



THE FORESTS ACT 1999 (NO. 3 OF 1999)

Passed by the National Parliament this second day of June 1999.

This printed impression has been carefully compared by me with the Bill passed by Parliament and found by me to be a true and correct copy of the said Bill.

*Elizabeth Andresen
Acting Clerk to National Parliament*

Assented to in Her Majesty's name and on Her Majesty's behalf this twenty-fourth day of September 1999.

*Rev. John Ini Lapli
Governor-General*

Date of Commencement: see section 1.

AN ACT TO PROVIDE FOR THE SUSTAINABLE HARVESTING AND MANAGEMENT OF THE FOREST RESOURCES IN SOLOMON ISLANDS AND TO REPEAL THE FOREST RESOURCES AND TIMBER UTILISATION ACT AND FOR OTHER MATTERS THAT ARE INCIDENTAL AND CONSEQUENTIAL.

ENACTED by the National Parliament of Solomon Islands.

FORESTS ACT 1999

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Short title and
commence-
ment

1. This Act may be cited as the Forests Act, 1999, and shall come into operation on such date as the Minister may appoint by notice published in the Gazette.

Interpretation.

2. (1) In this Act, unless the context otherwise requires -

“agent or contractor” means any person who undertakes forestry related activities on behalf of a licensee or permit holder except in accordance with a contract of employment;

“approved agent or contractor” means, in relation to a licence, an agent or contractor who is a party to an agreement, contract or other arrangement approved under section 36 for the purposes of that licence;

“Board” means the Solomon Islands Forestry Board established under section 5;

Cap. 19.

“chief” has the same meaning as under the Local Courts Act;

“clearing” means any activity which results in the felling or destruction of trees representing more than fifty per cent of the total basal area of trees growing on an area of forested land;

“code of practice” means the code of practice prescribed under section 16;

“collateral agreement” means, in relation to a forest access agreement, an agreement to enter into a forest access agreement, or an agreement to take any step required to enter into a forest access agreement;

“Commissioner” means the Commissioner of Forests appointed under section 6;

Cap. 133.

“Commissioner of Lands” means the Commissioner of Lands appointed under the Land and Titles Act;

“community forestry scheme” means a scheme conducted by the holder of a community forestry scheme licence under which registered participants harvest and process timber on customary land;

“community forestry scheme licence” means a licence granted under section 28;

“customary group” means a group of customary owners identified by reference to a clan or tribe, but does not include any corporate entity;

“customary land” has the same meaning as that assigned to it under the Land and Titles Act;

Cap. 133.

“customary land dispute” means a dispute in connection with the ownership of, or of any interest in, unregistered customary land or the nature or extent of such ownership;

“customary owners” mean the owners of unregistered customary land;

“customary representatives” mean the persons appointed or nominated to represent customary owners in accordance with section 73 or section 78 (2);

“determination of potential forest uses” means a determination made under section 19;

“determined price” means the determined price for timber fixed under section 60;

“Development Services Exchange” means the Development Services Exchange established under the Charitable Trusts Act or, in the event that the Development Services Exchange ceases to exist, such other organisation representing the interests of non-government organisations in Solomon Islands and designated by the Minister by notice published in the Gazette as a Development Services Exchange for the purposes of this section;

Cap. 55.

“dispute” means a customary land dispute;

“election” means an election by the customary owners in accordance with section 79;

“foreign investor” means a foreign investor as defined under the Investment Act;

“forest inspector” means a person appointed under section 96;

“forest access agreement” means an agreement to transfer forest access rights in relation to un-registered customary land entered into in accordance with section 69;

“forest access right” means the right to do, in a manner consistent with the code of practice any or all of the following -

- (a) timber harvesting
- (b) harvesting of non-timber forest produce;
- (c) taking into possession and ownership any timber or non-timber forest produce;
- (d) tree planting and tending;
- (e) reforestation; and
- (f) forestry related activities;

“forested land” means any area of land predominantly covered by trees, and includes areas planted with trees except where such planting is carried out for agricultural purposes;

“Forest Trust” means the Forest Trust established under section 9,

“forestry related activities” mean all or any of the following activities as are reasonably necessary for the purpose of carrying out harvesting, reforestation, tree planting and tending and forest management -

- (a) entering on or occupation of land;
- (b) inspecting, surveying, enumerating, marking and mapping of areas or trees;
- (c) obtaining access to and extracting any harvested timber;
- (d) cutting, trimming, lopping, topping or cropping any tree;
- (e) cultivating any plant, seedling, seed or tree;
- (f) taking any measures for the growth and protection of any tree;
- (g) subject to any law relating to the use of water, taking and using water;
- (h) carrying out roadworks or earthworks and the construction of water crossings;
- (i) construction, maintenance and occupation of buildings;
- (j) construction, maintenance and use of operational facilities including wharves and stevedoring facilities, and timber processing facilities;
- (k) extraction, removal, conversion and use of quarry and building materials for any of the aforementioned purposes;

“harvesting” means -

- (a) in relation to timber, timber harvesting; and
- (b) in relation to non-timber forest produce, the cutting or taking of the produce from the land;

“land clearing permit” means a permit granted under section 39;

“licence” means a licence granted under this Act;

“licensee” means the holder of a licence granted under this Act;

“local company” means a company incorporated under the law of Solomon Islands and having its principal place of business in Solomon Islands -

(a) of which all the shares are owned by citizens of Solomon Islands or by an association of which all the members are citizens of Solomon Islands; or

(b) which, in view of the substantial nature of participation by citizens of Solomon Islands in the shareholding of the company or other benefits accruing to citizens of Solomon Islands has been designated by the Minister by notice published in the Gazette as a local company for the purposes of this section;

“local timber harvesting licence” means a licence granted under section 26;

“national forest resource management strategy” means the national forest resource management strategy approved under section 13;

“national timber industry policy” means the national timber industry policy approved under section 11;

“non-timber forest produce” means any biological matter on forested land, including but not limited to herbs, spices, ornamental plants, palms, bamboo, cane, rattan, ferns; flowers, climbers, creepers, grass, moss, fungus, lichens, leaves, fruit, seeds, roots, fibres, bark, bark extract, wood extract, gum, oil, resin, tar, wax, pitch, sap, honey, latex, litter, humus, earth, sand or stone, whether alive or dead, other than timber, and insects but does not include products of an agricultural industry;

“operator” means a person or body which is substantially responsible for carrying out forestry related activities under a licence;

“ordinary timber harvesting licence” means a licence granted under section 24;

“performance bond” means a performance bond required under section 112;

“permit holder” means the holder of a land clearing permit granted under section 39;

“prescribed fee” means the fee prescribed in respect of an application, approval, grant, or transfer, as the case may be, under section 44;

“prescribed form” means the form prescribed in respect of an application, approval, transfer, permit, licence or agreement, as the case may be;

“processed timber” means timber that has been processed and includes sawn timber, wood particles, wood pulp and veneer, but does not include timber that has been stripped of bark or sapwood or roughly squared,

“provincial statement” means a statement forwarded under section 20 (3);

“public land” has the same meaning as assigned to it under the Land and Titles Act;

Cap. 133.

“reforestation” means undertaking, within areas where timber harvesting has taken place and includes the following -

- (a) tree planting and tending;
- (b) sowing or planting of trees;
- (c) promoting the continued growth of existing trees;
- (d) promoting the growth of seedlings germinating from naturally occurring seedfall; and
- (e) such other actions as are necessary to ensure that a forest cover approximately similar to that occurring prior to the timber

harvesting is likely to become successfully established over the whole of the harvested area;

Cap. 133. "registered land" means any land registered under the Land and Titles Act, except land registered as public land, and includes registered customary land;

"registered owner" means -

(a) in the case of a registered interest in land that includes the right to transfer the right to harvest timber, the holder of that registered interest; and

(b) in any other case, including land registered as public land, the Commissioner of Lands;

"registered participant" means a person who is registered to participate in a community forestry scheme;

"relevant provincial government", "relevant provincial executive" and "relevant area council" mean, in relation to an area of land, the provincial government, provincial executive or area council, as the case may be, with jurisdiction over that area;

"rolling term", in relation to a licence, means a term which is extended by a specified period at specified intervals;

"scaling" means the measurement, classification, grading, marking and recording of timber;

"timber" means trees, whether alive or dead, and includes fallen and felled trees and wood, whether cut up or fashioned or hollowed out for any purpose,

"timber harvesting" means cutting or felling of trees or the taking of timber of fallen or felled trees;

"timber harvesting licence" means an ordinary timber harvesting licence, a local timber harvesting licence or a community forestry scheme licence;

"timber processing" means the processing of timber to produce sawn timber, poles, piles or posts, wood veneer, plywood, wood chips, industrial fuel wood, wood fibre or wood pulp;

"timber processing facility" means any facility used for timber processing and includes a sawmill and any plant, machinery or equipment for converting unprocessed timber into processed timber;

"timber processing licence" means a licence granted under section 42;

"timber supply quota" means a timber supply quota granted under section 59;

"total basal area" means a measurement of the total area of all the trees in an area arrived at by measuring the area of a cross-section across the stem of each tree at 1.3 metres above the ground;

"tree" includes any root, stump, stem, branch, brush-wood, young tree or sapling;

"tree planting and tending" means any practice, including but not limited to planting, re-seeding, thinning and protecting trees from fire, infections, disease and parasites, carried out for the purpose of promoting the growth of trees or improving the yield of merchantable timber in an area;

"unprocessed timber" means timber which has not been processed and includes timber that has been stripped of bark or sapwood or roughly squared;

“vessel monitoring equipment” means equipment that is capable of monitoring vessels, including but not limited to the determination of a vessel’s identity, its GPS position, course and speed, including the use of an automatic location communicator.

(2) A reference in this Act to a forest access agreement means, in relation to a licence, permit or approval, any forest access agreement covering the whole or part of the land covered by that licence or permit.

(3) A reference in this Act to the customary owners means, where there is one owner of unregistered customary land, that owner.

Objects of the Act.

3. The objects of the Act shall be-

(a) to ensure the proper management of Solomon Islands forest resources in an efficient, effective and ecologically sustainable manner;

(b) to promote the development of a sustainable commercial timber industry so as to ensure the maximum benefit to the present and future generations of the people of Solomon Islands; and

(c) to protect and conserve forest resources, habitats and ecosystems including the maintenance of ecological processes and genetic diversity.

PART II FORESTRY ADMINISTRATION

Forestry conservation and management principles.

4. In exercising their powers under this Act, the Minister and the Commissioner of Forests shall have regard to -

(a) the principle that Solomon Islands forestry resources shall be managed, developed and conserved so as to ensure through proper conservation and management measures that the maintenance of those resources are not endangered by over-exploitation and are utilised at a level that shall ensure their optimum sustainable yield;

(b) the principle that the diversity of forests and the forest ecosystems of Solomon Islands shall be protected and managed in a sustainable manner;

(c) the application of the precautionary principle to the conservation, management and exploitation of forest resources in order to protect forest resources and preserve the forest environment;

(d) the sustainable utilisation of Solomon Islands forest resources so as to achieve economic growth, human resource development, employment creation and a sound ecological balance, consistent with national development objectives;

(e) the principle of sustainable yields, and allowable harvesting which may be supported or adopted nationally or internationally from time to time;

(f) any relevant international obligations or bilateral or multilateral agreements to which Solomon Islands is a party;

(g) Any rights of customary owners in relation to any customary management land in Solomon Islands; and

(h) the national timber industry policy and national forest resource management strategy made under this Act.

5. (1) There is hereby established a Solomon Islands Forestry Board which shall advise the Minister on such matters relating to the conservation, management and development of forests in Solomon Islands and such other matters as the Minister may from time to time require.

Solomon
Islands
Forestry
Board

(2) The provisions of the Schedule shall have effect with respect to the constitution and operation of the Board or otherwise in relation thereto.

(3) Without prejudice to the generality of subsection (1), the Board shall have the following functions -

(a) to provide a forum for consultation and co-operation between the Minister and persons with an interest in forestry matters;

(b) to advise the Minister on the formulation of the national timber industry policy and the national forest resource management strategy;

(c) to advise the Minister on matters relating to the conduct of forestry research;

(d) to provide advice on such other matters as may be referred to it by the Minister or by a provincial executive; and

(e) to perform such other functions as may be assigned to it under this or any other Act.

Commissioner
of Forests

6. (1) There shall be appointed a Commissioner of Forests who shall be responsible for the administration of this Act.

(2) An appointment made under subsection (1) shall, if the person appointed is to be a public officer, be made in accordance with the Constitution, but otherwise shall be made by the Minister.

Functions of
Commissioner

7. The functions of the Commissioner of Forests are to -

(a) prepare and keep under review a national timber industry policy and a national forest resource management strategy for approval by the Cabinet;

(b) oversee the carrying into effect of the national timber industry policy and the national forest resource management strategy;

(c) ensure the conservation and proper management and development of forested land in Solomon Islands;

(d) advise the Minister on matters concerning forest management and conservation in Solomon Islands;

(e) conduct and promote research and development and education relating to the conservation and management of forests in Solomon Islands;

(f) monitor and advise the Minister in relation to the fulfilment of obligations arising under any international treaty or instrument to which Solomon Islands is a party; and

(g) carry out such other functions as are provided for in this or any other Act.

