



INDEPENDENT STATE OF PAPUA NEW GUINEA

Forestry Act - 1991

No. 30 of 1991

Certified on:
16 October 1991



PAPUA NEW GUINEA FOREST AUTHORITY

INDEPENDENT STATE OF PAPUA NEW GUINEA

Forestry Act 1991.

ARRANGEMENT OF SECTIONS.

PART I. - PRELIMINARY.

1. Compliance with constitutional requirements.
2. Interpretation -
 - "at stump"
 - "Authority"
 - "Board"
 - "burning permit"
 - "Chairman"
 - "consultant"
 - "customary owners"
 - "firewood"
 - "forest development project"
 - "forest industry activities"
 - "forest industry participant"
 - "Forest Inspector"
 - "Forest Officer"
 - "forest produce"
 - "Forest Management Agreement"
 - "Government land"
 - "licence"
 - "Managing Director"
 - "National forest"
 - "National Forest Plan"
 - "National Forest Service"
 - "Papua New Guinea Forest Authority"
 - "Provincial Forest Management Committee"
 - "project area"
 - "provincial Minister"
 - "Register"
 - "registered consultant"
 - "registered forest industry participant"
 - "reserved trees"
 - "restricted areas"
 - "State Marketing Agency"
 - "State Purchase Option"
 - "this Act"
 - "timber"
 - "timber authority"
 - "timber permit"
 - "timber rights"
 - "timber rights purchase area"
 - "tree"
3. Dedication of National forests.
4. Declaration of reserved trees.

PART II. - PAPUA NEW GUINEA FOREST AUTHORITY.

Division 1. - Papua New Guinea Forest Authority.

5. Establishment, etc., of Papua New Guinea Forest Authority.
6. Objectives of the Authority.
7. Functions of the Authority.
8. Powers of the Authority.

Division 2. - National Forest Board.

9. National Forest Board.
10. Membership of the Board.
11. Alternate members.
12. Chairman and Deputy Chairman.
13. Leave of absence of members.
14. Vacation of office.
15. Vacancy not to affect powers or functions.
16. Calling of meetings.
17. Meetings of the Board.
18. Disclosure of interest by members.
19. Delegation.
20. Reports.

Division 3. - Provincial Forest Management Committees.

21. Provincial Forest Management Committees.
22. Membership of Provincial Forest Management Committees.
23. Alternate members.
24. Leave of absence of members.
25. Vacation of office.
26. Vacancy not to affect powers or functions.
27. Calling of meetings.
28. Meetings of the Provincial Forest Management Committee.
29. Disclosure of interest by members.
30. Functions of a Provincial Forest Management Committee.
31. Reports.

Division 4. - Other Committees of the Board.

32. Power to establish Committees.

Division 5. - National Forest Service.

33. National Forest Service.
34. Managing Director.
35. Functions, Etc., of the Managing Director.
36. Appointment of officers.
37. Public service rights.
38. Regulations for the National Forest Service.
39. Other employees.
40. Consultants.
41. Forest Officers and Forest Inspectors.

Division 6. - State Marketing Agency.

42. State Marketing Agency.
43. Functions etc., of State Marketing Agency.

Division 7. - Financial Procedures.

44. Application of Public Finances (Management) Act.
45. Application of Audit Act 1989.

PART III. - FOREST MANAGEMENT AND DEVELOPMENT.

Division 1. - General.

46. Customary resource ownership.

Division 2. - Forest Plans.

Subdivision A. - Forest Plans.

47. National Forest Plan.
48. National Forest Plan to be presented to Parliament.

Subdivision B. - Provincial Forest Plans.

- 49. Provincial Forest Plans.
- 50. Provincial Forest Plans to be submitted to Board, etc.,
- 51. Provincial Forest Plan to be sent to Minister, etc.,

Division 3. - Forest Protection.

- 52. Restricted area.
- 53. Burning permits.

Division 4. - Resource Acquisition, etc.,

- 54. Forest resource development to accord with the National Forest Plan.
- 55. Types of land on which, and manner in which forest industry activities may be permitted.
- 56. Acquisition of timber rights, etc., by the Authority.
- 57. Obtaining consent of customary owners to Forest Management Agreement.
- 58. Forest Management Agreement.
- 59. Board to consult with customary owners and provincial governments.
- 60. Rights under Forest Management Agreement.

Division 5. - Resource Allocation.

Subdivision A. - General.

- 61. Forest development project.
- 62. Development Options Study.
- 63. Project guidelines.
- 64. Advertisement of project.
- 65. Registered forest industry participant may apply for permission to carry out feasibility studies, etc.,

Subdivision B. - Project Proposals and Agreements

- 66. Project proposals.
- 67. Project proposals to be referred to Provincial Forest Management Committee for evaluation.
- 68. Provincial Forest Management Committee may seek clarification of proposals.
- 69. Provincial Forest Management Committee to give recommendations, etc., to Board.
- 70. Board to consider report, etc.
- 71. Provincial Forest Management Committee to enter into negotiations.
- 72. Board to consider agreement and make recommendations to the Minister.

Subdivision C. - Timber Permit.

- 73. Duties of Minister on recommendation.
- 74. Board to reconsider, etc., referral by Minister under Section 74.
- 75. Duties of Minister on receipt on final recommendation from the Board.
- 76. National Executive Council to direct Minister to accept or reject recommendation.
- 77. Application for timber permit.
- 78. Extension or renewal of timber permit.
- 79. Transfer, amendment or surrender of a timber permit.
- 80. Board to consider applications and make recommendations.
- 81. Duties of Minister on recommendation.
- 82. Board to reconsider, etc., referral by the Minister under Section 82.
- 83. Duties of Minister on receipt of final recommendation from the Board.
- 84. National Executive Council to direct Minister to accept or reject recommendation.
- 85. Suspension of rights.
- 86. Conviction of the holder of a timber permit, etc.

Subdivision D. - Timber Authority.

- 87. Timber Authority.
- 88. Application for Timber Authority.
- 89. Application to be referred to Provincial Forest Management Committee.
- 90. Conviction of the holder of timber authority, etc.

Subdivision E. - Licence.

- 91. Issue of a licence.
- 92. Application for a licence.
- 93. Application to be referred to Board.
- 94. Term of a licence.
- 95. Extension of term of licence.
- 96. Licence not transferable.
- 97. Conviction of the holder of a licence, etc.

Subdivision F. - Performance Bonds.

- 98. Performance bonds.

Division 6. - Forest Management Controls.

- 99. Documents to be provided by holders of timber permits.
- 100. Project statement.
- 101. Five year working plan.
- 102. Annual logging plan.
- 103. Identification and measurement of timber felled under timber permit or timber authority.

PART IV. - REGISTRATION OF FOREST INDUSTRY PARTICIPANTS AND CONSULTANTS

- 104. Interpretation.
- 105. Person not to apply for or be granted a licence, etc., unless registered under this part.
- 106. Register of Forest Industry Participants and Consultants.
- 107. Application for registration.
- 108. Managing Director may require further information.
- 109. Managing Director to refer applications to Board with recommendation.
- 110. Board to consider application, etc., and make direction.
- 111. Duties of Managing Director.
- 112. Cancellation of registration.
- 113. Appeal.
- 114. Offence to participate, etc., in forest industry unless registered.

PART V. - MARKETING.

- 115. State option to purchase logs.
- 116. Certain holders of timber permits to establish marketing unit.
- 117. Quality control.
- 118. Control, etc., of transfer pricing.

PART IV. - FOREST FINANCE.

- 119. Forest Revenue system.
- 120. Royalties.
- 121. Levies.

PART VII. - ENFORCEMENT

- 122. Offences.
- 123. Power to seize and sell timber, etc.,
- 124. Unlawful possession of forest produce.
- 125. Receiving forest produce unlawfully obtained.
- 126. Entry and inspection on land.
- 127. Award of damages.

- 128. Presumption as to property in forest produce.
- 129. Conduct of proceedings.
- 130. Seizure of forest produce until royalty, etc., paid.
- 131. Search warrant for forest produce.

PART VIII. - MISCELLANEOUS.

- 132. Protection of officers.
- 133. Indemnity of members of Board, etc.,
- 134. Export of certain timber.
- 135. Regulations.

PART IX. - REPEAL.

- 136. Repeal.

PART X. - SAVINGS AND TRANSITIONAL.

- 137. Savings of existing permits, etc.,
- 138. Transfer of assets, etc., to the Authority.
- 139. Actions, etc., not to abate.
- 140. Contracts.
- 141. Staff.
- 142. Application of Acts, etc.,
- 143. Board may extend saved permits, etc.,

INDEPENDENT STATE OF PAPUA NEW GUINEA.

AN ACT

entitled

Forestry Act 1991,

Being an Act to provide for and to give effect to the National Goals and the Directive Principles and in particular to -

- (a) manage, develop and protect the Nation's forest resources and environment in such a way as to conserve and renew them as an asset for the succeeding generations; and
- (b) maximize Papua New Guinean participation in the wide use and development of the forest resources as a renewable asset; and
- (c) utilize the Nation's forest resources to achieve economic growth, employment creation and industrial and increased down stream processing of the forest resources; and
- (d) encourage scientific study and research into forest resources so as to contribute towards a sound ecological balance, consistent with the National developmental objectives; and
- (e) repeal various Acts and for related purposes,

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

PART I. - PRELIMINARY.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

(1) This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III. 3.C. of the *Constitution (Qualified Rights)*, namely -

- (a) the right to Freedom from arbitrary search and entry conferred by Section 44 of the *Constitution*; and
- (b) the right to freedom of employment conferred by Section 48 of the *Constitution*; and
- (c) the right to privacy conferred by Section 49 of the *Constitution*,

is a law that is made for the purpose of giving effect to the public interest in public order and public welfare.

