

CHAPTER 386 - Timber Act

Commencement Date: 5/24/1971

An Act of Parliament to provide for the more effective control of the sale and export of timber; for the grading inspection and marking of timber; for control of the handling of timber in transit; and for matters incidental to and connected with the foregoing

Part I – PRELIMINARY

Short title

1. This Act may be cited as the Timber Act.

Interpretation

2. In this Act, unless the context otherwise requires—

"certificate of grading" means a certificate issued by a grader that the particular parcel of timber to which the certificate relates has been graded by him and complies with the requirements of the Rules relating to the grade of timber concerned;

"the Conservator" means the Chief Conservator of Forests;

"export permit" means an export permit issued under paragraph (a) of subsection (1) of section 8 of this Act;

"grader" means a person authorized as such under section 4 of this Act;

"the Minister" means the Minister for the time being responsible for matters relating to forests;

"prescribed mark" means a mark prescribed in the Rules for placing on timber of a specified grade or origin;

"the Rules" means rules made under section 13 of this Act;

"timber" means the wood of any tree grown in Kenya, Tanzania or Uganda, whether such wood is unsawn, hewn, sawn or machined, and includes lumber, shooks, slabs, blocks, box boards, flooring strips, shingles and sleepers, but does not include any other article manufactured from such wood.

Exclusion of timber

3. The Minister may, by notice in the Gazette, exclude from all or any of the provisions of this Act any timber specified in such notice.

Part II - TIMBER GRADING

Authorization of graders

4. (1) The Conservator may, by notice in the Gazette, authorize any person to be a grader for the purposes of this Act.

(2) Every authorization under this section shall, subject to subsection (3) of this section, continue in force for such period, not exceeding three years, as may be specified in the notice concerned.

(3) The Conservator may at any time suspend or revoke an authorization under this section on the ground that he is not satisfied with the qualifications or experience of the person concerned or with the manner in which such person has carried out his duties under this Act.

(4) Any person who, having applied for authorization as a grader, has such application refused or, being a grader, has had his authorization suspended or revoked may, within thirty days after the notification to him of such refusal, suspension or revocation, appeal in writing to the Minister whose decision thereon shall be final.

Grading of timber

5.(1) When an application is made to a grader for the grading of any timber, such timber shall be stacked in convenient parcels in such a manner as to permit of inspection piece by piece by the grader at the premises of the person making such application or at such other place as the grader may reasonably require.

(2) A grader may refuse to grade timber if, for any reason, he considers it to be unfit for grading.

(3) All handling charges connected with the grading of any timber, or in checking such grading, shall be borne by the person requiring such grading or checking, and such person shall provide all labour which may be necessary for the purpose of such grading or checking.

(4) Any person aggrieved by any decision of a grader may, within thirty days of such decision, appeal in writing to the Conservator.

(5) Any person aggrieved by the decision of the Conservator on an appeal under subsection (4) of this section may, within thirty days of such decision, appeal in writing to the Minister, whose decision thereon shall be final.

Grade marks

6. (1) No person other than a grader shall mark any timber with a prescribed mark and no person shall place upon any timber any mark which is so similar to a prescribed mark as to be liable to be mistaken therefor.

(2) No person shall re-saw or otherwise alter the state of a piece of timber bearing a prescribed mark unless before doing so he has effectively obliterated such mark in such a manner as to render it unrecognizable.

(3) No person shall, except in compliance with subsection (2) of this section or to give effect to the regrading of any timber, deface, alter or obliterate any prescribed mark on any timber.

(4) Any person who contravenes any of the provisions of this section shall be guilty of an offence.

Part III - SALE AND EXPORT OF TIMBER

Restriction on use of grade names

7. Any person who sells or offers for sale any timber under any name, or colourable imitation thereof, which is prescribed by the Rules for describing any grade of timber, when the timber so sold or

offered for sale does not comply with the specifications of such grade as so prescribed, shall be guilty of an offence.

Restriction on export of timber

8.(1) No person shall export or enter for export any timber-

(a) of Kenya origin, except under and in accordance with the terms of an export permit issued by the Conservator or by a person authorized by him in writing in that behalf;

(b) of Tanzania or Uganda origin, unless it is accompanied by a document issued in the country concerned allowing such export;

(c) in respect of which an export permit has been issued, until a certificate of grading has been obtained or in a state other than that in which such timber was when such certificate was issued;

(d) through any place or port in Kenya which has not been declared by the Conservator, by notice the Gazette, as a place or port of export of timber for the purposes of this Act.

(2) The Minister may, by notice in the Gazette, restrict or prohibit the export of any specified timber of Kenya origin.

(3) Any person who contravenes the provisions of subsection (1) of this section shall be guilty of an offence and, in addition to any other penalty which may be imposed therefor, the court may order—

(a) if the timber concerned is the property of the person convicted, that such timber be forfeited; or

(b) if such timber is the property of some other person, that the person convicted shall pay an additional fine equal to the value of such timber at the date the offence was committed.

Cancellation of export permits

9. The Conservator, or any person authorized by him in writing in that behalf, may cancel any export permit in respect of graded timber if he is of opinion that such timber, by reason of the method of handling or storage whilst in transit, is no longer in the state in which it was when the certificate of grading was issued.

Export returns

10. (1) The Conservator may, by notice in writing, require any exporter of timber to render, to such person or authority, and within such time, as may be specified in such notice, a return in such form as may be required showing all timber exported by such exporter during any period so specified.

(2) Any person who fails to comply with a notice under this section shall be guilty of an offence.

Part IV – MISCELLANEOUS

False documents

11. Any person who signs, issues or uses in respect of any timber any document which purports to be an export permit, certificate of grading or document mentioned in paragraph (b) of subsection (1) of section 8 of this Act, knowing or having reason to believe that the same is false in any material particular shall be guilty of an offence.

General penalty

12. Any person guilty of an offence under this Act shall be liable to a fine not exceeding six thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Rules

13. The Minister may make rules generally for the better carrying into effect of the provisions of this Act, and, without prejudice to the generality of such power, such rules may—

- (a) provide for the procedure on application for, and the form of, export permits;
- (b) specify the place or places to which timber may, or may not, be exported;
- (c) prescribe the different grades of timber and the specifications thereof;
- (d) prescribe the form of certificates of grading;
- (e) prescribe the marks to be placed on different grades of timber to indicate the origin and grade of such timber, and the method of placing such marks and the registration thereof;
- (f) prescribe the fees which may be charged by graders for grading timber and for services performed in connexion therewith;
- (g) provide for the appointment of inspectors and prescribe their powers and duties;
- (h) control or prohibit the sale of wood or wooden goods infected by any insect, fungus or bacterium harmful to wood;
- (i) require the treatment or destruction of any wood or wooden goods so infected which may be dangerous to the property of others;
- (j) prescribe the penalty, not exceeding a fine of six thousand shillings or a term of imprisonment of six months, or both such fine and imprisonment, which may be annexed to any breach of any such rule.