8. (1) In addition to the powers provided in this or any other Act, the Commissioner shall have such powers as are necessary to properly discharge his functions and generally for carrying out the objects of the Act. Powers of Commissioner

(2) The Commissioner shall have the power to institute or defend any proceedings under his official title.

(3) For the purposes of this Act, the Commissioner has all the powers of a Forest Inspector.

(4) The Commissioner may, by notice published in the Gazette, delegate any of his powers under this Act to any public officer or government employee; except the powers contained in section 24 (Ordinary timber harvesting licence), section 28 (Community forestry scheme licence.), section 39 (Land clearing permit.) and section 59 (Timber supply quota.)

(5) A delegation under subsection (4) may be revoked by a notice published in the Gazette.

9. (1) There is hereby established a Forest Trust for the management and development of forests in Solomon Islands which shall be deemed a Special Fund in Forest Trust.

terms of section 100 (2) of the Constitution.

(2) There shall be paid into the Trust -

(a) the revenue derived from the forest development levy provided for under section 56;

(b) fifty per cent of the revenue derived from penalties for offences against this Act, or from compounding of offences against this Act;

(c) fifty per cent of the revenue derived from licence fees;

(d) the proceeds of sale of any property forfeited under section 101, 102 or 103;

(e) such moneys as may be appropriated to the Trust by Parliament; or

(f) such moneys as may be donated to the Trust by any person, country or organisation.

(3) Moneys may be expended from the Trust for all or any of the following purposes -

(a) tree planting and tending;

(b) reforestation;

(c) such other purposes as are prescribed by regulations.

(4) Expenditure from the Trust shall be approved by the Minister consistent with the purposes for which expenditure is permitted in consultation with the Board.

(5) The Minister may by regulation prescribe the procedure applying for payments into and expenditure from the Trust and accounting therefor.

Responsibilities of provincial governments.

10. (1) Subject to this Act, each provincial government shall in each calendar year report to the Minister on the state of forests in the province.

(2) A report under subsection (1) shall *inter alia* contain -

(a) the provincial government's policy regarding its compliance with this Act;

(b) measures taken by the provincial government in respect of reforestation of areas which have been harvested in that province;

(c) any recommendations as to measures that might be adopted to -

(i) ensure compliance with this Act;

(ii) maintain an adequate level of reforestation; and

(iii) conserve and manage forested land in the province.

PART III PLANNING AND MANAGEMENT OF FORESTS

11. (1) The Commissioner shall prepare and keep under review a national timber industry policy in accordance with this section for the development of the timber industry and shall refer it to the Board for its consideration.

National timber industry policy.

(2) The Board shall consider such national timber industry policy and forward it to the Minister with its advice who shall refer it to the Cabinet for its approval.

(3) The Cabinet in giving its approval may make such modifications as it considers appropriate.

12. The national timber industry policy shall *inter alia* contain -

Contents of national timber industry policy.

(a) the priorities to be observed in the granting of all or any class of licence or permit;

(b) the requirements for utilisation of timber within Solomon Islands including any restrictions on the export of unprocessed timber and any requirements for a volume or proportion of timber harvested to be processed within Solomon Islands;

(c) the quotas of the numbers and kinds of licences that may be issued, overall and to any operator, in respect of any class of licence;

(d) any preference to be observed in the granting of licences to local companies;

(e) standard conditions which are to be applied to all or any class of licence; and

(f) any other matters relating to the granting of licences for timber harvesting and the carrying out of forestry related activities.

(2) The national timber industry policy made under section 11 -

(a) shall comprise the Government's policy in respect of the development of the timber industry and related activities;

(b) may contain directives and prohibitions, consistent with the provisions of this Act, which shall be observed by all persons and bodies responsible for the administration of this Act; and

(c) shall be published in the Gazette.

National forest resource management strategy.

13. (1) The Commissioner shall prepare and keep under review a national forest resource management strategy for the conservation and management of forest resource in Solomon Islands and shall refer it to the Board for its

consideration in accordance with this section.

(2) The Board shall consider such national forest resource management strategy and shall advise the Minister of the contents thereof. The Minister shall refer the national forest resource management strategy to the Cabinet for its approval.

(3) The Cabinet in giving its approval to the management strategy may make such modifications as it considers appropriate.

14. (1) The national forest resource management strategy shall *inter alia* contain -

Contents of national forest resource management strategy.

- (a) the categories of use which may be made of forests in Solomon Islands;
- (b) the criteria by which the suitability of a particular area of forest for each category of use will be assessed;
- (c) the zones within Solomon Islands to which different categories of forest use apply;
- (d) the manner in which timber should be harvested to ensure that forest resources are managed sustainably;
- (e) the sustainable yields or allowable volumes of timber that may be harvested annually, or in total, in Solomon Islands as a whole or in a particular area; and
- (f) the manner in which reforestation of areas that have been harvested is to be ensured.

(2) The national forest resource management strategy made under section 13 -

- (a) shall comprise the Government's policy in respect of the conservation and management of forest resources in Solomon Islands and related activities;

(b) may contain directives and prohibitions, consistent with the provisions of this Act, which shall be observed by all persons and bodies responsible for the administration of this Act; and

(c) shall be published in the Gazette.

Consultation
on prepara-
tion of policy
and strategy

15. The Commissioner shall, where he considers appropriate, consult with -

(a) the relevant government departments or agencies, including provincial governments, area councils and other bodies or authorities with an interest in the conservation, management and development of forests;

(b) persons and bodies engaged in activities related to the timber industry; and

(c) customary groups and other bodies with an interest in the conservation and development of forests,

during the preparation of the national timber industry policy and the national forest resource management strategy.

Code of
practice

16. The Minister shall in consultation with the Commissioner and the Board make regulations prescribing a code of practice for timber harvesting and forest management.

Contents of
code of
practice

17. (1) The code of practice for timber harvesting and forest management shall *inter alia* contain practices and standards that, in the opinion of the Minister, are required to -

(a) promote the growth of merchantable timber species;

(b) maintain forest regenerative capacity and species diversity;

(c) protect the environment;

(d) protect sites of cultural, historical or archeological significance;

(e) ensure the health and safety of forest workers;

(f) prevent fires; and

(g) ensure that harvested timber is accurately scaled.

(2) Without limiting the generality of subsection (1), the code of practice may contain provisions -

(a) prohibiting or restricting the harvesting of any species or category of tree;

(b) prohibiting or restricting the export of timber of any species or category of timber in a specified form;

(c) specifying the manner in which timber will be scaled and branded;

(d) setting standards for the construction of roads and other works;

(e) requiring a licensee to submit operational plans, acceptable to the Commissioner, in respect of proposed timber harvesting, reforestation, tree planting and tending and forestry related activities to be carried out under the licence;

(f) authorising a forest inspector to make a determination in respect of any matter or thing; and

(g) specifying any matters which the Minister thinks appropriate.

18. (1) No person shall carry out timber harvesting or forestry related activities other than in accordance with the code of practice.

Enforcement
of code of
practice.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable -

(a) in the case of an individual, to a fine not exceeding \$50,000 or to imprisonment for a period not exceeding five years or to both such fine and imprisonment; or

(b) in the case of a corporate entity, to a fine not exceeding \$100,000.

Determination of potential forest uses

19. (1) The Commissioner may, in accordance with section 20, determine the potential forest uses for an area of forest.

(2) A determination of potential forest uses shall -

(a) identify the area of land covered by the determination;

(b) specify the potential forest uses for which the area to be covered by the determination is suitable, employing the categories of use set out in the national forest resource management strategy;

(c) take account of any land-use or other restrictions in place under any other Act or provincial Ordinance or policy; and

(d) contain such other matters as may be prescribed by regulation.

(3) A determination of potential forest uses may divide the area covered by the determination into zones and specify the category of forest use that applies to each zone.

Procedure for determination of potential forest uses

20. (1) An application for a determination of potential forest uses may be made to the Provincial Secretary of the relevant provincial government.

(2) An application under subsection (1) in relation to any parcel of registered land shall identify the registered owner of the land and, where the forest access rights are owned by a different person, the owner of the forest access rights in each such parcel.

(3) After receipt of an application under subsection (1), the Provincial Secretary of the relevant provincial government shall, within one month, forward the application to the Commissioner together with a statement of -

(a) any relevant provincial government policy or land-use restriction; and

(b) any scheme or regulation under a provincial Ordinance,

which may affect the area of land covered by the application.

(4) A determination of potential forest uses shall be made by the Commissioner within two months of receiving the application and provincial statement under subsection (3).

(5) The Commissioner may, in determining the forest uses make any amendments to the application which he thinks necessary.

21. (1) Notice of the making of a determination of potential forest uses shall -

Notification of determination of potential forest uses.

(a) be published in the Gazette; and

(b) within fourteen days of the making of the determination, be transmitted by the Commissioner to the relevant provincial government and to the applicant.

(2) A notice given to an applicant under subsection (1) shall include a copy of the provincial statement given under section 20.

22. Where a determination of potential forest uses relates in whole or in part to unregistered customary land, the Commissioner shall ensure that steps are taken to inform the customary owners of the contents and effect of the determination.

Notification to owner of land.

PART IV
CONTROL OF FORESTRY ACTIVITIES
Division I - Timber Harvesting

Requirement
for timber har-
vesting
licence

23. (1) No person shall harvest or remove any timber from any land or enter on land for the purpose of harvesting or removing timber otherwise than -

(a) under and in accordance with the provisions of a valid timber harvesting licence granted under this Act;

(b) for domestic purposes;

(c) for purposes which do not involve the sale of the timber or any product of the timber; or

(d) for traditional purposes.

(2) For the purposes of subsection (1) (a), a person harvests or removes timber from land under a timber harvesting licence if the person does so as -

(a) the holder of the licence;

(b) an employee of the holder of the licence;

(c) the approved agent or contractor, or an employee of an approved agent or contractor of the holder of the licence;

(d) a member of a customary group which is the holder of an ordinary timber harvesting licence; or

(e) a registered participant in a community forestry scheme which is the subject of a community forestry scheme licence.

(3) No person shall acquire or dispose of timber that has been harvested except in accordance with subsection (1).

(4) A person who contravenes subsection (1) or (3) shall be guilty of an offence and liable -

(a) in the case of an individual, to a fine not exceeding \$250,000 or to imprisonment for a period not exceeding five years or to both such fine and imprisonment; or

(b) in the case of a corporate entity, to a fine not exceeding \$1,000,000.

(5) In proceedings for an offence under subsection (4), the onus of proving that the timber was harvested or removed under paragraphs (a), (b), (c), (d) or (e) of that subsection lies on the person claiming that any of those paragraphs apply.

(6) In proceedings for an offence under subsection (4), the onus of proving that the timber was harvested or removed under and in accordance with a valid timber harvesting licence lies on the person so asserting.

24. (1) Subject to this section and to section 25, the Commissioner may, on payment of the prescribed fee, grant an ordinary timber harvesting licence where he is satisfied that -

Ordinary timber harvesting licence.

(a) the relevant provisions of this Act have been complied with;

(b) the grant of the licence will be in accordance with the national forest resource management strategy and the national timber industry policy;

(c) if the applicant or any agent or contractor named in the application is a foreign investor, that investor complies with all applicable laws relating to foreign investment; and

(d) all necessary approvals under other Acts or provincial Ordinances have been obtained.

(2) An ordinary timber harvesting licence authorises the licensee, his employees, an approved agent or contractor

of the licensee or an employee of such approved agent or contractor, to carry out timber harvesting, removal and forestry related activities on the land specified in the licence in accordance with the conditions of the licence.

(3) Subject to subsection (4), an ordinary timber harvesting licence may be granted to -

(a) the group comprising the customary owners of the unregistered customary land covered by the licence; or

(b) the owners of registered customary land covered by the licence; or

(c) any other person.

(4) Where an ordinary timber harvesting licence is to be granted to the owners of registered customary land, the licence shall be granted in the name of the person, persons or bodies that are the registered owners of that land.

Limitations on
grant of ordinary
timber
harvesting
licence

25. (1) No ordinary timber harvesting licence shall be granted except where -

(a) a determination of potential forest uses has been made in respect of the land to be covered by the licence;

(b) the timber harvesting to be permitted by the licence will be consistent with that determination;

(c) in the case of registered land, the registered owner has given his consent in writing to the harvesting;

(d) in the case of public land, the Commissioner of Lands has given his consent in writing to the harvesting on behalf of the Government; and

(e) in the case of unregistered customary land -

(i) the harvesting permitted by the licence is consistent with the election made by the customary owners in accordance with section 79;

(ii) the applicant has agreed to acquire forest access rights in respect of the land by entering into a valid forest access agreement with the customary owners in accordance with section 83;

(iii) the forest access rights to be exercised under the licence are consistent with the forest access agreement; and

(iv) the relevant provincial executive has consented to the forest access agreement under section 84.

(2) If an application for a timber harvesting licence relates to unregistered customary land and a valid forest access agreement has been made in relation to that land, the Commissioner shall not grant a licence to a person who is not a party to that forest access agreement.

(3) To the extent that an ordinary timber harvesting licence contravenes this section, the licence is void and of no effect.

26. (1) Subject to this section and section 27, the Commissioner may, on payment of the prescribed fee, grant a local timber harvesting licence where he is satisfied that -

Local timber
harvesting
licence.