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

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

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

2. INTERPRETATION.

In this Act, unless the contrary intention appears -

"at stump", in relation to timber, means at the place where the timber is felled or otherwise severed from the ground, before it is moved, conveyed or transported;

"Authority" means the Papua New Guinea Forest Authority established

Forestry Act

- by Section 5;
- "Board" means the National Forest Board established by Section 9;
- "burning permit" means a burning permit issued under Section 53;
- "Chairman" means the Chairman of the Board;
- "consultant" means a person (whether natural or corporate) holding himself out as having expertise particular to the forest industry and offering for reward (otherwise than as an employee of another consultant or of a forest industry participant) services related to that expertise;
- "customary owners", in relation to an area of customary land, means persons having customary rights -
- (a) of ownership over the land; or
 - (b) of ownership of forest produce growing on the land; or
 - (c) relating to the use of the land;
- "firewood" includes parts of trees made up into bundles, billets or loads, or cut up in the manner used to cut wood for burning, and refuse wood generally;
- "forest development project" means a project to develop forest resources within -
- (a) an area the subject of a Forest Management Agreement; or
 - (b) Government land;
- "forest industry activities" means any commercial activities within Papua New Guinea directly connected with -
- (a) harvesting or processing timber or rattan; or
 - (b) buying unprocessed timber or rattan for processing or export; or
 - (c) selling or, on behalf of another person or other persons, arranging or procuring the sale or purchase of, timber or rattan (whether unprocessed or processed but not including manufactured items made from timber or rattan materials);
- "forest industry participant" means any person engaging in, or intending to engage in, forest industry activities (otherwise than as an employee of a forest industry participant or in the capacity of a common carrier) where the timber or rattan harvested, processed, bought, sold or arranged or procured to be sold or purchased by that person in a calendar year exceeds -
- (a) 500 m³ in volume; or
 - (b) in the case of sandalwood timber or rattan - K20,000.00 in market value;
- "Forest Inspector" means an officer of the National Forest Service appointed as a Forest Inspector under Section 41;
- "Forest Officer" means an officer of the National Forest Service appointed as a Forest Officer under Section 41;
- "forest produce" means -
- (a) growing or dead trees, whether standing or fallen; and
 - (b) any part of or any product of such trees; and
 - (c) any other vegetable growth, whether alive or dead, and in a National forest includes stone, gravel, limestone, lime, salt, sand, loam and brick earth, but does not include oil, metal or minerals;
- "Forest Management Agreement" means a Forest Management Agreement entered into in accordance with Division III.4;
- "Government land" means land other than -
- (a) customary land; or
 - (b) land held by a person other than the State for an estate greater than an estate for a term of years; or
 - (c) land that is the subject of a State lease or a lease from the State under the **Land Act** (Chapter 185) or any other Act; or
 - (d) a timber rights purchase area, continued in existence under Part X; or
 - (e) land the subject of a Forest Management Agreement;
- "licence" means a licence issued under Section 91;
- "Managing Director" means the Managing Director of the National Forest Service appointed under Section 34;
- "National Forest" means a National Forest dedicated under Section 3;
- "National Forest Plan" means the National Forest Plan drawn up in accordance with Section 47;
- "National Forest Service" means the National Forest Service

Forestry Act

established by Section 33;

"Papua New Guinea Forest Authority" means the Papua New Guinea Forest Authority established by Section 5;

"Provincial Forest Management Committee" means a Provincial Forest Management Committee established by Section 21, and in relation to -

- (a) a province - means the Provincial Forest Management Committee for that province; and
- (b) a project - means the Provincial Forest Management Committee for the province in which the project is situated;

"project area" means -

- (a) in relation to matters specified in Subdivision III.5.A the area in respect of which tenders are invited; and
- (b) in relation to a timber permit - the area in respect of which the timber permit is granted; and
- (c) in relation to a timber authority - the area in respect of which the timber authority is granted;

"provincial Minister", in relation to a province, means the member of the provincial executive halving responsibility for forestry matters;

"Register" means the Register of Forest Industry Participants and Consultants established by Section 106;

"registered consultant" means a consultant registered under Part IV;

"registered forest industry participant" means a forest industry participant registered under Part IV;

"reserved trees" means trees declared under Section 4 to be reserved trees;

"restricted area" means an area of forest declared to be a restricted area under Section 52;

"State Marketing Agency" means the State Marketing Agency established by Section 42;

"State Purchase Option" means the State Purchase Option under Section 115;

"this Act" includes the Regulations;

"timber" includes fallen trees and felled trees, and all wood whether sawn, hewn, split or otherwise fashioned;

"timber authority" means a timber authority granted under Section 87 and includes an authority granted under the **Forestry Act** (Chapter 216) (~~repealed~~) and continued by virtue of Section 137;

"timber permit" means a timber permit granted under Section 73 or 75 and includes -

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

"timber rights" means the rights to fell, cut, remove and dispose of growing or dead trees, whether standing or fallen, and any part of such trees, and any other vegetable growth, and the right to plant, grow and manage trees and to carry out regeneration and reforestation work, and in a National forest includes the right to remove gravel and other roadmaking materials;

"timber rights purchase area" means an area of customary land over which the State has acquired the rights of felling, cutting, removing and disposing of timber under Section 8 of the **Forestry Act** (Chapter 216) (~~repealed~~);

"tree" includes tree, shrub, bush, seedling and re-shoot of any kind and of any age.

3. DEDICATION OF NATIONAL FORESTS.

The Head of State, acting on advice, may, by notice in the National Gazette, dedicate any Government land as a National forest.

4. DECLARATION OF RESERVED TREES.

The Minister may, by notice in the National Gazette, declare any trees or members of any species or class of tree to be reserved trees.

PART II. - PAPUA NEW GUINEA FOREST AUTHORITY.

Division 1. - Papua New Guinea Forest Authority.

5. ESTABLISHMENT, ETC., OF PAPUA NEW GUINEA FOREST AUTHORITY.

- (1) The Papua New Guinea Forest Authority is hereby established.
- (2) The Authority -
 - (a) is a corporation with perpetual succession; and
 - (b) shall have a seal; and
 - (c) may acquire, hold and dispose of property; and
 - (d) may sue and be sued in its corporate name.
- (3) The common seal of the Authority shall not be affixed to any instrument except in pursuance of a resolution of the Board and the affixing of the seal shall be attested by any two members of the Board.
- (4) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Authority affixed to a document and shall presume that it was duly affixed.

6. OBJECTIVES OF THE AUTHORITY.

In carrying out its functions under this Act, the Authority shall pursue the following objectives:-

- (a) the management, development and protection of the Nation's forest resources and environment in such a way as to conserve and renew them as an asset for succeeding generations; and
- (b) the maximization of Papua New Guinea participation in the wise use and development of the forest resources as a renewable asset; and
- (c) the utilization of the Nation's forest resources to achieve economic growth, employment creation and industrial and increased down-stream processing of the forest resources; and
- (d) the encouragement of scientific study and research into forest resources so as to contribute towards a sound ecological balance, consistent with the National development objectives; and
- (e) the increased acquisition and dissemination of skills, knowledge and information in forestry through education and training; and
- (f) the pursuit of effective strategies, including improved administrative and legal machinery, for managing forest resources and the management of National, provincial and local interests.

7. FUNCTIONS OF THE AUTHORITY.

- (1) The functions of the Authority are -
 - (a) to provide advice to the Minister on forest policies and legislation pertaining to forestry matters; and
 - (b) to prepare and review the National Forest Plan and recommend it to the National Elective Council for approval; and
 - (c) through the Managing Director, to direct and supervise the National Forest Service; and
 - (d) to negotiate Forest Management Agreements; and
 - (e) to select operators and negotiate conditions on which timber permits, timber authorities and licences may be granted in accordance with the provisions of this Act; and
 - (f) ~~(repealed)~~
 - (g) subject to the *Customs Act*, *Customs Tariff Act* and *Exports (Control and Valuation) Act*, to control and regulate the export of forest produce; and
 - (h) to oversee the administration and enforcement of this Act and any other legislation pertaining to forestry matters, and of such forestry policy as is approved by the National Executive Council; and
 - (i) to undertake the evaluation and registration of persons desiring to participate in any aspect of the forestry industry; and
 - (j) to act as agent for the State, as required, in relation to any international agreement relating to forestry matters;

- and
- (k) to carry out such other functions as are necessary to achieve its objectives or as are given to it under this Act or any other law.

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

8. POWERS OF THE AUTHORITY.

The Authority has, in addition to the powers otherwise conferred on it by this Act and any other law, all powers to do all things that are necessary or convenient to be done for or in connection with the performance of its functions and the achievement of its objectives.

Division 2. - National Forest Board.

9. NATIONAL FOREST BOARD.

There shall be a National Forest Board which shall carry out the functions and objectives, manage the affairs and exercise the powers of the Authority.

