unless he is satisfied that—

- (a) the agreement does not comply with this Act; or
- (b) the consideration for the sale or disposal is inequitable; or
- (c) the agreement does not provide for the sale or disposal of what is a reasonable proportion of the total volume of merchantable timber in the Local Forest Area in question, having regard to—
 - (i) the economics of forest operations in the Area; and
 - (ii) the requirements of the proper exploitation of the timber resources of the Area, or
- (d) if in the prevailing circumstances it is economically feasible to convert a reasonable proportion of the merchantable timber in the Local Forest Area in question into sawn or hewn timber or veneer, or any like product, the person to whom the timber is to be sold or disposed of does not have the capacity to so convert a reasonable proportion of that timber.

(3) For the purposes of Subsection (2)(b), any scale of royalties prescribed by or under the *Forestry Act* shall be taken to be the minimum value of the timber concerned.

(4) The Minister shall assent, or refuse to assent, to an agreement referred to in Subsection (1) within 60 days of the date of issue of a certificate under Section 7(2).

(5) If the Minister refuses his assent to an agreement specified in Subsection (1), he shall deliver to both parties to the agreement, in writing, his reasons for doing so within 14 days of refusing his assent.

(6) Subject to Subsection (7), on application by the owners by custom of timber the subject of an agreement under Section 5, or of his own motion after consulting the owners, the Minister may withdraw his assent to the agreement if a purchaser of timber rights under this Act, or his assignee, is in breach of a term or condition of the agreement.

(7) Before the Minister withdraws his assent, he shall deliver to all parties to the agreement a written notice—

- (a) stating that he intends to withdraw his assent; and
- (b) stating the grounds on which his assent is being withdrawn; and
- (c) specifying the date (not being earlier than one month after the giving of the notice) on which he proposes to withdraw his assent; and
- (d) informing the parties that they may make submissions to the Minister within 21 days of the giving of the notice.

that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for prescribing —

- (a) the duties of agents appointed under Section 7(5); and
 - (b) the manner and form of applying for declarations of Local Forest Areas and for assents under Section 6, and
 - (c) the manner of doing any other thing required by or under this Act to be done or performed, and
 - (d) the fees or deposits to be paid with any application for the declaration of a Local Forest Area, or for an assent under Section 6, and fees or charges to be paid to the State in respect of services rendered by officers; and
 - (e) the form of agreements under Section 5, and
 - (f) the information and returns to be furnished by persons to whom timber is sold or disposed of under Section 5; and
 - (g) penalties or fines not exceeding K200.00 for offences against the regulations.
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Forestry (Private Dealings) Regulation.

ARRANGEMENT OF SECTIONS.

1. Interpretation—
 - "agent"
 - "agreement"
 - "assent"
 - "certificate"
 - "other rights"
 - "prescribed authority"
 - "purchaser".
2. Application for declaration of a Local Forest Area.
3. Certificate of prescribed authority and application for assent.
4. Duties of agents.
5. Monthly return.
6. Notification of completion of taking timber.

SCHEDULE.—

- FORM 1.—Application for Declaration of a Local Forest Area.
- FORM 2.—Statement.
- FORM 3.—Monthly Return.