(a) the relevant provisions of this Act have been complied with;

(b) the grant of the licence is in accordance with the national forest resource management strategy and the national timber industry policy;

(c) the applicant or applicants for the licence have obtained the consent of any other customary owners of the timber to carry out the harvesting; and

(d) all necessary approvals under other Acts or provincial Ordinances have been obtained.

(2) A local timber harvesting licence authorises the licensee to carry out timber harvesting, removal and timber processing of not more than 200 cubic metres of timber per annum on the unregistered customary land specified in the licence in accordance with the conditions of the licence.

(3) A local timber harvesting licence shall be issued to and in the name of one or more natural persons who are customary owners of the land covered by the licence.

Limitations on grant of local timber harvesting licence

27. (1) no local timber harvesting licence shall be granted -

(a) to a person who is not a customary owner of the land covered by the licence; or

(b) to any corporate body.

(2) A local timber harvesting licence may be granted in respect of timber which is the subject of a valid forest access agreement only where, and to the extent that, the agreement provides for the customary owners of the land to retain the right to harvest that timber.

(3) To the extent that a local timber harvesting licence contravenes this section, the licence is void and of no effect.

Community forestry scheme licence

28. (1) Subject to this Act, the Commissioner may, on payment of the prescribed fee, grant a community forestry scheme licence where he is satisfied that -

(a) the relevant provisions of this Act have been complied with;

(b) the grant of the licence is in accordance with the national forest resource management strategy and the national timber industry policy;

(c) the relevant provincial executive has consented to the application under section 30; and

(d) all necessary approvals under other Acts or provincial Ordinances have been obtained.

(2) A community forestry scheme licence authorises persons who are registered participants in the community forestry scheme to carry out timber harvesting, removal and timber processing of not more than 2,000 cubic metres of timber per annum on the land specified in the licence in accordance with the conditions of the licence.

(3) A community forestry scheme licence shall be granted to and in the name of the person or body which will supervise the community forestry scheme and which will ensure that timber harvesting and forestry related activities to be conducted by registered participants in the scheme will be carried out in accordance with the terms of the licence.

(4) The Minister may by regulations make further provision in relation to community forestry scheme licences, including prescribing qualifications for the holding of a licence.

29. (1) An application for a timber harvesting licence shall be made in the prescribed form to the Commissioner.

Application for timber harvesting licence.

(2) The Commissioner may require an applicant for a timber harvesting licence to provide such information as is reasonably required to determine the licence application.

30. (1) An application for a local timber harvesting licence or a community forestry scheme licence shall be submitted to the relevant provincial executive for its consent.

Provincial government consent to local harvesting licence.

(2) The relevant provincial executive shall consider the licence application at its next meeting following the submission for consent, provided that the application has been submitted at least two weeks before the meeting.

(3) The relevant provincial executive shall consent to a licence application if it is satisfied that -

(a) the application is in accordance with relevant provincial policies;

(b) the applicant satisfies any assessment criteria or qualifications applicable under those policies to persons wishing to carry out forestry related activities in the province; and

(c) the potential forest uses proposed under the licence are not in breach of any provincial Ordinance.

(4) Where the relevant provincial executive is not satisfied of the matters set out in subsection (3) it shall refuse to consent to the licence application and shall provide a written statement of its reasons.

(5) A provincial executive shall not unreasonably withhold or refuse consent under subsection (3).

(6) Where a provincial executive has refused or failed to consent to a licence under subsection (3), the applicant may appeal to the Minister who may -

(a) if he considers the refusal or failure to consent to the licence is unreasonable in all the circumstances; and

(b) after consultation with the Minister responsible for Provincial Government,

approve the licence.

Refusal of
licence.

31. The Commissioner may refuse an application for a timber harvesting licence on any of the following grounds -

(a) that the grant of the licence would be in contravention of any provision of this Act;

(b) that it would be detrimental to the proper management and conservation of forest resources to grant the licence, taking into account the provisions of the national timber industry policy and the national forest resource management strategy;

(c) that the Commissioner has reason to believe that the applicant or any agent or contractor of the applicant named in the application may not comply with the conditions of the licence; or

(d) such other grounds as may be specified in this Act or prescribed by regulations.

32. (1) Subject to this section, an ordinary timber harvesting licence shall -

Form of ordinary timber harvesting licence.

(a) be in the prescribed form;

(b) specify the area of land covered by the licence;

(c) specify the volume of timber that may be harvested annually under the licence in accordance with the national forest resource management strategy;

(d) specify the volume or proportion of timber that is required to be processed annually in Solomon Islands in accordance with the national timber industry policy;

(e) specify the amount of the performance bond to be entered into in accordance with section 112;

(f) specify the timber supply quota, if any, to which the licence is subject in accordance with section 59;

(g) fix the commencement date and the duration of the licence; and

(h) be subject to such conditions as are prescribed in the licence.

(2) It shall be a condition of every ordinary timber harvesting licence that the licensee, his agent or contractor and any person authorised to act on his behalf shall comply with the code of practice in carrying out forestry related activities under the licence.

(3) Each ordinary timber harvesting licence shall contain conditions that are adequate to ensure the proper reforestation of areas harvested under the licence, or specify an appropriate use to which the land shall be put after harvesting.

(4) An ordinary timber harvesting licence shall specify any agent or sub-contractor who will be authorised to undertake forestry related activities on behalf of the licensee.

Form of local
timber har-
vesting
licence

33. (1) Subject to this section, a local timber harvesting licence shall -

(a) be in the prescribed form;

(b) specify the area of unregistered customary land covered by the licence;

(c) specify the volume of timber (not exceeding 200 cubic metres) that may be harvested annually under the licence in accordance with the national forest resource management strategy;

(d) specify the amount of the performance bond to be entered into in accordance with section 112;

(e) specify the commencement date and the duration (not exceeding one year) of the licence; and

(f) be subject to such conditions as are prescribed in the regulations or in the licence.

(2) It shall be a condition of every local timber harvesting licence that-

(a) all the timber harvested under the licence shall be processed in Solomon Islands;

(b) the licensee shall not purchase timber for processing under the licence from any person other than the holder of an ordinary timber harvesting licence;

(c) the licensee shall not engage any agent or contractor (other than a person engaged under a contract of employment) to carry out timber harvesting;

(d) the licensee shall comply with the code of practice in carrying out forestry related activities under the licence; and

(e) the licence shall not be assigned or transferred.

(3) Each local timber harvesting licence shall contain conditions that are adequate to ensure the proper reforestation of areas harvested under the licence, or specify an appropriate use to which the land shall be put after harvesting.

(4) A local timber harvesting licence -

(a) is not transferable and may not be assigned to any other person; and

(b) shall terminate automatically upon any purported assignment or transfer in contravention of paragraph (a).

34. (1) Subject to this section, a community forestry scheme licence shall -

Form of community forestry scheme licence.

(a) be in the prescribed form;

(b) specify the area of land covered by the licence;

(c) specify the volume of timber that may be harvested annually under the licence in accordance with the national forest resource management strategy, both in total and by any registered participant in the scheme, provided that the total volume of timber shall not exceed 2,000 cubic metres per annum;

(d) specify the amount of the performance bond to be entered into in accordance with section 112;

(e) specify the commencement date and the duration of the licence; and

(f) be subject to such conditions as are prescribed, or as are prescribed in the licence.

(2) It shall be a condition of every community forestry scheme licence that -

(a) timber shall be harvested only by a registered participant on land of which he is the customary owner, and with the consent of any other customary owners of that land;

(b) the timber harvested under the licence shall be harvested in accordance with the code of practice;

(c) all the timber harvested under the licence shall be processed in Solomon Islands; and

(d) the licensee shall take such steps as are necessary to ensure that the conditions of the licence are complied with and will promptly deregister any registered participant who fails to comply with any conditions as are prescribed, or as are prescribed in the licence.

(3) Each community forestry scheme licence shall contain conditions which are adequate to ensure the proper reforestation of areas harvested under the licence, or specify an appropriate use to which the land shall be put after harvesting.

Commence-
ment of
licence

35. A timber harvesting licence takes effect from -

(a) the commencement date specified in the licence;

(b) the date on which the performance bond specified in the licence has been provided to the satisfaction of the Commissioner; or

(c) the date of which the prescribed fee has been paid,

whichever is the later.

Division II - Contractors

36. (1) An agreement, contract or other arrangement for timber harvesting under a licence to be carried out by a person other than the licensee shall be approved by the Commissioner, subject to subsection (2).

Approval of contract arrangements.

(2) The Commissioner shall not approve an agreement, contract or arrangement under subsection (1) unless he is satisfied that -

- (a) the agent or contractor who will undertake the timber harvesting is suitably qualified and will comply with the conditions of the licence;
- (b) reforestation will be carried out in accordance with the conditions of the licence;
- (c) the terms of the agreement, contract or arrangement are in accordance with the national timber industry policy;
- (d) the terms of the agreement, contract or arrangement allow it to be terminated by the licensee in the event that timber harvesting and forestry-related activities are not carried out by the agent or contractor in accordance with the conditions of the licence;
- (e) the parties understand the terms of the agreement, contract or arrangement;
- (f) the terms of the agreement, contract or arrangement are not unduly harsh in relation to one party to the agreement;
- (g) the licensee's liabilities to make payments of royalties, levies, fees, and other charges under the licence and any forest access agreement will be met; and

(h) in the case where the contractor is a foreign investor, the necessary approval has been obtained from the Investment Board.

(3) Upon approving an agreement, contract or arrangement under subsection (2), the Commissioner shall -

(a) endorse the licence with the name of the approved agent or contractor; and

(b) certify the agreement, contract or any other instrument evidencing the arrangement as approved.

Guidelines for contract agreements

37. (1) The Commissioner may issue guidelines or standard model agreements for the contracting of timber harvesting and forestry related activities under a licence.

(2) The guidelines or standard model agreements issued under subsection (1) shall contain such terms as are necessary to ensure that -

(a) the terms of the agreement are not unduly harsh in relation to one party to the agreement;

(b) the licensee remains in real and effective control of the timber harvesting and forestry related activities being carried out under the agreement; and

(c) the agreement otherwise will comply with section 36.

Division III - Land Clearing

Requirement for land clearing permit

38. (1) No person shall clear forested land otherwise than -

(a) under and in accordance with a valid land clearing permit;

(b) for traditional purposes; or

(c) for domestic purposes.

(2) A person who contravenes subsection (1) shall be guilty of an offence and liable -

(a) in the case of an individual, to a fine not exceeding \$250,000 or to imprisonment for five years or to both such fine and imprisonment; or

(b) in the case of a corporate entity, to a fine not exceeding \$1,000,000.

39. (1) Subject to this section, the Commissioner may, on application in the prescribed form and on payment of the prescribed fee, grant a land clearing permit where he is satisfied that -

Land clearing permit.

(a) the relevant provisions of this Act have been complied with;

(b) all necessary approvals under other Acts or provincial Ordinances have been obtained;

(c) the grant of the land clearing permit is in accordance with the national forest resource management strategy;

(d) the relevant provincial executive has consented to the application under section 40;

(e) in the case of clearing of unregistered customary land, the rights to the timber and non-timber forest produce on the land have been acquired from the customary owners under Part V; or

(f) in the case of registered land, the registered owners of the land have consented in writing to the clearing.

(2) A land clearing permit authorises the permit holder, his employees and his agent or sub-contractor to clear land in accordance with the conditions of the permit.

(3) No land clearing permit shall be granted except where -

(a) a determination of potential forest uses has been made in respect of the land to be covered by the permit; and

(b) the clearing will be consistent with that determination.

(4) A person who harvests or removes timber from land in the course of land clearing shall not sell the timber unless that person holds a timber harvesting licence in respect of the land from which the timber is harvested.

(5) A land clearing permit shall -

(a) be in the prescribed form;

(b) specify the area of land covered by the permit; and

(c) be subject to such conditions as are prescribed in the permit.

Provincial
government
consent to
land clearing
permit

40. (1) An application for a land clearing permit shall be submitted to the relevant provincial executive for its consent.

(2) The provisions of section 30 shall *mutatis mutandis* apply to the procedure to be followed in the consideration and consent or otherwise of an application under subsection (1).

Division IV - Timber Processing

Requirement
for timber pro-
cessing
licence

41. (1) No person shall process timber otherwise than -

(a) under and in accordance with a timber processing licence;

(b) under and in accordance with a local timber harvesting licence or a community forestry scheme licence;

(c) for purposes which do not involve the sale of the processed timber; or

(d) in a timber processing facility which is of a class that is exempt.

(2) A person who contravenes subsection (1) shall be guilty of an offence and liable -

(a) in the case of an individual, to a fine not exceeding \$25,000 or to imprisonment for a period not exceeding five years or to both such fine and imprisonment; or

(b) in the case of a corporate entity, to a fine not exceeding \$100,000.

(3) The Minister may, by notice in the Gazette, declare any class of timber processing facility to be exempt from the requirements of this Part.

42. (1) Subject to this section, the Commissioner may, on application in the prescribed form and on payment of the prescribed fee, grant a timber processing licence where he is satisfied that -

Timber processing licence.

(a) the relevant provisions of this Act have been complied with;

(b) the grant of the licence is in accordance with the national forest resource management strategy and the national timber industry policy;

(c) the relevant provincial executive has consented to the application under section 43; and

(d) if the relevant applicant or any agent or contractor named in the application is a foreign investor, that investor has complied with all applicable laws.

(2) A timber processing licence authorises the licensee, his employees and his agent or sub-contractor, to operate a timber processing facility in accordance with the conditions of the licence.