10. MEMBERSHIP OF THE BOARD.

- (1) The Board shall consist of -
- (a) the Managing Director, *ex officio*; and
 - (b) the President of the Forest Industries Association, *ex officio*, or his nominee; and
 - (c) one member to represent non government organizations appointed from a list of persons recommended to the Minister by the National Alliance of Non-Governmental Organizations;
 - (d) one member appointed from a list of persons recommended to the Minister by the National Premiers Council; and
 - (e) the Departmental Heads or their nominees, *ex officio*, of two Departments nominated from time to time by the National Executive Council, in consultation with the Minister, by notice in the National Gazette.
- (2) The members referred to -
- (a) in Subsection (1)(c) and (d), shall be appointed by the Minister by notice in the National Gazette for a term of two years and are eligible for re-appointment; and
 - (b) in Subsections (1)(b), (c) and (d), shall be entitled to such fees and allowances as are determined by the Minister.
- (3) A nominee referred to in Subsection (1)(e) shall be an officer of a level not less than that of an Assistant Secretary.

11. ALTERNATE MEMBERS.

(1) For each of the members appointed under Section 10(1)(c) and (d), an alternate member shall be appointed in the same manner and subject to the same conditions as the member for whom he is the alternate.

(2) In the event of the inability to act of a member, the alternate member has and may exercise all his powers, functions, duties and responsibilities and this Act applies accordingly.

12. CHAIRMAN AND DEPUTY CHAIRMAN.

- (1) The Managing Director is Chairman of the Board, *ex officio*.
- (2) The members of the Board shall elect one of their number to be Deputy Chairman of the Board.

13. LEAVE OF ABSENCE OF MEMBERS, ETC.,

(1) The Chairman may grant leave of absence to a member on such terms and conditions as the Chairman determines.

(2) The Minister may grant leave of absence to the Chairman or Deputy Chairman on such terms and conditions as the Minister determines.

14. VACATION OF OFFICE.

(1) A member other than a member appointed under Section 10(1)(a), (b), (c) or (d), or the Chairman or Deputy Chairman may resign his office by writing signed by him and delivered to the Minister.

(2) If a member, or the Chairman or Deputy Chairman -

- (a) dies; or
- (b) becomes permanently incapable of performing his duties; or
- (c) resigns his office in accordance with Subsection (1); or
- (d) is absent, except with the written consent of the Minister, from three consecutive meetings of the Board; or
- (e) fails to comply with Section 18; or
- (f) becomes bankrupt, or applies to take the benefit of any law for the benefit of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (g) is convicted of an offence punishable under a law by a term of imprisonment for one year or longer, or by death, and as a result of the conviction is sentenced to imprisonment or death, the Minister shall terminate his appointment.

(3) Where the body, which has nominated a member appointed under Section 10(1)(g) or (h), requests the Minister to terminate the appointment of that member, the Minister shall terminate the appointment.

(4) The National Executive Council, may, at any time, by written notice, advise a member or the Chairman or Deputy Chairman that he intends to terminate his appointment on the grounds of inefficiency, incapacity or misbehaviour.

(5) Within 14 days of the receipt of a notice under Subsection (3), the member or the Chairman or Deputy Chairman as the case may be, may reply in writing to the National Executive Council, who shall consider the reply, and, where appropriate, terminate the appointment.

(6) Where the member referred to in Subsection (3) or the Chairman or Deputy Chairman, as the case may be, does not reply in accordance with Subsection (4), his appointment is terminated.

15. VACANCY NOT TO AFFECT POWERS OR FUNCTIONS.

The exercise of a power or the performance of a function of the Board is not invalidated by reason of a vacancy in the membership of the Board.

16. CALLING OF MEETINGS.

(1) The Board shall meet as often as the business of the Authority requires, and at such time and places as the Board determines, or as the Chairman, or in his absence, the Deputy Chairman, directs, but in any event shall meet not less frequently than once in every four months.

(2) Where he receives a request to do so by the Minister or by not less than two members, the Chairman, or in his absence the Deputy Chairman, shall convene a meeting of the Board within 14 days.

(3) For the purposes of Subsection (1), the Chairman or the Deputy Chairman shall give, to every member, at least 14 days notice of the meeting.

(4) The Minister may, from time to time, request the Board to meet and consider and advise him on matters he may put to the Board.

(5) Where he receives a request under Subsection (4), the Managing Director shall convene such a meeting within 14 days.

17. MEETINGS OF THE BOARD.

(1) At a meeting of the Board -

- (a) four members constitute a quorum; and
- (b) the Chairman, or in his absence the Deputy Chairman, shall preside, but, if both the Chairman and Deputy Chairman are absent, the members present shall appoint a Chairman for that meeting from among their own number; and
- (c) matters arising shall be decided by a majority of the votes of the members present and voting; and

Forestry Act

- (d) the person presiding has a deliberative, and in the event of an equality of votes on any matter, also a casting vote.
- (2) The Board shall cause minutes of its meetings to be recorded and kept.
- (3) The Board, in its discretion, may invite persons to attend as observers at any meeting of the Board.
- (4) Subject to this Act, the procedures of the Board are as determined by the Board.

18. DISCLOSURE OF INTEREST OF MEMBERS.

- (1) A member who has a direct or indirect personal interest in a matter being considered or about to be considered by the Board shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board.
- (2) A disclosure under Subsection (1), 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 in relation to the matter; and
 - (b) shall be disregarded for the purpose of constituting a quorum of the Board for any such deliberation or decision.

19. DELEGATION.

The Minister may, after consultation with the Board, by instrument delegate to any person all or any of the powers and functions of the Board under this Act (except this power of delegation).

20. REPORTS.

- (1) The Board shall, by 31 March in each year, furnish to the Minister a report on the progress and performance of the Authority in relation to its functions during the year ended 31 December previously.
- (2) As soon as practicable after he has received the report referred to in Subsection (1), the Minister shall forward -
 - (a) the report to the Speaker for presentation to the Parliament; and
 - (b) copy of the report to each provincial government.

Division 3. - Provincial Forest Management Committees.

21. PROVINCIAL FOREST MANAGEMENT COMMITTEES.

The Board shall establish a Provincial Forest Management Committee for each province.

22. MEMBERSHIP OF PROVINCIAL FOREST MANAGEMENT COMMITTEES.

- (1) A Provincial Forest Management Committee shall consist of -
 - (a) a senior officer in the administration of the province, nominated by the provincial government, who shall be the Chairman; and
 - (b) an officer of the National Forest Service, nominated by the Managing Director; and
 - (c) one person to represent the local or community governments situated within those areas of the province which contain forest resources, who shall be the president of such a local or community government nominated by the provincial executive; and
 - (d) two persons to represent land-owning groups in the province nominated by the Provincial Forest Management Committee; and
 - (e) one person to represent non-governmental organizations concerned with environmental, social or developmental issues nominated by the National Alliance of Non-Governmental Organizations.
- (2) The members of a Provincial Forest Management Committee -
 - (a) shall be appointed by the Board by notice in the provincial gazette; and

Forestry Act

- (b) subject to this Act, shall be appointed during the pleasure of the Provincial Forest Management Committee; and
- (c) shall be appointed on such terms and conditions as the Minister determines; and
- (d) are eligible for re-appointment.

23. ALTERNATE MEMBERS.

(1) For each of the members of a Provincial Forest Management Committee appointed under subsection (1)(a), (b), (c) and (e), an alternate member shall be appointed in the same way and subject to the same conditions as the member for whom he is the alternate.

(2) In the event of the inability to act of a member, the alternate member has and may exercise all his powers, functions, duties and responsibilities and this Act applies accordingly.

24. LEAVE OF ABSENCE OF MEMBERS.

(1) The Chairman of a Provincial Forest Management Committee may grant leave of absence to a member of that Committee on such terms and conditions as the Chairman determines.

(2) The Chairman of the Board may grant leave of absence to the Chairman of a Provincial Forest Management Committee on such terms and conditions as the Chairman of the Board determines.

25. VACATION OF OFFICE.

(1) A member of a Provincial Forest Management Committee other than the Chairman may resign his office by writing signed by him and delivered to the Chairman of the Board.

(2) If a member of a Provincial Forest Management Committee -

- (a) dies; or
- (b) becomes permanently incapable of performing his duties; or
- (c) resigns his office in accordance with Subsection (1); or
- (d) is absent, except with the written consent of the Chairman of that Committee, from three consecutive meetings of the Provincial Forest Management Committee; or
- (e) ceases to be employed in the industry or organization he was appointed to represent on the Board; or
- (f) fails to comply with Section 29; or
- (g) becomes bankrupt, or applies to take the benefit of any law for benefit of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (h) is convicted of an offence punishable under a law by a term of imprisonment for one year or longer, or by death, and as a result of the conviction is sentenced to imprisonment or death,

the Chairman of the Board shall terminate his appointment.

(3) Where the body which has nominated a member of a Provincial Forest Management Committee appointed under Section 22(1)(a), (b) or (e) requests the Board to terminate the appointment, the Board shall terminate the appointment.

(4) The Chairman of the Board, may, at any time, by written notice, advise a member of a Provincial Forest Management Committee that he intends to terminate his appointment on the grounds of inefficiency, incapacity or misbehaviour.

(5) Within 14 days of the receipt of a notice under Subsection (4), the member may reply in writing to the Chairman of the Board, who shall consider where appropriate, terminate the appointment.

(6) Where the member referred to in Subsection (4), does not reply in accordance with Subsection (5), his appointment is terminated.

26. VACANCY NOT TO AFFECT POWERS OF FUNCTIONS.

The exercise of a power or the performance of a function of a Provincial Forest Management Committee is not invalidated by reason of a vacancy in the membership of that Provincial Forest Management Committee.

27. CALLING OF MEETINGS.

(1) A Provincial Forest Management Committee shall meet as often as the business of the Committee requires, and at such times and places as the Chairman determines, but in any event shall meet not less frequently than once in every four months.

