

Commercial Forest Plantation Act, B.E. 2535 (1992)

Translation

BHUMIBOL ADULYADEJ, REX.

Given on the 1st Day of March B.E. 2535 (1992);

Being the 47th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to have law on commercial forest plantation;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly in the capacity of the National Assembly, as follows:

Section 1.

This Act is called the "Commercial Forest Plantation Act, B.E. 2535 (1992)".

Section 2.

This Act shall come into force as from the day following the date of its publication in the Government Gazette.*

Section 3.

In this Act:

"Commercial Forest" means land registered under Section 5 for planting a restricted timber under the law on forest;

"Plant" means plant naturally or intentionally grow with purport to utilize its wood, including plant naturally or intentionally grow for other purposes but its wood may also be utilized;

"Timber" means plant, including:

(1) Any part of plant, whether cut, chopped, sawed, flatted, spitted, trimmed, dug, pressed or done any manner whatsoever; and

(2) Transformed wood or invention, equipment or other material made by plant or any part of plant;

"Seal" includes any sign or material made for timber stamping, imprinting or sealing;

"Acknowledged Certificate" includes a copy or photography of an acknowledged certificate as certified correct by a competence officer;

"Commercial Forest Entrepreneur" means a person who holds a certificate for commercial forest land, including a transferee of such certificate;

"Competence Officer" means a person appointed by the Minister for an execution of this Act;

"Registrar" means Director-General or a person appointed by Director-General in Bangkok Metropolitan area, or *Changwat*¹ Governor or a person appointed by *Changwat* Governor in other province;

"Director-General" means Director-General of the Forest Department;

"Minister" means Minister having charge and control for the execution of this Act.

Section 4.

Land to be registered as a commercial forest shall be one of the following lands:

(1) Land with ownership title or certificate for utilization under the Land Code;

(2) Land with official certificate which certify that such land may be registered for ownership title or certificate for utilization under the Land Code due to the fact that it is possessed and utilized under the law on land consolidation for agriculture or the law on land allocation for livelihood;

(3) Land within land reform area under the law on land reform for agriculture. In this case, evidence on permission, hire or hire-purchase is required;

(4) Land which is permitted under the law on national reserved forest to be forest plantation in a natural condition improved area, or to be commercial forest plantation or perennial plant plantation in a deteriorate forest;

(5) Land used for forest plantation by government agency, State enterprise or other State agency.

Section 5.

A person who holds ownership, possessory right or right to utilize in land under Section 4 may, if such person desires to utilize such land for commercial forest plantation, apply for land registration in accordance with regulation specified by the Director-General. After an application is made, the applicant may carry on commercial forest plantation until receiving the result of consideration of the registrar under Section 6.

If the applicant hire or hire-purchase land requested to be registered from other and such land is land under Section 4 (1), the applicant shall also provide evidence related to such hire or hire-purchase and written consent of the owner or person who holds possessory right in land showing he or she agree with such registration.

Section 6.

The registrar shall inform the result of its consideration, whether the registration is made or not, to the applicant within fifteen days as from the date of receiving an application under Section 5 or an investigation report under Section 7, as the case may be.

The registration and issuance of certificate for commercial forest plantation land shall be in accordance with regulation specified by the Director-General.

If the result of consideration under paragraph one is a reject, the applicant may appeal to the Minister within thirty days as from the date of acknowledgement of such result. The decision of the Minister is final.

Section 7.

Before registering land for commercial forest plantation under Section 6, if such land is land under Section 4 (4), the registrar shall order a competence officer to investigate and make a report related to location, condition, category, size, volume and number of timber as well as other details of land requested to be registered for commercial forest plantation. In the case where there is a restricted timber under the law on forest or timber in which logging thereof shall be made with license under the law on national reserved forest, the competence office shall record such matter in the report under rule and procedure specified by the Director-General which is approved by the Minister. The competence officer shall submit the report to the registrar within thirty days as from the day of reception of such order.

The registrar shall, upon reception of report under paragraph one, permit the applicant, under rule and procedure specified by the Director-General which is approved by the Minister, to collect forest product, destruct forest, cut or fell down, seize, burn, destroy or reserve such timber or forest product on the applicant's expense.

Timber and forest product acquired under the provision of paragraph two shall devolve on the State.

Section 8.

The competence officer shall, for the purpose of collecting forestry data and plant growth statistic, evaluating result of commercial forest plantation and an execution of this Act, have the power to enter into commercial forest plantation for investigation or giving instruction.

In exercising power under paragraph one; the competence officer shall express identification card to a person concerned. In this regard, a person concerned shall have a duty to facilitate the competence officer as appropriate.

Form of identification card of the competence officer shall be specified by the Ministerial Regulation.

Section 9.

A commercial forest entrepreneur shall have seal to be used as a mark showing his or her ownership over timber from commercial forest plantation. Such seal shall be used upon its registration.

A seal to be used for stamping, imprinting or sealing to timber cut or fell down by a commercial forest entrepreneur shall be certified by the registrar and there shall be a mark made by the registrar thereon.

Section 10.

In logging timber acquired by commercial forest plantation, a commercial forest entrepreneur may cut or fell down, transform, sell and possess timber and may also take timber through forest station, but the establishment of timber transformation factory shall be in accordance with the law on forest.

Section 11.

Before cutting or falling down timber in commercial forest plantation, a commercial forest entrepreneur shall notify, in writing, a competence officer in order to issue an acknowledged certificate. After such notification, a commercial forest entrepreneur may cut or fell down such timber.

A notification and the issuance of acknowledged certificate under paragraph one shall be in accordance with regulation specified by the Director-General. In this case, the Director-General may impose condition related to the cutting or falling down timber and the stamping, imprinting or sealing to timber in which a commercial forest entrepreneur shall have to comply with.