(3) A timber processing licence shall -

- (a) be in the prescribed form;
- (b) specify the area of land from which timber may be drawn for processing at the facility;
- (c) specify the maximum volume of timber that may be processed, or the maximum volume of processed timber that may be produced, at the facility; and
- (d) be subject to such conditions as are prescribed in the licence in accordance with the national timber industry policy.

(4) A timber processing licence does not authorise the holder to harvest timber.

Provincial
government
consent to
timber pro-
cessing
licence

43. (1) An application for a timber processing licence shall be submitted to the relevant provincial executive for its consent.

(2) The relevant provincial executive shall consider the licence application at its next meeting following the submission for consent provided that the application has been submitted at least two weeks before that meeting.

(3) The relevant provincial executive shall consent to the licence application if it is satisfied that -

- (a) the application is in accordance with any relevant provincial policies set out in the provincial statement under section 20 (3);
- (b) the applicant satisfies any assessment criteria or qualifications applicable under policies set out in the provincial statement, to persons wishing to carry out timber processing activities in the province; and

(c) the timber processing activities proposed under the licence are not in breach of any provincial Ordinance.

(4) Where an application is refused, the provincial executive shall in writing inform the applicant of its reasons.

(5) A provincial executive shall not unreasonably withhold or refuse its consent under subsection (3).

(6) Where a provincial executive has refused or failed to consent to a licence under subsection (3), the applicant for the licence may appeal to the Minister who may -

(a) if he considers the refusal or failure to consent to the licence is unreasonable in all the circumstances; and

(b) after consultation with the Minister responsible for Provincial Government,

approve the application and issue the licence.

Division V - Administration of Licences and Permits

44. (1) There shall be payable in respect of every licence or permit, and every application, notice, determination, transfer, grant and approval under this Act, such fees as may be prescribed by the Minister. Fees.

(2) The Commissioner may fix charges for the provision of any document or other information

45. (1) Subject to this section, the Commissioner may where the circumstances so require, vary the conditions of any licence to - Variation of licence conditions.

(a) adjust the volume of timber that may be harvested or processed annually so that the licence conforms with the national forest resource management strategy;

(b) impose on the licensee the requirement to comply with a timber supply quota which has been granted in accordance with section 59; or

(c) impose different requirements relating to the utilisation of the timber harvested under the licence, including but not limited to the volume of timber that can be exported annually in unprocessed form, so that the licence conforms with the national timber industry policy.

(2) A variation made under subsection (1) comes into effect six months after the Commissioner has given written notice of the variation to the holder of the licence.

(3) The Commissioner's power to vary a licence under subsection (1) is subject to any express qualification on that power set out in the terms of a licence.

Amendment
of licence or
permit

46. (1) Subject to the provisions of this Part, a licence or permit may be amended by written agreement between the licensee and the Commissioner.

(2) An amendment of a licence in respect of an area of unregistered customary land shall not be made without prior notification to the customary representatives.

Extension of
licence

47. (1) The Commissioner may, on application by the licensee and on payment of the prescribed fee, grant an extension of the term of a licence where he is satisfied that -

(a) the relevant provisions of this Act have been complied with in relation to the extension;

(b) the extension will be in accordance with the national forest resource management strategy and the national timber industry policy; and

(c) all necessary approvals under other Acts or provincial Ordinances have been obtained.

(2) An application under subsection (1) in relation to an ordinary timber harvesting licence covering unregistered customary land shall be accompanied by a forest access agreement valid for a period not less than the term for which the licence is proposed to be extended.

(3) An application for extension of the area of land covered by a licence shall be treated as a new application.

(4) The extended term referred to in subsection (1) may be a rolling term, but shall be subject to the negotiation of a valid forest access agreement for the area of land and the term covered by the licence.

48. (1) Subject to subsection (4), no licence, permit or approval issued under this Act shall be transferred, assigned, sold or disposed of in any way whatsoever except with the written approval of the Commissioner and any transfer, sale or disposal of a licence, permit or approval without such approval shall render such licence, permit or approval invalid.

Transfer of licences, permits and approvals.

(2) A local timber harvesting licence or a community forestry scheme licence shall not be transferred, assigned, sold or disposed of in any way whatsoever and shall automatically terminate on any purported transfer, assignment, sale or disposal.

(3) Where there is a change of more than thirty per cent in the beneficial ownership of a corporate entity which is the holder of a licence or permit without the prior consent of the Commissioner, the licence, permit or approval as the case may be, shall be automatically terminated on that change of ownership.

(4) The Commissioner may approve -

(a) the transfer, assignment, sale or disposal of a licence (other than a local timber harvesting licence or a community forestry scheme licence); or

(b) a change of beneficial ownership of a corporate entity which is the holder of a licence or is an approved agent or contractor,

where he is satisfied that the change is in accordance with the national timber industry policy.

49. (1) Where a licensee or a permit holder enters into an agreement, contract or arrangement for an agent or contractor to undertake timber harvesting on his behalf, and that agreement, contract or arrangement provides, *inter alia*,

Certain arrangements deemed to be transfer.

for the transfer of real effective control of the carrying out of timber harvesting or marketing to another person, the agent or contractor shall, for the purposes of this Act, be deemed to be a joint licensee or permit holder as the case may be.

(2) In circumstances to which subsection (1) applies, the person who is deemed to be the joint licensee or permit holder shall be jointly and severally liable as a licensee or permit holder for all the purposes of this Act.

(3) A contract or agreement, whether in writing or not, and notwithstanding anything in that contract or agreement, shall be deemed to transfer real effective control of the carrying out of timber harvesting or marketing if -

(a) it provides for the agent or contractor, or a third party, to determine the price at which timber is sold or to receive the proceeds of sale of timber harvested under the licence; or

(b) it does not make provision for the licensee or permit holder to terminate the agreement in the event that the agent or contractor fails to comply with the conditions of the licence.

Effect of
transfer

50. (1) Upon the transfer of a licence or permit the transferee shall become liable to fulfil all the conditions whatsoever of the licence or permit as if the transferee were the person to whom the licence or permit was first granted.

(2) Upon the transfer of a licence or permit covering unregistered customary land in relation to which a forest access agreement has been entered into, the transferee shall be liable to fulfil all the conditions of the forest access agreement as if the transferee were the person who had entered into the forest access agreement.

Investment
Board
approvals

51. (1) Any person who -

(a) makes an application for approval of the Investment Board under the Investment Act of an enterprises which will require a licence or permit under this Act; or

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(b) being the holder of a licence or permit, applies for approval under section 13 (2) of the Investment Act,

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shall serve a copy of that application on the Commissioner.

(2) On receipt of a copy of an application under subsection (1), the Commissioner shall make a report to the Investment Board in respect of the application, and the Investment Board shall not make a determination on the application unless it has first considered the Commissioner's report.

(3) A report by the Commissioner under subsection (2) shall state his opinion of the proposed investment or change of shareholding or beneficial ownership of the applicant and in particular -

(a) the likely effect on the expertise and experience of the applicant which is relevant to the timber industry;

(b) the likely effect on the concentration or ownership and control of the timber industry in Solomon Islands; and

(c) whether or not the proposed investment or change of ownership is consistent with the national timber industry policy.

52. (1) No licence shall be surrendered except with the written approval of the Commissioner given in accordance with the section. Surrender of licence.

(2) The Commissioner may, on application by the holder of a licence and on payment of the prescribed fee -

(a) issue a notice to the holder approving the surrender, effective from such date and subject to such conditions as are specified in the notice; or

(b) refuse to approve the surrender.

(3) Where an application under subsection (2) relates to a licence covering unregistered customary land, it shall be accompanied by a report from the relevant provincial government or its authorised officer -

(a) setting out the effect of the proposed surrender on the customary owners of the land; and

(b) containing a statement by the customary owners as to whether or not the owners consent to the proposed surrender.

(4) A statement made under subsection (2)(b) by the customary owners of an area of land covered by a licence shall be signed by the customary representatives and shall be made only after the customary owners of the land have received independent legal advice concerning the effect of the surrender.

(5) Where an application under subsection (2) relates to a timber processing licence, and a timber supply quota has been granted to the holder of the licence, it shall be accompanied by a written statement by the holders of any timber harvesting licences who are required to supply timber for processing under the timber processing licence.

Cancellation
of licence or
permit

53. (1) The Commissioner may cancel a licence or permit on any of the following grounds -

(a) the licensee or permit holder has failed, within the period specified, to comply with a request under section 54 to remedy a failure of performance or compliance under this Act;

(b) the information provided with the application for the licence or permit was incorrect or a false declaration was made in connection with the grant of the licence or permit;

(c) the licensee or permit holder has failed, within a reasonable time, to comply with the provisions of the forest access agreement, including payment of royalties, rent, compensation or other dues;

(d) the licensee or permit holder has failed to comply with the conditions of the licence on more than three occasions in the previous twelve months;

(e) the licensee or permit holder has failed to pay fees or levies prescribed by or under this Act within three months of those fees or levies becoming payable;

(f) in the case of a licence, the licensee has not harvested any timber under the licence for a continuous period of six months or more without approval of the Commissioner; or

(g) in the case of a community forestry scheme licence, any registered participants of the scheme have failed to comply with the conditions of the licence.

(2) Before cancelling a licence or permit under subsection (1), the Commissioner shall give written notice to the licensee or permit holder advising of the intended cancellation and inviting the licensee or permit holder to make representations within fourteen days of the notice as to why the licence or permit should not be cancelled.

(3) The Commissioner shall take into account any representations made under subsection (2) and may, if he is satisfied that grounds under subsection (1) exist, cancel the licence or permit.

(4) Upon cancellation of a licence or permit under subsection (1), written notification of the cancellation and the reasons for the cancellation shall be given to the licensee or permit holder.

(5) The cancellation of a licence or permit is effective on -

(a) the date of notification to the licensee or permit holder;

(b) such other date as is specified in the notice,

whichever is the later.

Suspension of
licence or
permit

54 (1) The Commissioner or a forest inspector may, orally or in writing, request a licensee or permit holder to take such reasonable action as the Commissioner or forest inspector considers necessary to remedy -

(a) a failure to perform an obligation under the licence or permit; or

(b) a failure to comply with this Act with regard to the licence or permit.

(2) Where the Commissioner considers that a request under subsection (1) has not been complied within a reasonable time, he may, by notice in writing to the licensee or permit holder -

(a) suspend all or some of the rights of the licensee or permit holder to carry out timber harvesting or forestry related activities or land clearing under the licence or permit;

(b) direct the licensee or permit holder to repair any damage caused by the failure of performance or compliance in the manner and within the period specified in the notice; and

(c) direct the licensee or permit holder to carry out, within the period specified in the notice, such other work as the Commissioner considers necessary in order to remedy the failure of performance or compliance.

(3) If a licensee or permit holder fails to comply with a notice under subsection (2), the Commissioner may do all or any of the following things -

(a) cancel the licence or permit in accordance with section 53;

(b) authorise a person to repair the damage and carry out the work specified in the notice, and such person shall be authorised to enter on the land covered by the licence or permit for the purpose of doing so; and

(c) recover from the licensee or permit holder in court, as a debt due to the Government, the expenses incurred in having the damage repaired or the works carried out under paragraph (b).

55. (1) Any person who -

Keeping of records

(a) engages in timber harvesting and forestry related activities;

(b) holds a licence or permit under this Act; or

(c) sells or exports timber,

shall keep such records and supply such information relating to his activities as the Commissioner may require.

(2) Any person who, without lawful cause, refuses to keep records or supply information as required under subsection (1) or who knowingly supplies false information shall be guilty of an offence and liable to a fine not exceeding one hundred thousand dollars.

56. (1) The Minister may, after consultation with the Board and with approval of the Cabinet, by order published in the Gazette impose a forest development levy.

Forest development levy

(2) An order under subsection (1) may provide that the levy is payable in respect of all timber harvested under all or such categories of licences or permits, or timber, or timber harvested in such circumstances, as are specified in the order.

(3) An order under subsection (1) shall specify the rate or rates of the levy, and the manner in which it is to be assessed and paid.

(4) The forest development levy is payable into the Forest Trust and shall be used for the purposes specified in accordance with section 9.

(5) A forest development levy payable under this section may be recovered as a debt due to the Government.

Timber harvesting levy

57. (1) The Minister may, after consultation with the Board and with approval of the Cabinet, by order published in the Gazette impose a timber harvesting levy.

(2) An order under subsection (1) shall come into effect three months after it is published in the Gazette.

(3) An order under subsection (1) may provide that the levy is payable in respect of all timber harvested under all or such categories of licences or permits or timber, or timber harvested in such circumstances, as are specified in the order.

(4) An order under subsection (1) shall specify the rate or rates of the timber harvesting levy, and the manner in which it is to be assessed and paid.

(5) A timber harvesting levy imposed under subsection (1) shall be paid into the Consolidated Fund or into the Forest Trust, as specified in the order.

(6) A timber harvesting levy payable under this section may be recovered as a debt due to the Government.

Offences in relation to licences and permits

58. (1) No person shall carry out timber harvesting or forestry related activities under a licence or permit other than in accordance with the conditions of that licence or permit.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable on conviction -

(a) in the case of an individual, to a fine not exceeding \$100,000 or to imprisonment for two years or to both such fine and such imprisonment; or

(b) in the case of a corporate entity, to a fine not exceeding \$500,000.