(2) Where he receives a request to do so by the Board or by the Director-General or by not less than two members, the Chairman shall convene a meeting of the Provincial Forest Management Committee within 14 days.

(3) For the purposes of Subsection (1), the Chairman shall give, to every member, at least 14 days notice of the meeting.

28. MEETINGS OF THE PROVINCIAL FOREST MANAGEMENT COMMITTEE.

(1) At a meeting of a Provincial Forest Management Committee -

- (a) four members constitute a quorum; and
- (b) the Chairman shall preside, but, if the Chairman is absent, the members present shall appoint a Chairman for the meeting from among their own number; and
- (c) matters arising shall be decided by a majority of the votes of the members present and voting; and
- (d) the person presiding has a deliberative, and in the event of an equality of votes on any matter, also a casting vote.

(2) A Provincial Forest Management Committee shall cause minutes of its meetings to be recorded and kept.

(3) Where a Provincial Forest Management Committee is deliberating in respect of a particular forest resource, the owners of that particular forest resource shall be entitled to be represented at the meeting of the Provincial Forest Management Committee by two of their number selected by them, who shall be entitled to take part in the deliberations but shall not be entitled to vote.

(4) Subject to this Act, the procedures of a Provincial Forest Management Committee are as determined by that Provincial Forest Management Committee.

29. DISCLOSURE OF INTEREST BY MEMBERS.

(1) A member of a Provincial Forest Management Committee who has a direct or indirect personal interest in a matter being considered or about to be considered by that Provincial Forest Management Committee shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Provincial Forest Management Committee.

(2) A disclosure under Subsection (1) shall be recorded in the minutes of the Provincial Forest Management Committee, and the member -

- (a) shall not take part, after the disclosure, in any deliberation or decision of the Provincial Forest Management Committee in relation to the matter; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Provincial Forest Management Committee for any such deliberation or decision.

30. FUNCTIONS OF A PROVINCIAL FOREST MANAGEMENT COMMITTEE.

(1) The functions of a Provincial forest Management Committee are -

- (a) to provide a forum for consultation and co-ordination on forest management between national and provincial governments, forest resource owners and special interest groups; and
- (b) to undertake continuous consultation with the provincial Minister responsible for forestry matters on matters relating to acquisition and allocation of forest resources; and
- (c) to assist the provincial government in preparing forest plans and forest development programmes consistent with national and provincial programmes; and
- (d) to make recommendations to the Board on -
 - (i) the preparation and terms of Forest Management Agreements; and

Forestry Act

- (ii) the selection of operators and the preparation of timber permits; and
- (iii) the enforcement of timber permit conditions and of this Act; and
- (e) to make recommendations to the provincial Minister on -
 - (i) the issue of timber authorities; and
 - (ii) the extension, renewal, transfer, amendment or surrender of timber authorities; and
- (f) to supervise extension services with respect to business management, agroforestry, silviculture, reforestation, environmental protection, processing and marketing; and
- (g) to oversee the receipt and distribution of government levies and charges and other benefits due to landowners; and
- (h) to assist in the early identification and resolution of land-owning disputes affecting forest resources; and
- (i) to carry out such other functions as it is required to carry out by this Act or any other law.

(2) A Provincial Forest Management Committee may, by notice in writing, delegate to the National Forest Service any of its functions under Subsection (1).

31. REPORTS.

(1) A Provincial Forest Management Committee shall, before 31 March in each year, submit to the Chairman of the Board a report on the activities of the Provincial Forest Management Committee for the year ending 31 December previously.

(2) As soon as practicable after receiving a report under Subsection (1), the Chairman of the Board shall forward a copy of the report to the Minister and to the provincial Minister.

Division 4. - Other Committees of the Board.

32. POWER TO ESTABLISH COMMITTEES.

- (1) The Board -
- (a) shall establish such advisory Committees as may be necessary; and
 - (b) may, from time to time, establish such other Committees to advise on matters pertaining to resource management, research, training and education, marketing and industry development and on such other matters as the Board considers necessary for purposes of the Authority,
- in accordance with this section.

(2) In establishing a Committee under Subsection (1), the Board shall

- (a) appoint such persons (including members of the Board) as it thinks fit to be members of the Committee; and
- (b) specify the functions, powers and procedures of the Committee.

(3) A member of a Committee is subject to the same terms and conditions as a member of the Board, but not both as a member of the Board and as a member of the Committee.

Division 5. - National Forest Service.

33. NATIONAL FOREST SERVICE.

- (1) There is established a National Forest Service consisting of -
- (a) the Managing Director appointed in accordance with Section 34; and
 - (b) other officers appointed in accordance with Section 36.

(2) The National Forest Service constitutes the staff of the Authority.

34. MANAGING DIRECTOR.

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

Forestry Act

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

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

35. FUNCTIONS, ETC., OF THE MANAGING DIRECTOR.

- (1) The Managing Director shall -
 - (a) manage the National Forest Service, and in relation to the management of the National Forest Service, shall act in accordance with the policy and directives of the Board; and
 - (b) advise the Board on any matter concerning the Authority referred to him by the Board.
- (2) The Managing Director has such other functions as the Minister on advice from the Board may from time to time determine.
- (3) The Managing Director may, by written instrument, delegate to an officer of the National Forest Service all or any of his functions and powers under this Act (except this power of delegation).

36. APPOINTMENT OF OFFICERS.

The Board may appoint to be officers of the National Forest Service such persons as it considers fit and necessary for the purposes of the Authority.

37. PUBLIC SERVICE RIGHTS.

- Where -
- (a) an officer of the Public Service is appointed to be Managing Director, his service as Managing Director; and
 - (b) an officer of the National Forest Service was, immediately before his appointment, an officer of the Public Service, his service as an officer of the National Forest Service,
- shall be counted as service in the Public Service for the purpose of determining his rights (if any) in respect of -
- (c) leave of absence on the grounds of illness; and
 - (d) furlough, or pay in lieu of furlough (including pay to dependants on the death of the officer).

38. REGULATIONS FOR THE NATIONAL FOREST SERVICE.

- (1) The Regulations may make provision in relation to the National Forest Service, and, in particular, may -
 - (a) subject to the **Salaries and Conditions Monitoring Act 1988**, prescribe the terms and conditions of employment of officers; and
 - (b) make provision for a superannuation or other retirement benefits scheme to provide benefits for the staff; and
 - (c) make provision for a home ownership scheme for citizen officers; and
 - (d) prescribe disciplinary procedures, creation and abolition of offices, promotion of officers and other matters for the regulation of the National Forest Service.
- (2) In the absence of regulations under Subsection (1), any appropriate provisions of the **Public Services (Management) Act 1986** and Regulations and General Orders made thereunder shall, in so far as relevant, apply.

39. OTHER EMPLOYEES.

- (1) The Managing Director may, with the approval of the Board, appoint such other employees as he thinks necessary for the purposes of the Authority.
- (2) Employees appointed under Subsection (1) shall be appointed on such terms and conditions as the Board, subject to the **Salaries and Conditions Monitoring Committee Act 1988**, determines.

40. CONSULTANTS.

The Minister may, from time to time -

- (a) after consultation with the Board and the Managing Director; and
- (b) within the limits of funds available for the purpose; and
- (c) on such terms and conditions as are fixed by the Minister on advice of the Board,

appoint as employees of the Authority such consultants as, in the opinion of the Minister on advice of the Board, are necessary for the purposes of the Authority.

41. FOREST OFFICERS AND FOREST INSPECTORS.

(1) The Minister may, on the recommendation of the Board, appoint an officer of the National Forest Service who has obtained the degree or diploma of a recognized forestry school to be a Forest Officer.

(2) The Minister may, on the recommendation of the Board, appoint an officer of the National Forest Service to be a Forest Inspector.

Division 6. - State Marketing Agency.

42. STATE MARKETING AGENCY.

(1) The Minister may establish, within the Authority as a division of the National Forest Service or otherwise, a State Marketing Agency after consultation with the Board.

(2) If established as a division of the National Forest Service, the management, staffing and control of the State Marketing Agency shall be as determined by the Board.

43. FUNCTIONS ETC., OF STATE MARKETING AGENCY.

(1) The functions of the State Marketing Agency are -

- (a) to exercise the State purchase option on logs and other forest produce; and
- (b) to be available by mutual agreement for appointment as a general log marketing agent at the discretion of the holder of a timber permit or timber authority; and
- (c) to promote Papua New Guinea forest products for export and for domestic use, and to provide promotional material and information to producers and buyers; and
- (d) to undertake market intelligence and explore market diversification; and
- (e) to provide market intelligence to the Board for export licensing purposes; and
- (f) carry out such other functions as are given to it by this Act or any other law.

(2) Subject to any direction from the National Executive Council on all or any of its functions and powers, the State Marketing Agency has full powers to carry out its functions.

Division 7. - Financial Procedures

44. APPLICATION OF PUBLIC FINANCES (MANAGEMENT) ACT.

(1) Part VIII of the *Public Finances (Management) Act* 1986 applies to and in relation to the Authority.

(2) The Authority is a trading enterprise for the purposes of Section 61 of the *Public Finances (Management) Act* 1986.

45. APPLICATION OF AUDIT ACT 1989.

The accounts of the Authority shall be audited in accordance with Part III of the *Audit Act* 1989

PART III. - FOREST MANAGEMENT AND DEVELOPMENT.

Division 1 - General.