Section 12.

In cutting or falling down timber, a commercial forest entrepreneur shall keep an acknowledged certificate at the commercial forest plantation for an investigation of the competence officer.

Section 13.

A timber taken outside a commercial forest plantation shall be stamped, imprinted or sealed to have a seal thereon so as to show its owner. In moving such timber, a commercial forest entrepreneur shall take an acknowledged certificate as well as account showing detail of the moving timber with him or her through the moving period under rule, procedure and condition specified by the Director-General which is approved by the Minister.

Section 14.

All timbers originated from commercial forest plantation shall be exempted from royalty and forest maintenance fee under the law on forest.

Section 15.

For the purpose of investigation the cutting or falling down timber in a commercial forest plantation as well as the taking of timber outside a commercial forest plantation, a commercial forest entrepreneur shall keep an acknowledged certificate and account showing detail of such timber at the commercial forest plantation for an investigation of the competence officer under rule and period as specified by the Director-General.

Section 16.

If a certificate for commercial forest plantation land or an acknowledged certificate is lost, damaged or destroyed, a commercial forest entrepreneur shall apply for its substitute to the registrar.

An application and issuance of the substitute under paragraph one shall be in accordance with regulation as specified by the Director-General.

Section 17.

A commercial forest entrepreneur who desires to cancel its seal shall make a written notification to the competence officer and shall also take such seal to be demolished in front of the competence officer.

If a seal of a commercial forest entrepreneur is seriously damaged or lost, a commercial forest entrepreneur shall make a written notification to the competence officer within thirty days as from the date he or she know of such damage or loss. In the case of damage, the seal shall also be taken to be demolished in front of the competence officer together with a notification.

The making of notification, an issuance of order to cancel seal and a revision of seal registration shall be in accordance with rule, procedure and condition specified by the Director-General which is approved by the Minister.

Section 18.

A commercial forest entrepreneur who desires to stop a commercial forest plantation shall notify the competence officer and shall also take a seal to be demolished in front of the competence officer. In this case, a certificate for commercial forest plantation land of such commercial forest entrepreneur shall be deemed end.

Section 19.

In the case where a commercial forest entrepreneur is death or transfers ownership or possessory right in land registered to be commercial forest plantation to others, or a hire or hire-purchase contract between a commercial forest entrepreneur and others is cancel, if a heir of executor of inheritance of a commercial forest entrepreneur, a transferee of ownership or possessory right in land or an owner or a person who hold possessory right in land under the hire or hire-purchase contract, as the case may be, desires to continue commercial forest plantation in such land, such person shall notify the registrar for a transfer of a certificate for commercial forest plantation land within one hundred and eighty days as from the date a commercial forest entrepreneur is death, the date of transfer of ownership or possessory right in land registered to be commercial forest plantation or the date a hire or hire-purchase contract between a commercial forest entrepreneur and others is cancel, as the case may be. If a notification is not made within such period, such certificate shall be deemed end.

Right and responsibility of a transferor shall be transferred to a transferee in accordance with the regulation specified by the Director-General.

Section 20.

The demolition of seal under Section 17 and Section 18 shall be in accordance with rule and procedure specified by the Director-General which is approved by the Minister.

Section 21.

A transferee of all timbers originated from a commercial forest plantation shall have evidence showing his or her legal acquisition under this Act in accordance with regulation specified by the Director-General.

A transferee may trade, possess or take through forest station timbers transferred under paragraph one, but the transformation shall be in accordance with the law on forest.

A timber originated from a commercial forest plantation shall be deemed to be a timber in which a licensee under Part 4, Timber Transformation Control, under the Forest Act, B.E. 2484 (1941) may have in possession.

Section 22.

In an execution of this Act, the registrar and competence officer shall be a competence official under the Penal Code.

Section 23.

Any person who obstructs or fails to render facility to the competence officer in an execution of his or her duty under Section 8 shall be liable to imprisonment for a term not exceeding one month, or to a fine not exceeding two thousands Baht, or to both.

Section 24.

Any person who stamps, imprints or seals the seal to, or express ownership on, timber which is not originated from a commercial forest plantation shall be liable to imprisonment for a term not exceeding one year, or to a fine not exceeding twenty thousands Baht, or to both.

Section 25.

Any person who stamps, imprints or seals the seal to, or express ownership on, timber originated from a commercial forest plantation by violating a determination under Section 9 paragraph three or condition specified by the registrar under Section 11 paragraph two, moving timber originated from a commercial forest plantation without stamping, imprinting or sealing or express ownership thereon, or having no account showing detail of the moving timber under Section 13 or violating a determination under Section 13 shall be liable to imprisonment for a term not exceeding six months, or to a fine not exceeding ten thousands Baht, or to both.

Section 26.

A commercial forest entrepreneur who fails to keep acknowledged certificate at the commercial forest plantation under Section 12, fails to keep an acknowledged certificate and account showing detail of timber under rule and period as specified by the Director-General under Section 15 or fails to make a written notification on serious damage or loss of a seal or fails to demolish a damaged seal under Section 17 paragraph two shall be liable to imprisonment for a term not exceeding one month, or to a fine not exceeding two thousands Baht, or to both.

Section 27.

If an offender under this Act is a juristic person, a managing director, manager or representative of such juristic person shall be liable for punishment as prescribed for such offense, except such person can prove that he or she is not acknowledge in so doing or gives consent to do so.

Section 28.

The Minister of Agriculture and Cooperative shall have charge and control for an execution of this Act, and shall have power to appoint competent officer and issue Ministerial Regulation for an execution of this Act.

Such Ministerial Regulation shall come into force upon its publication in the Government Gazette.

Countersigned by Mr. Anan Panyarachun as Prime Minister

Note

Thai word "Changwat " is Province

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