(3) Subsection (1) applies to licensees and agents or contractors of a licensee but does not apply to an employee of a licensee or an agent or contractor acting in accordance with lawful directions of his employer.

(4) In proceedings for an offence under subsection (1), the onus of proving that the person was an employee of a licensee or an agent or contractor acting in accordance with the lawful direction of his employer lies on the person so asserting.

Division VI - Timber Marketing

59. (1) The Commissioner may, on application in the prescribed form and on payment of the prescribed fee, grant a timber supply quota to the holder of a timber processing licence where he is satisfied that the grant of the timber supply quota will be in accordance with the national forest resource management strategy and the national timber industry policy.

Timber supply
quota

(2) A timber supply quota shall entitle the holder to compulsorily purchase timber in unprocessed form -

- (a) from the holders of the timber harvesting licences specified in the quota;
- (b) at the determined price for such timber; and
- (c) up to the volume specified in the quota,

in each year.

(3) A timber supply quota shall -

- (a) be in the prescribed form;
- (b) specify the volume of timber that may be purchased under the quota; and
- (c) be subject to such conditions as are prescribed in the quota, in accordance with the national timber industry policy.

(4) It is a condition of every timber supply quota that the holder of the quota shall process all the timber purchased pursuant to the quota within Solomon Islands.

60. (1) The Commissioner may, from time to time, fix prices that shall be the determined prices for timber for the purposes of this Act.

Fixing of
determined
prices for
timber

(2) In fixing the determined prices for timber under subsection (1), the Commissioner shall ensure that the determined price of a species or grade of timber is a reasonably accurate reflection of the prices paid for that species and grade of timber in the open market.

Notification of application for export authority.
Cap. 51.

61. Where a person makes application under the Exchange Control Act for authority to export timber from Solomon Islands, a copy of the application shall be served on the Commissioner.

Regulation of timber export.

62. The Minister may by regulations not inconsistent with this Act prescribe the procedure, practices and standards applying to the export of timber.

State marketing option.

63. (1) The Commissioner may direct a person who has applied for authority to export timber under the Exchange Control Act to sell the consignment of timber which is the subject of the application to another person at an aggregate purchase price higher than the export value of the consignment specified in the application.

(2) The Minister may prescribe the procedure to be followed by the Commissioner in exercising his powers under this section.

Offences in relation to timber marketing.

64. (1) No person shall -

(a) dispose of timber other than to the holder of a timber supply quota, when there is a valid offer to purchase by that holder pursuant to the terms of the quota; or

(b) dispose of timber which is the subject of a direction by the Commissioner under section 63 (1), to a person other than the person named in that direction as the purchaser of the timber.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable on conviction -

(a) in the case of an individual, to a fine not exceeding \$100,000 or to imprisonment

for two years or to both such fine and such imprisonment; or

(b) in the case of a corporate entity, to a fine not exceeding \$500,000.

Division VII - Export

65. (1) No person shall export processed or unprocessed timber otherwise than under and in accordance with an authority to export granted by the Commissioner in accordance with this section. Approval of export.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and on conviction liable -

(a) in the case of an individual, to a fine not exceeding \$25,000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment; or

(b) in the case of a corporate entity, to a fine not exceeding \$100,000.

(3) The Commissioner may issue an authority to export unprocessed timber where he is satisfied that -

(a) the timber has been correctly scaled; and

(b) the timber is not of a species that the Minister has declared to be prohibited or restricted from export.

(4) The Commissioner may from time to time, and after consultation with the Board, prescribe standards of merchantable quality for processed timber.

(5) The Commissioner may issue an authority to export processed timber where he is satisfied that the timber meets the standards of merchantable quality prescribed under subsection (4).

Determined
value of tim-
ber

66. The Commissioner shall from time to time pre-
scribe a determined value for certain species and grades of
timber, for export purposes, based on the prices actually
obtained for that timber of that grade and species.

Restricted
and prohibited
exports

67. (1) The Minister may, by notice published in
the Gazette, declare any species, grade or other category of tim-
ber to be -

- (a) restricted from export in
unprocessed form;
- (b) prohibited from export; or
- (c) restricted or prohibited from
import.

(2) The Minister may make regulations prescribing
the manner in which restrictions or prohibitions on the export or
import of timber are to be enforced.

PART V RECOGNITION OF OWNERSHIP OF FOREST ACCESS RIGHTS AND NEGOTIATION OF FOREST ACCESS AGREEMENTS

Division I - Preliminary

Restriction on
transfer, etc.
of forest
access rights
in unregis-
tered custom-
ary land

68. (1) No forest access rights in relation to
unregistered customary land shall be transferred, disposed of or
acquired except under a valid forest access agreement entered
into in accordance with this Part.

(2) A person who enters into an agreement for the
transfer, disposal or acquisition of forest access rights in relation
to unregistered customary land in contravention of subsection
(1) shall be guilty of an offence and shall be liable on
conviction -

- (a) in the case of an individual, to a
fine not exceeding \$100,000 or to imprisonment
for five years or to both such fine and such
imprisonment; or

(b) in the case of a corporate entity, to a fine not exceeding \$500,000.

(3) Nothing contained in section 221 of the Land and Titles Act shall prohibit or invalidate the acquisition by a person other than a citizen of Solomon Islands of any forest access rights relating to customary land, or of any right of access to or over customary land for the purpose of exercising forest access rights, under a valid forest access agreement entered into in accordance with this Part. Cap. 133.

69. (1) No forest access agreement for the acquisition of forest rights in relation to unregistered customary land may be entered into unless - Forest access agreement

(a) the customary owners have lodged a statement of customary ownership in accordance with section 71;

(b) any land dispute in relation to the unregistered customary land has been resolved in accordance with the procedure specified in section 77;

(c) the customary owners have made an election as to permitted forest uses in accordance with section 79; and

(d) the Commissioner has authorised interested persons to make proposals to the customary owners under section 82.

(2) A forest access agreement entered into before the provisions of subsection (1) have been satisfied is void and of no effect.

(3) A forest access agreement shall have no effect unless consent to it is given by the relevant provincial executive in accordance with section 84.

(4) It shall be an implied condition of every forest access agreement that any timber harvesting and forestry related activities carried out under the agreement shall be carried out in accordance with the code of practice.

Offence to
make pro-
posal without
authorisation.

70. (1) No person shall -

(a) make an offer to a customary owner in relation to the transfer, disposal or acquisition of forest access rights in unregistered customary land;

(b) offer an inducement to a customary owner for the purpose of negotiating a forest access agreement covering unregistered customary land,

otherwise than in accordance with -

(i) an approval by the Commissioner under section 77 (4); or

(ii) an authorisation by the Commissioner under section 82.

(2) A person who contravenes subsection (1) shall be guilty of an offence and liable -

(a) in the case of an individual, to a fine not exceeding \$100,000 or to imprisonment for two years or to both such fine and such imprisonment; or

(b) in the case of a corporate entity, to a fine not exceeding \$500,000.

Division II - Identification of Customary Owners

Statement of
customary
ownership

71. A statement of customary ownership may be lodged in accordance with the procedure set out in this section, and in the form provided for in section 75, by the customary owners of an area of unregistered customary land covered by a determination of potential forest uses.

(2) After a determination of potential forest uses has been made in relation to an area of unregistered customary land, the Commissioner, in consultation with the relevant area council or such other body with similar responsibilities (if any), shall fix a reasonable period of time within which statements of customary ownership in relation to the land shall be lodged.

(3) The Commissioner shall arrange for notice to be given of the time for lodging statements of customary ownership -

- (a) in a newspaper circulating nationally;
- (b) through a national broadcasting service;
- (c) by means of a notice displayed in the area covered by the determination of potential forest uses; and
- (d) by such other means as the Commissioner considers adequate and effective as a means of bringing the notice to the attention of all the owners of the unregistered customary land within the area.

72. The time for lodging statements of customary ownership referred to in section 71 and specified in the notice given under that section shall be not less than ninety days after the date on which the notice is given in accordance with subsection (3)(a) or (c) of that section.

Time limit for lodging statement of customary ownership

73. (1) Subject to section 78(2), a group of customary owners who wish to lodge a statement of customary ownership shall, in accordance with custom, appoint representatives to act on their behalf and to execute the statement of customary ownership on their behalf.

Appointment of customary representatives.

(2) An appointment of customary representatives under subsection (1) shall be -

- (a) made at a meeting to which the persons who are customary owners of the land have been invited and of which reasonable notice has been given; and
- (b) in accordance with the wishes of the customary owners as expressed at that meeting in a manner consistent with the custom of those owners.

(3) A customary representative may be replaced at any time in accordance with the procedure specified in subsection (2).

(4) The replacement of a customary representative takes effect upon the written notification of that replacement to the Commissioner.

(5) Until the replacement of a customary representative becomes effective under subsection (4), any act done by a validly appointed customary representative for the purposes of this Act shall be deemed to be a valid act.

Obligations of
customary
representative

74. (1) A person who is a customary representative appointed under section 73 or nominated under section 78 shall -

(a) exercise his duties and obligations as a representative in accordance with the custom of the group of customary owners of which he is the representative;

(b) act in the best interest of, and as trustee for the group;

(c) endeavour to ensure that the quality of the physical and social environment of the group is sustained for present and future generations; and

(d) distribute any payments received under a forest access agreement or for any other purpose in connection with the harvesting of timber, to those persons in the group who are, in accordance with the custom of the group entitled to receive such payments.

Form and
contents of
statement of
customary
ownership

75. (1) A statement of customary ownership shall be -

(a) a statement of the wishes of the customary owners in relation to the harvesting of timber on their land; and

(b) in the case of customary land that is owned by two or more persons, executed by the persons who are appointed the customary representatives of the owners in accordance with section 73.

(2) The statement of customary ownership lodged under section 71 shall -

- (a) be in the prescribed form;
- (b) describe the land to which the statement relates;
- (c) be accompanied by a map at the prescribed scale showing the location and boundaries of the land;
- (d) in the case of customary land, identify the group which claims to be the customary owners;
- (e) identify the custom applying to the transfer or disposal of forest access rights in the land;
- (f) identify any other persons who, in accordance with custom, are entitled to give or withhold consent to the transfer or disposal of forest access rights;
- (g) identify the persons who are the customary representatives of the owners of the land, appointed in accordance with section 73;
- (h) identify any qualification on the individual or group's right, under custom, to transfer or dispose of forest access rights; and
- (i) contain such other particulars concerning the group or individual, and their custom, as may be prescribed.

(3) Where, in relation to any land that is the subject of a determination of potential forest uses, there has been a decision, judgment or record of a court or another person or body with authority to determine or record the ownership of customary land, a copy of that decision, judgement or record shall be lodged with the statement of customary ownership.

Lodgement
and publica-
tion of state-
ment

76. (1) A statement of customary ownership shall be lodged with the relevant provincial government, and with the relevant area council or other body with similar responsibilities for the area.

(2) A statement of customary ownership and any document that is lodged with it is a public document and may be inspected by any person.

(3) A provincial government with whom a statement of customary ownership has been lodged shall display copies of the statement together with a notice in the area to which the statement relates.

(4) The notice under subsection (3) shall state that persons objecting to the claims of the group or person identified in the statement as the customary owners have two months within which to refer a dispute as to ownership of the land under the provisions of the Local Courts Act.

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Land disputes

77. (1) A dispute in relation to a statement of customary ownership shall be referred to the chiefs in accordance with section 12 of the Local Courts Act within two months of the publication of the notice of making of a statement of customary ownership under section 76.

(2) Where no decision wholly acceptable to both parties has been made by the chiefs in connection with the dispute, the dispute shall be referred to the local court in accordance with the provisions of section 12 of the Local Courts Act within two months.

(3) An appeal from a decision of a local court may be made to a customary land appeal court in accordance with section 256 of the Land and Titles Act.

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(4) The Commissioner may, in writing, authorise a person to provide an amount to meet the expenses of a local court or a customary land appeal court hearing a dispute referred to it under this section, provided that he is satisfied that the provision of the sum is not likely to influence the decision of the court.

78. (1) A local court or customary land appeal court shall order the amendment of a statement of customary ownership where -

Amendment
of statement
by court.

(a) a local court has heard and determined a dispute or an appeal; or

(b) a decision wholly acceptable to both parties to a dispute has been recorded by the local court in accordance with section 14 of the Local Courts Act,

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so as to ensure that the statement of customary ownership conforms with the terms of the decision made or recorded by the court.

(2) Where a local court or customary land appeal court has ordered the amendment of a statement of customary ownership under subsection (1), it shall make an order nominating the persons who should be the customary representatives for the purposes of section 73.

79. (1) The Commissioner shall invite the customary owners to make an election as to which of the potential forest uses determined by the Commissioner the owners will permit to be carried out on the land.

Election of
permitted for-
est uses.

(2) An election under subsection (1) shall be at a meeting convened by the Commissioner or on his behalf, on or near the area covered by the determination.

(3) The election shall -

(a) indicate whether the customary owners consent to timber harvesting or taking of non-timber forest produce on their land;

(b) nominate which of the potential forest uses set out in the determination of potential forest uses the customary owners consent to; and

(c) make an election as to whether the customary owners wish to -

(i) enter into negotiations with another party (including a corporate entity of which the customary owners are members) to carry out timber harvesting on the land; or

(ii) make application for a local timber harvesting licence to undertake timber harvesting themselves; and

(d) if the customary owners have elected to enter into negotiations with another party to carry out timber harvesting on the land, specify whether the customary owners wish to retain the right to harvest timber in the area of the land to be covered by that agreement.