46. CUSTOMARY RESOURCE OWNERSHIP.

The rights of the customary owners of a forest resource shall be fully recognized and respected in all transactions affecting the resource.

Division 2. - Forest Plans.

Subdivision A. - National Forest Plan.

47. NATIONAL FOREST PLAN.

(1) The Authority shall cause to be drawn up a National Forest Plan to provide a detailed statement of how the national and provincial governments intend to manage and utilize the country's forest resources.

(2) The National Forest Plan shall -

- (a) be consistent with the national forest policy and relevant government policies; and
- (b) be based on a certified National Forest Inventory which shall include particulars as prescribed; and
- (c) consist of -
 - (i) National Forestry Development Guidelines prepared by the Minister in consultation with the Board and endorsed by the National Executive Council; and
 - (ii) the National Forest Development Programme; and
 - (iii) a statement, prepared annually by the Board, of allowable cut volumes, being the amount of allowable cut for each province for the next succeeding year which will ensure that the areas of forest resource set out in the Provincial Forest Plan, for present or future production, are harvested on a sustained yield basis.

(3) For the purposes of Subsection (2)(c)(iii), "allowable cut" means the amount of timber which may be cut annually.

48. NATIONAL FOREST PLAN TO BE PRESENTED TO PARLIAMENT.

As soon as practicable after the National Forest Plan has been drawn up, the Chairman shall send a copy to the Minister who shall table it in the Parliament.

Subdivision B. - Provincial Forest Plans.

49. PROVINCIAL FOREST PLANS.

(1) Each provincial government shall, as soon as practicable after the coming into operation of this Act in consultation with the Provincial Forest Management Committee, and in conformity with the National Forestry Development Guidelines, draw up a Provincial Forest Plan.

(2) A Provincial Forest Plan shall contain -

- (a) Provincial Forestry Development Guidelines; and
- (b) a five year rolling forest development programme.

(3) Provincial Forestry Development Guidelines referred to in Subsection (2)(a) shall -

- (a) provide an overview of the role of forestry in the economy of the province; and
- (b) be broadly directed towards areas of industrial, rural, economic and social development objectives; and
- (c) set out broad objectives and predictions for the long term of 40 years and, in greater detail, for the medium term of 10 years; and
- (d) state how the forestry sub-sector is expected to contribute to the economy; and
- (e) be renewed every three years.

50. PROVINCIAL FOREST PLANS TO BE SUBMITTED TO BOARD, ETC.,

(1) The provincial Minister shall, on completion of a Provincial Forest Plan, submit a copy to the Board.

(2) The Board shall consider a Provincial Forest Plan submitted to it under Subsection (1) and, where it considers that the Plan is inconsistent with the National Forest Policy or with the National Forestry Development Guidelines, shall refer it back to the provincial government with details of the inconsistency.

(3) Where a Provincial Forest Plan has been referred back to a provincial government under Subsection (2), the provincial government shall remove the inconsistency and the provincial Minister shall resubmit the Provincial Forest Plan to the Board.

51. PROVINCIAL FOREST PLAN TO BE SENT TO MINISTER, ETC.,

Where the Board considers that a Provincial Forest Plan submitted under Section 50(1) or resubmitted under Section 50(3) is consistent with the National Forestry Development Guidelines, it shall -

- (a) notify the provincial Minister, who shall table a copy of Provincial Forest Plan in the provincial assembly; and
- (b) send a copy of the Provincial Forest Plan to the Minister.

Division 3. - Forest Protection.

52. RESTRICTED AREA.

(1) Where the Managing Director considers that an area of forest is endangered by hazardous fire conditions, he may declare that the area shall be a restricted area on and from a date specified in the declaration.

(2) As soon as practicable after making a declaration under Subsection (1), the Managing Director shall -

- (a) cause it to be published in the National Gazette; and
- (b) bring it to the notice of the public in whatever manner he considers to be most effective.

53. WARNING PERMITS.

A Forest Officer may issue to a person a burning permit authorizing that person to ignite and maintain an open fire in a restricted area on such conditions as may be specified in the burning permit.

Division 4. - Resource Acquisition, etc.,

54. FOREST RESOURCE DEVELOPMENT TO ACCORD WITH NATIONAL FOREST PLAN.

Forest resources shall only be developed in accordance with the National Forest Plan.

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

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

- (a) Government land - as approved by the Board; and
- (b) State leasehold land - where the lessee consents and subject to the conditions of the lease; and
- (c) private leasehold - where the owner consents; and
- (d) private freehold - where the owner consents; and
- (e) customary land - where -

- (i) a Forest Management Agreement in accordance with this Division has been entered into between the customary owners and the Authority; or
- (ii) a timber authority has been granted.

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

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

56. ACQUISITION OF TIMBER RIGHTS, ETC., BY THE AUTHORITY.

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

customary owners and the Authority.

(2) An acquisition under Subsection (1) is not valid, and no Forest Management Agreement is valid, unless it is approved by the Minister.

(3) No acquisition under this section shall affect the customary rights of ownership of the land.

57. OBTAINING CONSENT OF CUSTOMARY OWNERS TO FOREST MANAGEMENT AGREEMENT.

(1) Where it is proposed to enter into a Forest Management Agreement over customary land, the title of the customary owners to that land shall be -

- (a) vested in a land group or land groups incorporated under the **Land Groups Incorporation Act** (Chapter 147); or
- (b) registered under a law providing for the registration of title to customary land.

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

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

58. FOREST MANAGEMENT AGREEMENT.

A Forest Management Agreement shall -

- (a) be in writing; and
- (b) specify the monetary and other benefits, if any, to be received by the customary owners in consideration for the rights granted; and
- (c) specify the estimated volume or other measure of quantity of merchantable timber in the area covered by the Agreement; and
- (d) specify a term of sufficient duration in order to allow for proper forest management measures to be carried out to completion; and
- (e) be accompanied by a map showing clearly the boundaries of the area covered by the Agreement; and
- (f) contain a certificate from the Provincial Forest Management Committee to the effect that it is satisfied as to -
 - (i) the authenticity of the tenure of the customary land alleged by the persons or land group or groups claiming to be the customary owners; and
 - (ii) the willingness of those customary owners to enter into the agreement.

59. BOARD TO CONSULT WITH CUSTOMARY OWNERS AND PROVINCIAL GOVERNMENTS.

Where the Authority has entered into a Forest Management Agreement the Board shall consult with -

- (a) the customary owners who are parties to that Agreement; and
- (b) the provincial government for the province in which the area covered by the Agreement is situated; and
- (c) the member or members of Parliament for the Province and the electorate or electorates in which the area covered by the agreement is situated,

in relation to the intentions of the Board in recommending the allocation of a timber permit over or in relation to that area.

60. RIGHTS UNDER FOREST MANAGEMENT AGREEMENT.

Where the Authority enters into a Forest Management Agreement -

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

Forestry Act

- bridges and other infrastructure on land covered by the Agreement; and
- (iii) use gravel on land covered by the Agreement free of charge for the purposes of Subparagraph (ii).

Division 5. - Resource Allocation.

Subdivision A. - General.

61. FOREST DEVELOPMENT PROJECT.

Subject to Sections 64(3) and 87(4) a forest development project shall be carried out only after advertisement and in accordance with the procedure set out in this Part.

62. DEVELOPMENT OPTIONS STUDY BY THE BOARD.

(1) Subject to Subsection (2) before advertising a tender for a forest development project the Board shall arrange for a development options study to be carried out over the proposed project area.

- (2) A development options study under Subsection (1) is not necessary
 - (a) where the proposed annual allowable cut of a forest development project shall not exceed 5000 m³: or
 - (b) for the harvesting of forest plantations; or
 - (c) for logging within an area designated as a salvage forest in the National Forest Plan.
- (3) A development options study under Subsection (1) shall -
 - (a) be carried out by the National Forest Service or as contracted out by the Board; and
 - (b) be carried out in accordance with directions given by the appropriate Provincial Forest Management Committee; and
 - (c) provide an inventory of the forest resources in the proposed project area; and
 - (d) identify feasible options for development of the area and investigate -
 - (i) means of landowner participation in such development; and
 - (ii) possible environmental and social impacts of such development; and
 - (iii) in respect of any forest products to be harvested from the area - the feasibility of local processing and marketing prospects generally.

(4) The Board shall make available to the Minister and the Provincial Forest Management Committee true copies of the development options study.

63. PROJECT GUIDELINES.

(1) After completion of a development options study under Section 62, the Provincial Forest Management Committee shall, in consultation with the owners of the forest resource the subject of the forest development project and the provincial government concerned, prepare draft guidelines on the manner in which the project is to be developed.

(2) The Provincial Forest Management Committee shall submit draft guidelines under Subsection (1) to the Board, which shall review them and issue final guidelines for the project.

(3) The final guidelines under Subsection (2) shall be the guidelines for enabling intending parties to submit project proposals and shall be utilized for the purposes of -

- (a) evaluating applications for; and
 - (b) setting conditions in,
- timber permits relating to the project.

64. ADVERTISEMENT OF PROJECT.

- (1) Subject to Subsection (3), after completion of -
 - (a) a development options study under Section 62; and
 - (b) project guidelines under Section 63, the Board shall advertise the forest development project and seek expressions of interest from registered forest industry

participants.

- (2) Advertisement under Subsection (1) -
 - (a) shall be made in Papua New Guinea; and
 - (b) may be made outside Papua New Guinea; and
 - (c) shall be done in the manner considered by the Board likely to be most effective; and
 - (d) shall specify a date on or before which project proposals for timber permits may be lodged.
- (3) Where a forest development project -
 - (a) is an extension of an existing approved operation; and
 - (b) is consistent with the National Forest Development Program,the Board may consider proposals without advertisement for open tender under Subsection (1).

65. REGISTERED FOREST INDUSTRY PARTICIPANT MAY APPLY FOR PERMISSION TO CARRY OUT FEASIBILITY STUDIES, ETC.,

A registered forest industry participant may apply to the Managing Director for permission for himself or for a registered consultant engaged by him to enter the project area for the purposes only of carrying out -

- (a) feasibility studies; and
 - (b) appraisal of the forest resources; and
 - (c) other preparatory work,
- relating to the project, and where the Managing Director is satisfied that the conditions of registration of the applicant are appropriate to the project, he shall grant such permission.

Subdivision B. - Project Proposals and Agreements.

66. PROJECT PROPOSALS.

(1) A registered forest industry participant may make project proposals in relation to a forest development project advertised under Section 64.

- (2) Project proposals under Subsection (1) shall -
 - (a) be in the prescribed form; and
 - (b) be lodged with the Managing Director; and
 - (c) be lodged on or before the date specified in Section 64(2)(d); and
 - (d) be accompanied by -
 - (i) the prescribed fee; and
 - (ii) the prescribed particulars.

67. PROJECT PROPOSALS TO BE REFERRED TO PROVINCIAL FOREST MANAGEMENT COMMITTEE FOR EVALUATION.

(1) The Managing Director shall refer project proposals lodged under Section 66 to the Provincial Forest Management Committee for evaluation.

- (2) An evaluation of project proposals will be made against -
 - (a) the National Forestry Development Guidelines; and
 - (b) the specific guidelines for the project prepared in accordance with Section 63; and
 - (c) the National Forest Policy; and
 - (d) any relevant provincial government policies, provided that they are not inconsistent with the National Forest Policy; and
 - (e) the commercial viability of the project (including the financial resources of the applicant, the past performance of the applicant in forest industry and other projects, analysis of projected cash flows and the anticipated net benefit to the resource owners and to the State).

(3) In making an evaluation under this section, a Provincial Forest Management Committee shall at all times obtain the assistance of the National Forest Service and of any relevant Department.

68. PROVINCIAL FOREST MANAGEMENT COMMITTEE MAY SEEK CLARIFICATION OF PROPOSALS.

- (1) Where, following an evaluation under Section 67, the Provincial

Forest Management Committee is of the opinion that project proposals for a timber permit merit further consideration, it may invite the proponents to provide such further information in order to clarify or elaborate on the proposals as the Committee considers necessary.

(2) Any further information referred to in Subsection (1) may be obtained at interview or by written submission.

(3) The Provincial Forest Management Committee shall evaluate, in accordance with the principles specified in Section 67(2), any further information required and obtained under this section.

69. PROVINCIAL FOREST MANAGEMENT COMMITTEE TO GIVE RECOMMENDATIONS, ETC., TO PROPOSALS.

Where the Provincial Forest Management Committee is satisfied with -

- (a) its evaluation under Section 67; and
- (b) any further evaluation under Section 68,

it shall prepare a detailed report of its evaluations including a recommendation as to the proponents (if any) with whom further negotiation should proceed and submit the report and recommendations to the Board.

70. BOARD TO CONSIDER REPORT, ETC.,

The Board shall -

- (a) consider and consult with the Minister on a report and recommendations submitted to it under Section 69; and
- (b) subject to Subsection (2), direct the Provincial Forest Management Committee with which proponents, if any, it should enter into further negotiations with a view to negotiating a project agreement and advise the Provincial Forest Management Committee of any comments by the Minister; and
- (c) in conjunction with the Provincial Forest Management Committee, set the parameters within which such negotiations shall be conducted; and
- (d) assist the Provincial Forest Management Committee to set up negotiating committees.

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

71. PROVINCIAL FOREST MANAGEMENT COMMITTEE TO ENTER INTO NEGOTIATIONS.

The Provincial Forest Management Committee shall -

- (a) negotiate a project agreement in accordance with Section 70; and
- (b) submit the final draft of the project agreement to the Board.

72. BOARD TO CONSIDER AGREEMENT AND MAKE RECOMMENDATIONS TO THE MINISTER.

(1) The Board shall -

- (a) consider a draft project agreement submitted to it under Section 71 or Subsection (2); and
- (b) where satisfied that the draft project agreement makes adequate provision for all aspects of the project -
 - (i) execute the project agreement on behalf the Authority; and
 - (ii) recommend to the Minister to grant a timber permit to the person with whom the project agreement has been entered into; and
- (c) where not satisfied that the draft project agreement makes adequate provision for all aspects of the project - return the draft project agreement to the Provincial Forest Management Committee with details of the matters therein requiring further negotiation.

(2) Where a draft project agreement has been returned to a Provincial Forest Management Committee under Subsection (1), the Provincial Forest Management Committee shall carry out such further negotiations as are necessary and submit a further final draft project agreement for

consideration by the Board in accordance with Subsection (1).

Subdivision C. - Timber Permit.

73. DUTIES OF MINISTER ON RECOMMENDATION.

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

- (2) A timber permit shall -
- (a) be in the prescribed form; and
 - (b) include a description of the project area; and
 - (c) specify the amount of allowable cut; and
 - (d) specify the term, which term shall be no more than the term of any Forest Management Agreement relating to the project area; and
 - (e) where the term specified in Paragraph (d) exceeds 10 years, provide for the terms and conditions of the permit to be reviewed by the Board on the expiry of 10 years and on the expiry of every successive period of five years; and
 - (f) specify the rate of royalties, levies and charges to be paid; and
 - (g) make provision for the construction and/or use of roads, bridges and other infrastructural requirements; and
 - (h) require a performance bond in accordance with Section 98 for an amount specified in the permit; and
 - (i) relate to the project agreement under Section 72(1)(b)(i); and
 - (j) contain such other conditions as may be prescribed.

(3) The effect of a timber permit is to authorize the holder to carry out the operations specified therein in the project area for the term and subject to the conditions specified therein and in accordance with the project statements, five year working plans and annual logging plans in respect of the project as from time to time are approved by the Board under Section 99.

(4) Where the Minister does not accept a recommendation under Section 72, he shall refer the matter back to the Board, with reasons for his non-acceptance of the recommendation, for reconsideration by the Board.

74. BOARD TO RECONSIDER, ETC., REFERRAL BY MINISTER UNDER SECTION 73.

The Board shall reconsider any referral back to it under Section 73 and shall thereafter make a final recommendation on the matter to the Minister.

75. DUTIES OF MINISTER ON RECEIPT OF FINAL RECOMMENDATION FROM THE BOARD.

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

(2) Where the Minister does not accept a final recommendation from the Board under Section 74, he shall refer the matter, together with the recommendation of the Board and his reasons for not accepting it, to the National Executive Council.

76. NATIONAL EXECUTIVE COUNCIL TO DIRECT MINISTER TO ACCEPT OR REJECT RECOMMENDATION.

(1) The National Executive Council shall consider any matter referred to it under Section 75(2) and shall direct the Minister to -

- (a) accept; or
 - (b) reject,
- the project proposals.
- (2) The Minister shall -
- (a) comply with a direction under Subsection (1); and
 - (b) advise the Board of the direction; and
 - (c) where the direction is to accept the recommendation of the

Forestry Act

Board, proceed in the manner required by Section 75(1).

(3) In its direction to the Minister under Subsection (1), the National Executive Council may direct the Minister to comply with certain requirements it may impose.

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

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

77. APPLICATION FOR A TIMBER PERMIT.

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

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

- (a) in the prescribed form; and
- (b) lodged with the Managing Director; and
- (c) accompanied by -
 - (i) the prescribed fee; and
 - (ii) the prescribed particulars; and
 - (iii) an environmental plan which has been approved under the **Environmental Planning Act** (Chapter 370).

78. EXTENSION OR RENEWAL OF TIMBER PERMIT.

(1) The holder of a timber permit may apply to the Board for extension or renewal of the term of the permit.

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

- (a) be in the prescribed form; and
- (b) be accompanied by the prescribed fee; and
- (c) be lodged with the Managing Director.

(3) The Board shall obtain from the Provincial Forest Management Committee a report on -

- (a) the social acceptability of the holder of the timber permit in the project area; and
- (b) the performance of the holder of the timber permit in carrying out the operations authorized by the timber permit; and
- (c) the amount of forest resources available in the vicinity of the project area in accordance with sustained yield management practices.

(4) Where the reports required under Subsection (3) are satisfactory, the Board shall recommend to the Minister that an extension or renewal of the term be granted to the holder of the timber permit and the Minister may grant such extension or renewal.

79. TRANSFER, AMENDMENT OR SURRENDER OF A TIMBER PERMIT.

(1) The holder of a timber permit may apply to the Board for the transfer of that timber permit to a registered forest industry participant or for the amendment or surrender of that timber permit.

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

- (a) be in the prescribed form; and
- (b) contain the prescribed particulars; and
- (c) be accompanied by the prescribed fee; and
- (d) be lodged with the Managing Director.

(3) Where the Board requires an amendment of a timber permit it may negotiate that amendment by mutual agreement with the holder of the timber permit.

80. BOARD TO CONSIDER APPLICATIONS AND MAKE RECOMMENDATIONS.

The Board shall -

- (a) consider an application under Section 79; and
- (b) where satisfied, recommend to the Minister that the application be granted.