(4) The customary representatives appointed in accordance with section 73 or nominated under section 78 shall make the election at the meeting on behalf of the customary owners, but all the owners of the land are entitled to be present at the meeting.

(5) Any election made in respect of an area of un-registered customary land shall be void and of no effect unless the owners have lodged a statement of customary ownership in accordance with this Act.

(6) Until the customary owners have made an election in accordance with this Part, they shall be presumed not to consent to timber harvesting or forestry related activities except under and in accordance with a valid community forestry scheme licence or local timber harvesting licence.

Time of meeting to make election.

80. (1) The meeting at which an election under section 79 shall be made may be held -

(a) not less than three months after the date fixed as the date for lodgement of statements of customary ownership under section 71; or

(b) in a case where an application has been made to determine a land dispute under section 77 after -

(i) the Commissioner is satisfied that each of the disputes has been settled or is the subject of a final court order;

(ii) any avenues of appeal have been exhausted; and

(iii) the statements of customary ownership have been amended to conform with the relevant terms of the decision made or recorded by the court.

(2) Where, in respect of part of an area covered by a determination of potential forest uses -

(a) no statement of customary ownership has been lodged; or

(b) there is a protracted land dispute,

the Commissioner may nevertheless convene a meeting in accordance with this section, provided that no election shall be made at the meeting in relation to any area to which paragraph (a) or (b) applies.

81. (1) The Commissioner shall give notice of a meeting for the purpose of making an election under section 79 by such reasonable means as he, in consultation with the relevant provincial government and the relevant area council or any body with similar responsibilities considers adequate for the purpose of bringing it to the attention of the customary owners.

Notice of meeting.

Division III - Negotiation of Forest Access Agreements

Authorisation of proposals for ordinary timber harvesting licence.

82. (1) The Commissioner may by notice in a nationally-circulating newspaper, given after -

(a) the provisions of Division II have been satisfied with respect to an area of unregistered customary land; and

(b) the owners of the land have elected to negotiate with another party to carry out timber harvesting on the land under an ordinary timber harvesting licence,

authorise interested persons to make proposals to the owners for the acquisition of forest access rights in the unregistered customary land.

(2) A purported acquisition of forest access rights in relation to unregistered customary land other than in accordance with a notice under subsection (1) is void and of no effect.

Form of forest access agreement.

83. (1) A group of customary owners may enter into a forest access agreement in relation to an area of unregistered customary land after -

(a) the provisions of Division II have been satisfied with respect to that land; and

(b) a decision has been taken by the customary group, in a manner consistent with its statement of customary ownership, to enter into the agreement on the terms and conditions stated therein.

(2) A forest access agreement shall -

(a) be in the prescribed form and shall contain all the particulars provided for in that form;

(b) specify the forest access rights that are transferred under the agreement and those forest access rights that are not transferred;

(c) include the prescribed standard terms and conditions that shall not be modified except in accordance with subsection (3);

(d) in the case of customary land, be executed for and on behalf of the group of customary owners by the customary representatives; and

(e) contain a declaration by the customary representatives that a decision was made by the whole group, in accordance with its custom, to enter into the agreement on the terms and conditions stated therein.

(3) The prescribed standard terms and conditions shall not be modified except with the approval of the Commissioner and upon receipt of advice from the Attorney-General that such modification accords with the wishes of the customary owners and will not be unfairly compromised by the modification.

(4) During the negotiation of a forest access agreement, the customary owners shall be entitled to obtain advice -

(a) on any aspect of the agreement from, and representation by, the office of the Public Solicitor; and

(b) on forestry matters relevant to the agreement, from the Commissioner or any public officer nominated by him.

(5) Where the party acquiring the forest access rights under the agreement proposes to enter into an agreement to subcontract with an agent or contractor to carry out forestry related activities, the forest access agreement shall identify the agent or contractor.

84. (1) Upon execution of a forest access agreement, the parties shall submit the agreement to the relevant provincial executive for its consent.

Provincial
government
consent to
forest access
agreement.

(2) The relevant provincial executive shall consider the agreement at its next meeting following the submission for consent, provided that the agreement has been submitted at least two weeks before that meeting.

(3) The relevant provincial executive shall consider the agreement and give its consent to the agreement if it is satisfied that -

(a) the agreement is in accordance with the relevant provincial policies set out in the provincial statement under section 20 (3);

(b) the party who will acquire the forest access rights and any agent or contractor of that party satisfy any assessment criteria of qualifications applicable, under policies set out in the provincial statement, to persons wishing to carry out forestry related activities in the province; and

(c) the forest uses proposed under the agreement are not in breach of any provincial Ordinance relating to land use or forestry matters.

(4) Where the relevant provincial executive is not satisfied of the matters set out in subsection (3) it shall refuse to give its consent to the agreement and shall provide a written statement of its reasons.

(5) A provincial executive shall not unreasonably withhold or refuse approval under subsection (3).

(6) Where a provincial executive has refused to give its consent to a forest access agreement under subsection (3), the parties may appeal to the Minister who may -

(a) if he considers that the refusal or failure to consent to the agreement is unreasonable in all the circumstances; and

(b) after consulting the Minister responsible for Provincial Government,

consent to the agreement.

85. (1) A forest access agreement may not be varied or extended other than in accordance with the procedure applying to the negotiation of the original agreement.

Variation, extension and termination of forest access agreement.

(2) Notwithstanding anything in a forest access agreement, the agreement may be terminated by agreement between the parties.

86. Upon termination of a forest access agreement, any ordinary timber harvesting licence relating to the area covered by the agreement shall automatically terminated and shall be of no effect.

Effect of termination.

PART VI STATE FORESTS

87. (1) The Minister may by notice declare any land that is public land, land in which the Commissioner of Lands holds a freehold interest in land or a leasehold interest in land, or land leased by or on behalf of the Government, to be a state forest.

Power to declare state forests.

(2) Upon such land or part thereof ceasing to be such land as aforesaid, that land or that part shall cease to be a state forest.

88. The Commissioner of Lands shall not grant any interest or licence in any land comprised in a state forest without the prior written consent of the Commissioner of Forests, and such restriction shall be noted on the land register and no such grant shall be registered until the consent of the Commissioner of Forests has been produced to the Registrar of Titles.

Restriction on grant of interests in state forests.

89. Any person who within a state forest otherwise than under and in accordance with a valid permit issued under section 90 or in pursuance of any right which existed prior to the declaration of that state forest (the onus of proving which shall lie on such person) -

Offences relating to state forests.

(a) fells, cuts, taps, damages, burns, removes, works or sells any tree;

(b) causes any damage therein by negligence in felling any tree, dragging any timber, lighting any fire or otherwise howsoever;

(c) clears or breaks up any land for cultivation or any other purposes;

(d) resides in or erects any building, shelter or structure;

(e) grazes or permits to be grazed any livestock;

(f) has in his possession any machinery, equipment or implement for cutting, taking, working or removing any forest produce, without being able to show that such machinery, equipment or implement is in his possession for a lawful purpose; or

(g) constructs or re-opens any road, saw-pit or work-place,

shall be guilty of an offence and liable -

(i) in the case of an individual, to a fine not exceeding \$10,000 or to imprisonment for six months or to both such fine and imprisonment; or

(ii) in the case of a corporate entity, to a fine not exceeding \$50,000.

Permits in respect of state forests.

90. Upon application therefor and payment of the prescribed fee, the Commissioner and, subject to the directions of the Commissioner, a forest inspector, may issue a permit authorising any of the acts mentioned in section 89 upon terms and conditions as the Commissioner or forest inspector may therein specify.

PART VII FOREST RESERVES

Declaration of forest reserves.

91. Where the Minister is satisfied that for the purpose of conserving water resources within Solomon Islands it is necessary or desirable to protect the forest or other vegetation

in any rainfall catchment area, he may, subject to the provisions of this Part, by notice declare such area or part thereof to be a forest reserve, and shall in the same notice specify what rights and the extent to which such rights may be exercised in the forest reserve.

92 Before declaring any area to be a forest reserve the Minister shall -

Notice,
enquiries and
compensation

(a) cause to be published in such manner as he may in his discretion consider to be adequate or most effective for the purpose of bringing it to the attention of all persons likely to be thereby affected, notice of the intention so to do;

(b) cause to be afforded to such persons an opportunity to make representations thereon; and

(c) cause to be made such enquiries as he may, in his discretion, deem fit for the purpose of ascertaining -

(i) what rights exist in that area and to what extent such rights may be expected to be exercised in the absence of a declaration as aforesaid;

(ii) the extent to which the exercise of such rights could be permitted without prejudice to the purposes of a forest reserve;

(iii) in respect of the extent to which the exercise of such rights could not be so permitted, what reasonable alternative arrangements could be made or what compensation would be appropriate,

and shall, in respect of such rights which cannot be permitted to be exercised, cause such arrangements as aforesaid to be made or such compensation as aforesaid to be paid, within one month of the making of the declaration under section 91.

Appeal
against
compensa-
tion.

93. (1) Any person not permitted to exercise any of his rights in a forest reserve who is aggrieved by the amount of the compensation paid or offered or the alternative arrangements made or offered to be made under section 92 may, within three months of the declaration of the forest reserve, appeal to a Magistrate's Court, which may make such order as it considers just.

(2) Any person who is aggrieved by the order or decision of a Magistrate's Court under subsection (1) and desires to question it on the ground that it is erroneous in point of law, may within two months of the date of the order or decision, appeal to the High Court.

(3) The High Court may, if satisfied that the order or decision is erroneous in point of law, make such order as it considers just.

(4) The order or decision of the High Court and, subject to the provisions of this section, the order or decision of a Magistrate's Court under this section, shall be final and conclusive and shall not be questioned in any proceedings whatsoever.

Offences
relating to for-
est reserves.

94. (1) Any person who within a forest reserve otherwise than under and in accordance with a valid permit issued under section 95 -

(a) fells, cuts or removes any forest produce otherwise than for his own personal or domestic use;

(b) clears or breaks up any land for cultivation or any other purpose;

(c) resides in or erects any building, shelter or structure;

(d) grazes or permits to be grazed any livestock,

shall be guilty of an offence and liable -

(i) in the case of an individual, to a fine not exceeding \$10,000 or to imprisonment for six months or to both such fine and such imprisonment; or

(ii) in the case of a corporate entity, to a fine not exceeding \$50,000.

(2) Subsection (1) shall not apply to any person acting in exercise of any right specified under section 91, but any person charged with an offence under this section shall, until the contrary is proved, be presumed not to have been a person acting as aforesaid.

95. Upon application therefor and payment of the prescribed fee, the Commissioner and, subject to the directions of the Commissioner, a forest inspector, may issue a permit authorising any of the acts mentioned in section 94 (1) upon such terms and conditions as the Commissioner or forest inspector may therein specify.

Permits in respect of forest reserves.

PART VIII ENFORCEMENT

96. The Commissioner may appoint forest inspectors for the purpose of carrying out the provisions of this Act.

Appointment of forest inspectors.

97. Every forest inspector shall have authority to enter any customary land to exercise the powers or perform the functions conferred on him or required to be exercised or performed for the purpose of carrying into effect this Act.

Power to enter customary land.

98. (1) For the purposes of ascertaining whether there is or has been any contravention of the provisions of this Act or a licence or permit issued under this Act, or investigating such an offence or contravention, a forest inspector or any police officer shall have the power to -

Powers of forest inspectors and police.

(a) arrest any person reasonably suspected of having committed an offence under this Act:

Provided that no person shall be arrested under this subsection unless such person refuses to give his name and address or gives a name and address which there is reasonable cause to believe is false or there is reasonable cause to believe that he will abscond;

(b) at any hour enter any premises used in connection with timber harvesting or forestry related activities other than premises used exclusively as a dwelling-house;

(c) at all reasonable hours enter any dwelling-house where he has reasonable cause to believe any evidence of the commission of an offence may be located;

(d) stop, board and search any vessel used for transportation or storage, or reasonably suspected of being used for transportation or storage of timber;

(e) stop and search any vehicle used for transportation or storage, or reasonably suspected of being used for transportation or storage of timber;

(f) make such examination, inspection and inquiry as may appear necessary to him concerning any premises, logging camp, vessel or vehicle;

(g) inspect any timber harvested or processed or reasonably suspected of being harvested or processed in Solomon Islands wherever it may be located, and enter any premises, vessel or vehicle for the purpose of making such an inspection;

(h) require any person to produce a licence, permit, authority or approval if it appears to the inspector or officer that any such person is doing any act for which a licence, permit or approval is required and take copies of any such licence, permit or approval; and

(i) require any person to produce any logbook, shipping record, scaling sheet, record or other document required to be held by him under this Act, and take copies of such logbook, shipping record, scaling sheet, record or other document.

(2) Any forest inspector making an arrest under this section shall without unnecessary delay take or send the person arrested to a police officer, and any police officer making an arrest under this section or to whom a person who is arrested under this section is taken, shall deal with such person in accordance with the provisions of the Criminal Procedure Code Act relating to persons arrested without a warrant.

Cap. 7.

99. (1) The Commissioner may, by notice in writing, direct a person whom the Commissioner has reasonable cause to believe is harvesting timber without a licence or permit, to stop harvesting and carrying out forestry related activities.