81. DUTIES OF MINISTER ON RECOMMENDATION.

(1) Where the Minister accepts a recommendation from the Board under Section 80, he shall approve the transfer, amendment or surrender of the timber permit and the Managing Director shall notify the holder of the timber permit accordingly.

(2) In the case of the transfer of a timber permit, the transferee shall be required to lodge, within a period specified by the Minister, a performance bond in accordance with Section 98 for an amount specified by the Minister, and where the performance bond is not lodged within the specified period the transfer of the timber permit is null and void and the timber permit shall be deemed to have been surrendered.

(3) Where the Minister does not accept a recommendation under Section 81, he shall refer the application back to the Board, with reasons for his non-acceptance of the recommendation, for reconsideration by the Board.

82. BOARD TO RECONSIDER, ETC., REFERRAL BY MINISTER UNDER SECTION 81.

The Board shall reconsider an application referred back to it under Section 81(3) and shall thereafter make a final recommendation to the Minister.

83. DUTIES OF MINISTER ON RECEIPT OF FINAL RECOMMENDATION FROM THE BOARD.

(1) Where the Minister accepts a final recommendation from the Board under Section 82, he shall approve the transfer, amendment or surrender of the timber permit and the Managing Director shall notify the holder of the timber permit accordingly.

(2) In the case of the transfer of a timber permit, the provisions of Section 81(2) shall apply.

(3) Where the Minister does not accept a final recommendation from the Board under Section 82, he shall refer the application, together with the final recommendation from the Board and his reasons for not accepting it, to the National Executive Council.

84. NATIONAL EXECUTIVE COUNCIL TO DIRECT MINISTER TO ACCEPT OR REJECT RECOMMENDATION.

(1) The National Executive Council shall consider any application and other papers referred to it under Section 83(3) and shall direct the Minister to -

- (a) accept; or
- (b) reject,

the application.

(2) The Minister shall -

- (a) comply with a direction under Subsection (1); and
- (b) advise the Board and the holder of the timber permit of the direction.

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

85. SUSPENSION OF RIGHTS.

(1) The Managing Director may in addition to any penalty under this Act, suspend, in whole or in part, the rights in a timber permit, timber authority or licence where its holder -

- (a) made a material misrepresentation omission or mis-statement of fact in his application for it; or
- (b) fails to perform an obligation to be performed by him under it; or
- (c) fails to comply with this Act with regard to it.

Forestry Act

(2) Before the rights are suspended, the Managing Director shall serve a notice on the holder -

- (a) specifying the alleged misrepresentation, omission or misstatement failure of performance or compliance; and
- (b) allowing the holder at least 14 days after the date of serving the notice to remedy the failure of performance or compliance.

(3) A suspension of rights under Subsection (1) takes effect on the expiry of the time allowed in the notice under Subsection (2) and continues until the rights are re-instated by the Managing Director or expire or are cancelled under this Act.

(4) On the request of the holder, the Managing Director shall allow him an opportunity to be heard and shall rescind the notice where he considers that the holder is not subject to Subsection (1).

(5) On the application of the holder, the Managing Director shall re-instate rights suspended under this section where the holder is performing his obligations and complying with this Act.

86. CONVICTION OF THE HOLDER OF A TIMBER PERMIT, ETC.,

(1) Where the holder of a timber permit (or where the holder is a corporate person any of the principals of the holder) -

- (a) is or are convicted of an offence -
 - (i) against this Act; or
 - (ii) concerning forestry matters, against any other law; or
- (b) has or have failed to comply with any of the conditions of the timber permit,

the Minister may cancel the timber permit.

(2) For the purposes of Subsection (1) "principals" includes director, manager, secretary or other similar officer or any person purporting to act in such a capacity.

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

- (a) advising him of the intention to cancel the timber permit and of the reasons for the intended cancellation; and
- (b) requiring him within 14 days from the date of service of the notice to make representations as to why the timber permit should not be cancelled.

(4) On the request of the holder within 14 days from the date of service of the notice under Subsection (3), the Managing Director shall allow the holder an opportunity to be heard.

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

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

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

- (a) the Managing Director shall make and forward to the Board a written report on the hearing; and
- (b) the Board shall consider the report and forward it, together with its recommendations thereon, to the Minister; and
- (c) the Minister shall consider the report and the recommendations from the Board and, where appropriate, shall cancel the permit.

Subdivision D. - Timber Authority.

87. TIMBER AUTHORITY.

(1) Upon the recommendation of the Provincial Forest Management Committee and the consent of the Board under Section 89 and otherwise subject to this section and to Sections 88 and 89, a provincial Minister shall grant

to a registered forest industry participant a timber authority -

- (a) where -
 - (i) subject to Subsection (5), the amount of timber to be harvested annually from the project area does not exceed 5000 m³; and
 - (ii) the timber to be harvested is for domestic processing only; or
 - (b) for purposes of -
 - (i) the removal of trees on areas designated for agriculture or other land use by the relevant authorities; or
 - (ii) roadline clearing, outside the area covered by a Forest Management Agreement;
- or
- (c) for the purposes of harvesting of other forest produce to an amount specified in the timber authority.

(2) A timber authority shall -

- (a) be in the prescribed form; and
- (b) include a description of the project area; and
- (c) specify the amount of allowable cut or forest produce that may be taken; and
- (d) specify the term, appropriate to the project area, for which the timber authority applies; and
- (e) require a performance bond in accordance with Section 98 for an amount specified in the timber authority; and
- (f) specify such conditions as are laid down by the Provincial Forest Management Committee.

(3) The effect of a timber authority is to authorize the holder to carry out the operations specified in the timber authority in the project area for the specified term, subject to any conditions specified in the timber authority.

(4) A timber authority may be granted without development options study, guidelines, advertisement or the other procedures set out in Sections 61 to 65 inclusive and is non-transferable.

(5) Where the registered forest industry participant is the holder of a timber authority or timber authorities within a distance of 10 km from any boundary of the project area, the aggregate amount of timber to be harvested annually from that timber authority or those timber authorities and the project area shall not exceed 5000 m³.

88. APPLICATION FOR TIMBER AUTHORITY.

(1) A registered forest industry participant may make application for a timber authority.

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

- (a) be in the prescribed form; and
- (b) be lodged with the Managing Director; and
- (c) be accompanied by -
 - (i) the prescribed fee; and
 - (ii) the prescribed particulars; and
 - (iii) a map of the area in respect of which application is made for the timber authority; and
 - (iv) details of the project proposed; and
 - (v) details of any agreements relating to the sale of timber harvested; and
 - (vi) verification of ownership; and
 - (vii) the written consent of the landowners to the project proposed.

89. APPLICATION TO BE REFERRED TO PROVINCIAL FOREST MANAGEMENT COMMITTEE.

(1) On receipt of an application under Section 88, the Managing Director, on being satisfied that the application has been lodged in the approved manner, shall refer the application to the Provincial Forest Management Committee who shall -

- (a) consider and evaluate the application; and
- (b) thereafter make recommendations to the provincial Minister.

Forestry Act

- (2) An evaluation of an application will be made against -
- (a) the National Forest Policy; and
 - (b) any relevant provincial government policies, provided they are not inconsistent with the National Forest Policy; and
 - (c) the commercial viability of the project (including the financial resources of the applicant, the past performance of the applicant in forest industry and other projects, analysis of projected cash flows and the anticipated net benefit to the resource owners and to the State).

(3) In making an evaluation under this section, a Provincial Forest Management Committee may require the assistance of the National Forest Service and of any relevant Department.

(4) Where the Provincial Forest Management Committee, after having considered and evaluated an application, is of the opinion that it is satisfactory it shall recommend to the provincial Minister to grant a timber authority to the applicant.

(5) On receipt of a recommendation under Subsection (4), the provincial Minister shall give notification to the Board that he intends to grant a timber authority over the project area and shall request the consent of the Board to the grant.

(6) Where the Board does not respond to a notification under Subsection (5) within four weeks of the date on which notification was given, consent to the grant of the timber authority to which the notification relates, shall be deemed to have been given.

90. CONVICTION OF THE HOLDER OF A TIMBER AUTHORITY, ETC.,

(1) Where the holder of a timber authority (or where the holder is a corporate person, any of the principals of the holder) -

- (a) is or are convicted of an offence -
 - (i) against this Act; or
 - (ii) concerning forestry matters, against any other law; or
- (b) has or have failed to comply with any of the conditions of the timber authority,

the Provincial Minister may cancel the timber authority.

(2) For the purposes of Subsection (1), "principals" includes director, manager, secretary or other similar officer or any person purporting to act in such a capacity.

Subdivision E. - Licence.

91. ISSUE OF A LICENCE.

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

(2) A licence shall -

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

92. APPLICATION FOR A LICENCE.

An application for a licence -

- (a) may be made only by a registered forest industry participant or registered consultant; and
- (b) shall be in the prescribed form; and

- (c) shall be accompanied by the prescribed particulars; and
- (d) shall specify the activity in respect of which the licence is sought; and
- (e) shall be accompanied by the prescribed fee; and
- (f) shall be lodged with the Managing Director.

93. APPLICATION TO BE REFERRED TO BOARD.

(1) On receipt of an application under Section 92, the Managing Director shall refer the application to the Board who shall consider and evaluate the application.

- (2) An evaluation of an application will be made against -
- (a) the National Forest Policy; and
 - (b) any relevant provincial government policies, provided they are not inconsistent with the National Forest Policy; and
 - (c) the commercial viability of the activity (including the financial resources of the applicant, the past performance of the applicant in forest industry and other projects, analysis of projected cash flows and the anticipated net benefit to the resource owners and to the State); and
 - (d) in the case of a consultant, the need for a consultancy in the activity.