Direction to stop harvesting.

(2) The Commissioner may, by notice in writing, direct a person whom the Commissioner has reasonable cause to believe is harvesting timber in contravention of a fundamental condition of a licence or permit, to stop harvesting and carrying out forestry related activities.

(3) In this section, "fundamental condition" means a condition of the licence or permit which is designated to be a fundamental condition by the terms of the licence or permit.

(4) No person shall carry out timber harvesting or forestry-related activities in contravention of a notice issued under subsection (1) or (2).

(5) A person who contravenes subsection (4) shall be guilty of an offence and on conviction liable -

(a) in the case of an individual, to a fine not exceeding \$500,000 or to imprisonment for five years or to both such fine and such imprisonment; or

(b) in the case of a corporate entity, to a fine not exceeding \$2,000,000.

100. (1) Where there is reason to believe that an offence against this Act has been committed, a forest inspector, customs officer or police officer may seize -

Power of seizure.

(a) any timber that he suspects, on reasonable grounds, was harvested or processed in contravention of this Act or a term or condition of a licence or permit;

(b) timber that is mixed with other timber to which paragraph (a) applies;

(c) any tools, machinery, equipment, plant, boats, vehicles and livestock reasonably suspected of having been used in the commission of such offence; or

(d) a vessel, boat, barge, vehicle or trailer in or on which is found any timber to which paragraph (a) or (b) applies, but which is not otherwise suspected of having been used in the commission of the offence.

(2) A vessel, boat, barge, vehicle or trailer that is seized under subsection (1) (d) shall be released to the person who had possession of it at the time of seizure once the timber therein or towed thereby is -

(a) delivered to and unloaded at a reasonable location required by the forest inspector, customs officer or police officer; or

(b) released from seizure.

(3) All property seized under subsection (1) shall be marked in such a way as to identify the place and the person from whom it was seized and such seizure shall be reported to a Magistrate as soon as possible after the seizure.

(4) A court may, if it determines that the seizure was made in an unreasonable manner, and as a result of such seizure the owners or other person entitled to possession of property suffered loss, order the Government to pay compensation to the owner for such loss as may be proven, and costs.

Disposal of timber after seizure.

101. (1) Timber seized under section 100 may be released, sold, or otherwise disposed of in the manner, and on the terms, agreed in writing between the Commissioner and the persons who own the timber or are otherwise entitled to possession of it.

(2) Except as provided in subsection (3), timber seized under this section may only be released, sold or otherwise disposed of in accordance with a Court order, and any

party with an interest in such timber may apply to the court for an order for disposal.

(3) A court may make orders -

(a) for the release of timber which the court is satisfied was not harvested or processed in contravention of this Act to the person or persons who were entitled to possession at the time the timber was seized;

(b) for the forfeiture of timber which the court is satisfied was harvested or processed in contravention of this Act to the Commissioner;

(c) in any case where an order for forfeiture of timber is made, ordering the distribution of the net proceeds of sale of the timber among such persons as it is satisfied -

(i) owned or were otherwise entitled to possession of the timber at the time it was seized; and

(ii) have not assisted in, connived at or assented to the contravention which was the basis of the order for forfeiture.

(4) For the purposes of subsection (3), "net proceeds of sale of the timber" shall mean the proceeds realised from such sale, less the reasonable costs incurred by the Government in respect of -

(a) the seizure, storage, transport, removal and sale of the timber; and

(b) related court proceedings.

102. (1) Where any person is convicted of an offence against this Act, all property seized under section 100, other than timber, shall be liable to be forfeited by order of the court recording the conviction.

Forfeiture of property on conviction.

(2) Forfeiture under subsection (1) shall be in addition to any other penalty prescribed for such an offence.

(3) Upon forfeiture under subsection (1), the Commissioner may take possession of and direct the sale or disposal of the forfeited property.

Disposal of seized property where owner unknown.

103. (1) Where there is reason to believe that an offence against this Act has been committed by a person or persons unknown, any property seized in respect of such a suspected offence shall be taken into possession and disposed of at the direction of the Commissioner.

(2) No property referred to in subsection (1) shall be sold or otherwise disposed of before the expiration of one month from the date of a notice under subsection (3).

(3) When any property has been seized under subsection (1), the Commissioner shall serve notice of the seizure on any person he believes may have an interest in the property, and may publish such notice in such manner as he thinks fit.

(4) Any person with an interest in property seized under subsection (1) may, within one month of a notice under subsection (3), appeal to a magistrate against the taking into possession of the property.

(5) After the expiration of one month from the giving of notice under subsection (3), and the final determination of any appeal under subsection (4), the property seized shall vest in the Government absolutely.

Prosecution of offences.

104. (1) The police, provincial government's legal officers and the Commissioner shall have power to lay information for prosecution of offences under the Act.

(2) In any proceedings for an offence against this Act, an averment that any substance is timber or non-timber forest produce shall be sufficient without proof of such fact unless the person charged proves the contrary.

Miscellaneous offences.

105. (1) Any person who -

(a) receives any timber knowing or having reasonable cause to believe it to have been harvested or processed in contravention of this Act;

(b) counterfeits or unlawfully fixes to any timber a mark used by forest inspectors;

(c) without due authority -

(i) makes or causes to be made;

(ii) has in his possession; or

(iii) uses or causes to be used,

a brand or stamp used by forest inspectors;

(d) unlawfully or fraudulently alters, defaces or obliterates a mark fixed to any timber by or under the authority of a forest inspector;

(e) unlawfully alters, removes or destroys a boundary mark used for forestry purposes;

(f) marks timber or records the measurement or grade of timber knowing the mark or record of measurement to be false;

(g) ignites or maintains an open fire on or near forested land and leaves such fire unattended or fails to extinguish the fire before leaving it; or

(h) obstructs or hinders the holder of any office under this Act in the exercise of his powers under this Act,

commits an offence.

(2) A person who contravenes subsection (1) shall be guilty of an offence and on conviction liable -

(a) in the case of an individual, to a fine not exceeding \$50,000 or to imprisonment for one year or to both such fine and such imprisonment; or

(b) in the case of a corporate entity, to a fine not exceeding \$100,000.

False information.

106. A person who knowingly provides false or misleading information to the Commissioner, a forest inspector or a customs officer shall be guilty of an offence and liable on conviction -

(a) in the case of an individual, to a fine not exceeding \$50,000 or to imprisonment for one year or to both such fine and such imprisonment; or

(b) in the case of a corporate entity, to a fine not exceeding \$100,000.

Compensation

107. In proceedings for an offence against this Act which relates to the unauthorised harvesting or processing of timber or clearing of forested land, a court shall, on conviction and in addition to the penalty prescribed for the offence, order the person convicted to pay compensation to any person suffering damages as a result of the breach.

Offences by corporate entity.

108. Where a corporate entity is guilty of an offence against this Act, any officer, director or agent of such entity who authorised, assented to or participated in, or by his neglect or omission contributed to the commission of the offence, is a party to and guilty of the offence and liable to the penalty prescribed for that offence.

General penalty.

109. A person who is guilty of an offence against a provision of this Act or the regulations for which no penalty is elsewhere prescribed is liable on conviction to a fine not exceeding \$5,000 or, in default of payment, to imprisonment not exceeding one year.

Compounding of breaches.

110. (1) The Commissioner may, by notice in writing, impose a penalty on any licensee or permit holder who in the opinion of the Commissioner -

(a) harvests timber in contravention of a licence or permit;

(b) by acts or omissions in contravention of a licence or permit destroys, loses or damages merchantable timber;

(c) fails to scale timber that the licensee or permit holder is required to have scaled

(d) fails to scale timber in the manner required by the licence, permit or the code of practice; or

(e) falsely states the grade or species, or other quality, of timber harvested by the licensee or permit holder.

(2) A penalty under subsection (1) shall be up to double the market value of the timber.

(3) For the purposes of this section, the market value of timber shall be the free on board market value of the unprocessed timber, as assessed by a forest inspector and, in the case of timber referred to in paragraph (b) of subsection (1), shall be assessed as if such loss or damage had not occurred.

111. (1) A licensee or permit holder who is aggrieved by the Commissioner exercising his power under section 110 in respect of -

Appeal.

(a) his liability for a penalty imposed under that section; or

(b) the assessment of the value of the timber made for the purposes of calculating the amount of such penalty,

may appeal to a court within fourteen days of receiving notification of imposition of the penalty.

(2) If a licensee or permit holder has not appealed to the court within the time provided, or paid the penalty within thirty days of notification to him thereof, the Commissioner may, on behalf of the Government enforce the performance bond lodged

by the licensee or permit holder, without need of a court order, to recover the amount of penalty.

(3) In any proceedings brought against a person for an offence against this Act, it shall be a good defence if the person proves to the satisfaction of the court that a penalty has been imposed against him under section 110 in respect of the acts or omissions that are alleged to comprise the offence.

(4) The imposition of a penalty under section 110 shall not relieve the licensee or permit holder from any liability to pay any royalty or levy, or any other payment due under a forest access agreement.

Performance
bonds.

112. (1) It shall be a condition of every timber harvesting licence that the licensee shall -

(a) enter into a bond in accordance with this section before commencing any timber harvesting or forestry related activities under the licence; and

(b) maintain such a bond until a written release from the bond is received from the Commissioner.

(2) A bond under subsection (1) shall provide security for -

(a) payment of income tax, duties, levies, fees and other charges which may become payable to the Government under this Act;

(b) in a case where the licensee has entered into a forest access agreement with respect to the unregistered customary land covered by the licence, payment of royalties, rent, compensation and other sums becoming due to all or any of the customary owners under the agreement;

(c) the costs of complying with conditions of the licence or permit relating to reforestation; and

(d) the payment of any penalty imposed under section 110.

(3) The bond shall take the form of a bank guarantee or equivalent instrument acceptable to the Central Bank of Solomon Islands.

(4) Subject to subsection (5), the Minister may make regulations prescribing the manner in which a bond is to be calculated and imposed.

(5) The amount of a bond imposed under this section shall be based on the volume of timber that may be harvested under the licence, or the area of land covered by the licence, or both.

113. (1) If a licensee fails to make payment of a sum secured by a bond, the Commissioner may enforce the bond against the issuing bank, insurance company, or other authority, as the case may be, in accordance with the procedure set out in subsections (2) and (3).

Enforcement and cancellation of performance bonds.

(2) The Commissioner may give notice of his intention to enforce a bond by a written notice to the licensee -

(a) stating the amount and nature of the sum in respect of which the bond is to be enforced; and

(b) inviting the licensee to make representations to him within thirty days as to why the bond should not be enforced.

(3) After the end of the period specified in the notice given under subsection (2), the Commissioner may decide to enforce the bond.

(4) After the expiry of a licence to which a performance bond relates, the Commissioner shall, if he is satisfied that there are no sums secured by the bond that remain outstanding, cancel the bond and give written notice thereof to the licensee and to the issuing bank, insurance company, or other authority, as the case may be.

(5) A licensee may apply to a court of competent jurisdiction for release from a bond on grounds that the licence to which the bond relates has been cancelled.

PART IX
MISCELLANEOUS

Protection of
officers.

114. No proceedings shall be instituted against -
- (a) the Minister;
 - (b) the Commissioner;
 - (c) any member of the Board, a provincial government, an area council;
 - (d) a provincial secretary;
 - (e) a forest inspector, customs officer or police officer; or
 - (f) any delegate or agent of such a person,

for any matter or thing done by him in good faith in the performance of his duties or the discharge of his functions under this Act.

Regulations.

115. (1) The Minister may make regulations, prescribing all matters that are required or permitted to be prescribed or as the Minister may consider necessary or desirable for generally carrying out or giving effect to this Act.

(2) Without prejudice to the generally of subsection (1), the Minister may make regulations -

- (a) prescribing forms to be used in connection with this Act and prescribing the terms and conditions to which permits, licences or approvals shall be subject;
- (b) prescribing the fees to be paid on an application, grant or approval or other thing required to be done under this Act;
- (c) prescribing the form and manner in which returns of timber harvested, processed, transported, scaled or disposed of shall be made, and requiring any licensee or the holder of a permit, authority or approval to submit for

inspection any books, records, accounts and other documents relating to transactions in respect of forest produce or timber;

(d) regulating the procedure for identifying the owners of customary land and prescribing the procedures for negotiation of forest access agreements;

(e) prescribing the manner and procedure for payment of levies and providing for effective recovery thereof;

(f) prescribing the rates of royalty to be paid in respect of timber or forest produce obtained from state forests or other public land or land leased by the Government, or the rate of stumpage to be paid for wastage of timber harvested from any land and prescribing the method for calculating such stumpage;

(g) prohibiting or regulating the taking of any specified kind of forest produce from any state forest;

(h) providing for the survey and demarcating of state forests and forest reserves and for rights of entry upon any land for the purpose of carrying out such survey;

(i) regulating the scaling, grading and marking of timber for export and sale and the licensing of persons to undertake scaling, grading and markings;

(j) providing for the protection of timber against insect and fungus attack;

(k) prescribing the requirements for obtaining authority to export timber and restricting or prohibiting export of timber that is not of merchantable quality;

(l) regulating the carriage of logs or timber by any means including by ship, and in particular providing for the installation and maintenance of equipment (including but not limited to vessel monitoring equipment) on board vessels used for the carriage of logs or timber;

(m) regulating the lighting of fires in the open or in a state forest or forest reserve and prescribing the precautions to be taken to prevent the spreading of fires;

(n) regulating the entry of persons into state forests and forest reserves and the periods during and the conditions under which persons may enter into and remain in a state forest or forest reserve;

(o) providing for persons licensed or holding permits under this Act to -

(i) undertake reforestation;

(ii) construct, repair and maintain roads, pathways and bridges for the purposes of access to areas for harvesting and removal of timber therefrom; and

(iii) for the closing of such roads, pathways and bridges from access by members of the public or such persons or traffic as may be specified.

(p) prohibiting or regulating the hunting of birds or animals or fishing or the taking of flora in any state forest or forest reserve;

(q) providing for the impounding of stray livestock found in any state forest or forest reserve and of any livestock found in any such forest in contravention of this Act, for the costs and fees to be paid by the owner of such livestock and for the disposal of such livestock as are not claimed or for which the costs and fees are not paid;

- (r) regulating the carrying out of timber harvesting and forestry related activities;
- (s) providing for the safety of persons employed in the timber industry;
- (t) prescribing standards for timber processing;
- (u) prohibiting -
 - (i) the felling and removal of any protected trees;
 - (ii) wastage of timber caused by such acts or operations as may be specified;
 - (iii) harvesting of timber within a specified distance of a river, stream or watercourse; and
 - (iv) harvesting of timber from forested land lying more than a specified altitude above sea level, or which is of greater than a specified gradient;
- (v) providing for penalties not exceeding a fine of \$10,000 for offences against the regulations;
- (w) creating offences relating to the taking or exporting of non-timber forest produce, and providing for the grant of authorities or permits to take or export non-timber forest produce; and
- (x) prescribing anything by this Act required or authorised to be prescribed.

(3) The Minister may make regulations declaring any land, whether state forest, forest reserve, public land or customary land as a sanctuary for the purposes of conservation of flora and fauna, and prohibiting felling of any tree or removal of any timber from such sanctuary:

Provided that no sanctuary shall be declared as a sanctuary unless it is compulsorily acquired in accordance with Part V of the Land and Titles Act.

Cap. 133.

Administrative directions.

116. The Commissioner may issue administrative directions relating to the carrying into effect of the provisions of this Act, including but not limited to the prescribing of forms, other than those forms required by this Act to be prescribed.

Guidelines.

117. The Commissioner may issue guidelines in relation to the conduct of timber harvesting or forestry related activities, to be observed by all persons carrying out such activities, including but not limited to -

- (a) timber treatment;
 - (b) construction of roads, water crossings and other earthworks;
 - (c) construction of wharves and other transportation facilities;
 - (d) sewage and waste disposal;
 - (e) storage of petroleum products;
- and
- (f) occupational health and safety.

Effect of licences and permits.

118. No licence or permit granted under this Act shall convey or be construed to convey any right which the Government does not have and in particular no such licence shall convey or be construed to convey any right or authority to enter any private or customary land nor take any action with respect to anything without the authority of the owner of that land.

Repeal and savings.
Cap. 40.

119. (1) The Forest Resources and Timber Utilisation Act (hereinafter referred to as the "repealed Act") is hereby repealed.

(2) Notwithstanding such repeal, from and after the coming into operation of this Act -

(a) the Commissioner of Forest Resources appointed under the repealed Act shall be deemed to have been duly appointed as the Commissioner of Forests for the purposes of this Act;

(b) any officer appointed as an enforcement officer or forest officer under section 3 of the repealed Act shall be deemed to have been duly appointed as a forest inspector for the purposes of this Act;

(c) subject to sections 120 and 121, any agreement for the acquisition of timber rights validly made under the repealed Act and in force immediately before the coming into operation of this Act is saved and deemed to be a forest access agreement for the purposes of this Act;

(d) subject to sections 120 and 121, any licence for the felling of trees for milling or sale granted under the repealed Act or the North New Georgia Timber Corporation Act valid and in force immediately before the coming into operation of this Act (hereinafter called an "existing felling licence") is saved and shall continue to be valid insofar as that licence confers the right to harvest and remove timber from the area covered by the licence; Cap. 43.

(e) where any such existing felling licence provides for the harvesting of timber -

(i) by a person other than a customary owner of the land covered by the licence;

(ii) by a corporate entity; or

(iii) by an agent or contractor of the customary owners of the land covered by the licence,

the licence so saved shall be deemed to be an ordinary timber harvesting licence,

(f) in the case of any existing felling licence to which paragraph (e) does not apply, the licence shall be deemed to be a local timber harvesting licence;

(g) in the case of an existing felling licence saved and deemed to be an ordinary timber harvesting licence under paragraph (e), the licence shall be valid to the extent that the timber harvesting is authorised under a valid agreement for the acquisition of timber rights and shall, to the extent that the timber harvesting is not so authorised, be void and of no effect;

(h) any licence to mill timber granted under the repealed Act valid and in force immediately before the coming into operation of this Act (hereinafter called an "existing milling licence") is saved and shall continue to be valid insofar as that licence confers the right to process timber and the licence so saved shall be deemed to be a timber processing licence; and

(i) any state forest or forest reserve declared as such under the provisions of Part V or Part VI of the repealed Act shall be deemed to be a state forest or forest reserve for the purposes of this Act.

Continuance
of existing
licences.

120. (1) An existing felling licence shall continue to be a valid timber harvesting licence for the purposes of this Act provided that the Commissioner approves the continuation of the licence in accordance with this section.

(2) The holder of an existing felling licence shall, within six months of the coming into operation of this Act, apply to the Commissioner for approval of the continuation of the licence.

(3) The Commissioner may specify the form in which an application under subsection (2) shall be made and the information to be provided with the application.

(4) An application under subsection (2) shall contain a statement as to whether or not the licensee has complied with the conditions of the existing felling licence.

(5) Upon receiving an application under subsection (2), the Commissioner may require the applicant to -

- (a) make representations to him; or
- (b) provide such further or other information as he considers necessary.

(6) Upon receiving an application under subsection (2), and considering any further or other information provided or representations made under subsection (5), the Commissioner may -

- (a) if he is satisfied that the applicant has complied with the conditions of the existing felling licence, and that the terms of the licence are consistent with this Act, approve the continuation of the licence; or
- (b) if he is of the opinion that the applicant has not complied with the conditions of the existing felling licence or that the terms of the licence are not consistent with this Act -

- (i) approve the continuation of the existing felling licence subject to a variation of the conditions of the licence; or

- (ii) refuse to approve the continuation of the licence.

(7) The Commissioner shall give written reasons for his decision under subsection (6) and shall give a copy of those reasons to the applicant.

(8) Upon refusal by the Commissioner to approve the continuation of the existing felling licence under subsection (6), the licence shall automatically terminate on the expiry of the period of one month from the date on which the Commissioner gave a copy of his written reasons to the applicant under subsection (7).

(9) An existing felling licence in respect of which no application is made pursuant to subsection (2) shall, on the

expiry of a period of six months after the coming into operation of this Act, automatically terminate.

Variation of conditions of existing licences.

121. (1) The following shall apply in respect of any existing felling licence continued under section 120 -

(a) the code of practice shall prevail over the terms and conditions of the licence, to the extent of any inconsistency;

(b) any existing felling licence saved as an ordinary timber harvesting licence shall be a valid licence under this Act only to the extent that such licence covers land which is the subject of a valid agreement for acquisition of timber rights; and

(c) the provisions of the agreement for acquisition of timber rights made under Part III of the repealed Act relating to that licence shall deemed to be conditions of the licence.

(2) The Commissioner shall have power, within three years after the commencement of this Act, to change any conditions in an existing felling licence with respect to the utilisation of timber, including conditions relating to -

(a) the volume of timber that can be harvested annually; and

(b) the volume of timber that can be exported annually in unprocessed form,

so that the saved licence conforms with the national timber industry policy and the national forest resource management strategy.

(3) The Commissioner shall not exercise his powers under subsection (2) unless he has first given the licensee notice in writing of his intention to vary the conditions of the licence.

(4) A licensee who has been given notice by the Commissioner of his intention to vary the conditions of a licence shall be entitled to make representations in person to the Commissioner as to why the conditions of the licence should not be varied.

(5) The variation of licence conditions notified by the Commissioner under subsection (3) shall come into effect upon -

(a) the signing of an agreement between the licensee and the Commissioner as to the amendment of the conditions of the licence; or

(b) the expiry of six months after the notice has been given to the licensee,

whichever is the earlier.

(6) The Commissioner may require the holder of a licence which is saved under this section to lodge a performance bond in accordance with section 112.

122. The North New Georgia Timber Corporation Act is hereby amended as follows - Amendment
of Cap. 43.

(1) in section 4 thereof -

(a) by deleting the words "together with the right to grant licences to fell, harvest and extract for sale such timber;" in subsection (3); and

(b) by repealing subsection (5) and substituting therefor the following new subsection -

" (5) Copies of all licences and agreements referred to in subsection (4) shall be certified to be true copies under the seal of the Corporation and shall be kept in the office of the Corporation for purposes of reference by a customary land owner or any other person.";

(2) in section 5 thereof, by deleting paragraph (a) of subsection (1);

(3) by repealing section 17 thereof; and

(4) in the Fourth Schedule thereto, by deleting clause (c) of sub-paragraph (2) of paragraph 4 of Part II thereof.

SCHEDULE
(Section 5)

SOLOMON ISLANDS FORESTRY BOARD

Appointment
of members.

- 1 (1) The Board shall consist of -
- (a) the Secretary of the Ministry responsible for forestry matters, *ex officio*;
 - (b) the Commissioner of Forests, *ex officio*;
 - (c) the Governor of the Central Bank of Solomon Islands or his nominee;
 - (d) a person holding an office in the Public Service appointed by the Secretary of the Ministry responsible for finance matters;
 - (e) a person appointed by the Investment Board established under the Investment Act;
 - (f) a person appointed by the Minister who, in the opinion of the Minister, has a good appreciation of the general concerns and aspirations of customary owners of forested land;
 - (g) a person appointed by the Minister to represent Solomon Islands companies which hold timber permits;
 - (h) a person appointed by the Solomon Islands Forest Industries Association; and
 - (i) a person appointed by the Development Services Exchange.

Cap. 142.

(2) A person who is, or who becomes a member of the Parliament, or of a Provincial Assembly, is not eligible to be or remain a member of the Board.

(3) The members, other than *ex officio* members, shall be appointed by notice in writing to the Chairman and shall hold office until the appointment is revoked by the person who made the appointment.

2. (1) The Secretary of the Ministry responsible for forestry matters shall be Chairman of the Board. Chairman and Deputy Chairman.

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

3. Any member of the Board, other than an *ex officio* member, may resign his office by instrument in writing addressed to the Chairman and to the person who made the appointment and from the date of receipt by the Minister of such instrument, such member shall cease to be member of the Board. Resignation.

4. (1) A person responsible for making an appointment of a member of the Board may any time revoke that appointment. Revocation of appointment.

(2) The Minister may at any time revoke the appointment of any member of the Board, other than an *ex officio* member, where that member -

(a) dies;

(b) becomes permanently incapable of performing his duties;

(c) is absent without leave of the Chairman from three consecutive meetings of the Board;

(d) fails to disclose an interest in accordance with paragraph 9; or

(e) is convicted of an offence punishable under a law by a term of imprisonment of one year or longer and, as a result of the conviction, is sentenced to imprisonment.

(3) The names of all members of the Board as first constituted and every change in the membership thereof shall be published in the Gazette.

Remuneration

5. The members of the Board, other than *ex officio* members and any member holding an office in the Public Service, shall be paid such remuneration, whether by way of honorarium, fees and such other allowances as the Minister may determine.

Appointment of committees.

6. The Board may in the discharge of its duties appoint committees comprising members of the Board or non-members or both and may assign to them such functions as the Board may determine.

Information.

7. The Board may invite any person to furnish or provide information, explanations, advice or express an opinion at any of its meetings.

Procedure and meetings.

8. (1) The Board shall meet as often as the Chairman requires but in any event at least once every four months, and such meetings shall be held at such places and times and on such days as the Chairman may determine.

(2) The Chairman shall preside at all meetings of the Board at which he is present, and in his absence from any meeting the Deputy Chairman shall preside.

(3) The quorum of the Board shall be five.

(4) The decisions of the Board shall be by a majority of votes and in addition to an original vote, the person presiding at a meeting shall have a casting vote in any case in which the voting is equal.

(5) Minutes in proper form of each meeting shall be kept.

(6) The validity of the proceedings of the Board shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of any member thereof.

(7) Subject to this Schedule, the Board may regulate its own proceedings.

9. (1) Any member of the Board who, otherwise than as such member, is directly or indirectly interested in the subject-matter of any proceedings before the Board shall as soon as practicable after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board.

Disclosure of interest.

(2) A disclosure under this paragraph shall be recorded in the minutes of the Board and the member -

(a) shall not take part after the disclosure in any deliberation or decision of the Board relating to the matter in question;

(b) shall be disregarded for the purpose of forming a quorum of the Board for any such deliberation or decision.

10. No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Board in respect of any act done bona fide in pursuance or execution or intended execution of this Act.

Immunity from action.

11. The office of Chairman or member of the Board shall not be a public office for the purpose of Chapter XIII of the Constitution of Solomon Islands.

Office of the Chairman, etc. not a public office.