(3) In making an evaluation under this section, the Board may require the assistance of the National Forest Service and of any relevant Department.

(4) Where the Board, after having considered and evaluated an application, is of the opinion that it is satisfactory it may grant a licence to the applicant.

94. TERM OF A LICENCE.

A licence may be granted for a term not exceeding 12 months.

95. EXTENSION OF TERM OF LICENCE.

(1) Subject to Subsection (2), the Board shall, on the application in the prescribed manner by the holder of a licence, grant an extension or extensions of the licence, each for such period not exceeding 12 months as the Board determines.

(2) Where a condition of a licence has been breached, the Board shall not grant an extension of the term of the licence.

96. LICENCE NOT TRANSFERABLE.

A licence is not transferable and shall not be amended.

97. CONVICTION OF THE HOLDER OF A LICENCE, ETC.,

(1) Where the holder of a licence (or where the holder is a corporate person, any of the principals of the holder) -

- (a) is or are convicted of an offence -
 - (i) against this Act; or
 - (ii) relating to forestry matters, against any other law; or
- (b) has or have failed to comply with any of the conditions of the licence,

the Minister may cancel the licence.

(2) For the purposes of Subsection (1), "principals" includes director, manager, secretary and other similar officer or any person purporting to act in such a capacity.

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

- (a) advising him of the intention to cancel the licence and of the reason for the intended cancellation; and
- (b) requiring him, within 14 days from the date of service of the notice to make representations as to why the licence should not be cancelled.

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

Forestry Act

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

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

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

Subdivision F. - Performance Bonds

98. PERFORMANCE BONDS.

- (1) A performance bond required under -
- (a) Section 73(2)(h) or 81(2) in relation to a timber permit; or
 - (b) Section 87(2)(e) in relation to a timber authority; or
 - (c) Section 91(2)(d) in relation to a licence,
- shall be -
- (d) in the prescribed form; and
 - (e) lodged with a bank approved by the Managing Director; and
 - (f) subject to Subsection (2), authorize the Authority to draw directly on the bond in the event of non-performance by the holder of the timber permit, timber authority or licence, as the case may be, of any condition or requirement of the timber permit, timber authority or licence respectively, or of any provision of this Act.
- (2) The Authority may draw directly on a bond only -
- (a) after following the prescribed procedures; and
 - (b) to the extent of the prescribed scale of deductions for nominated breaches of conditions or requirements.

(3) Where the Authority has drawn on a bond in accordance with this section, the holder of the timber permit, timber authority or licence, as the case may be, shall, within 30 days of being so notified by the Authority, deposit with the bank a sum equivalent to the amount drawn.

Division 6 - Forest Management Controls.

99. DOCUMENTS TO BE PROVIDED BY HOLDERS OF TIMBER PERMITS.

The holder of a timber permit shall, to ensure proper management of the project, submit to the Board for approval -

- (a) a project statement in accordance with Section 100; and
- (b) a five year forest working plan in accordance with Section 101; and
- (c) an annual logging plan in accordance with Section 102.

100. PROJECT STATEMENT.

- (1) A project statement shall be submitted to the Board by the holder of a timber permit -
- (a) before any rights under that timber permit are exercised; and
 - (b) one month prior to the end of each three years of operations under the permit.

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

101. FIVE YEAR WORKING PLAN.

- (1) A five year working plan shall be submitted to the Board by the holder of a timber permit -
- (a) before any rights under that timber permit are exercised; and

- (b) one month prior to the end of each three years of operations under the permit.

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

102. ANNUAL LOGGING PLAN.

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

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

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

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

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

103. IDENTIFICATION AND MEASUREMENT OF TIMBER FELLED UNDER TIMBER PERMIT OR TIMBER AUTHORITY.

(1) Any timber taken under a timber permit or timber authority shall be identified, measured and branded in a manner specified by the Managing Director.

(2) The Managing Director may specify different methods of identification, measurement and branding for different categories of timber.

(3) The holder of a timber permit or timber authority shall keep, and at all times make available for inspection by a Forest Inspector, a written records of identification, measurements and branding of all timber taken under the timber permit or timber authority.

(4) A Forest Inspector may, at any time, measure or estimate the volume and quantity of timber felled and, for the purposes of determining royalty or other charges payable in respect of such timber, such measurement or estimate shall prevail, notwithstanding that the timber has been measured in accordance with Subsection (1).

PART IV. - REGISTRATION OF FOREST INDUSTRY PARTICIPANTS AND CONSULTANTS.

104. INTERPRETATION

(repealed).

105. PERSON NOT TO APPLY FOR OR BE GRANTED A LICENCE, ETC., UNLESS REGISTERED UNDER THIS PART.

A person shall not -

- (a) apply for or be granted permission to enter a project area to carry out feasibility studies under Section 65 unless registered as a forest industry participant or consultant under this Part;
- (b) make project proposals under Section 66 unless registered as a forest industry participant under this Part; or
- (c) apply for or be granted a timber permit or timber authority unless registered as a forest industry participant under this Part; or
- (d) apply for or be granted a licence - unless registered as a forest industry participant or consultant under this Part.

106. REGISTER OF FOREST INDUSTRY PARTICIPANTS AND CONSULTANTS.

The Managing Director shall establish and maintain a Register of Forest Industry Participants and Consultants.

107. APPLICATION FOR REGISTRATION.

(1) A person may apply to the Managing Director for registration as a forest industry participant or a consultant.

- (2) An application under Subsection (1) shall -
- (a) be in the prescribed form; and
 - (b) specify the full name and address of the applicant; and
 - (c) specify the activity or activities in respect of which the applicant requires to be registered as a forest industry participant or consultant; and
 - (d) contain the prescribed particulars; and
 - (e) be accompanied by the prescribed fee.

108. MANAGING DIRECTOR MAY REQUIRE FURTHER INFORMATION.

On receipt of an application under Section 107, the Managing Director shall consider the application and, where he is of the opinion that further information is required from the applicant, may require the applicant, if he wishes to proceed with the application, to furnish such further information.

109. MANAGING DIRECTOR TO REFER APPLICATIONS TO BOARD WITH RECOMMENDATION.

(1) Where the Managing Director is satisfied that he is in receipt of sufficient information to enable him fully to consider an application under Section 107, he shall -

- (a) consider the application fully; and
- (b) refer the application to the Board with a recommendation as to whether or not the applicant should be registered as a forest industry participant or as a consultant.

(2) In considering an application and making a recommendation under Subsection (1), the Managing Director shall have regard to -

- (a) the financial resources of the applicant; and
- (b) the expertise and experience of the applicant in the activity or activities in respect of which application is sought; and
- (c) any previous performances of the applicant in the forest industry.

110. BOARD TO CONSIDER APPLICATION, ETC., AND MAKE DIRECTION.

(1) The Board shall, on receipt of a referral under Section 109(1)(b), consider the application and recommendation and shall direct the Managing Director -

- (a) to register the applicant as a forest industry participant or as a consultant; or
- (b) not to register the applicant as a forest industry participant or as a consultant.

(2) In considering an application and recommendation under Subsection (1), the Board shall have regard to the matters specified in Section 109(2).

111. DUTIES OF MANAGING DIRECTOR.

The Managing Director shall, on receipt of a direction -

- (a) under Section 110(1)(a) - register the applicant as a forest industry participant or consultant in respect of the activity or activities specified in the application and issue to the applicant a certificate of registration; or
- (b) under Section 110(1)(b) - advise the applicant of the decision of the Board.

112. CANCELLATION OF REGISTRATION.

(1) Where -

- (a) a person registered under this Part (or where a person so registered is a corporate person, any of the principals of that corporate person) is convicted of -
 - (i) an offence against a provision of this Act; or
 - (ii) an offence involving dishonesty under any law; or
- (b) the Managing Director is of the opinion that there has been a change in the circumstance of a person registered under

this Act sufficient to justify cancellation of registration, the Managing Director may refer the matter to the Board for consideration as to whether registration should be cancelled.

(2) Before making a referral under Subsection (1), the Managing Director shall notify the person registered of his intention to make the referral and shall invite him to make a submission within 14 days as to why the registration should not be cancelled.

(3) A referral under Subsection (1) shall be accompanied by -
(a) a statement by the Managing Director of the reasons for the referral; and
(b) any submission made under Subsection (2).

(4) The Board shall, on receipt of a referral under this section, consider the statement and any submission and direct the Managing Director -
(a) to cancel the registration forthwith; or
(b) to cancel the registration with effect from a future date to allow for completion of a current project; or
(c) not to cancel the registration.

(5) The Managing Director shall, on receipt of a direction -
(a) under Subsection (4)(a) - cancel the registration and advise the person involved of the cancellation; and
(b) under Subsection (4)(b) - advise the person registered of the proposed cancellation and subsequently cancel the registration in accordance with the direction; and
(c) under Subsection (4)(c) - advise the person registered of the decision of the Board.

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

113. APPEAL.

(1) Where -
(a) an applicant is aggrieved by a decision of the Board under Section 109(1)(b); or
(b) a person is aggrieved by a decision of the Board to cancel his registration under Section 112(4)(a) or (b),
he may appeal in writing to the Minister for a review of the decision.

(2) On receipt of an appeal under Subsection (1), the Minister shall -
(a) obtain a report on the matter from the Board; and
(b) consider the appeal and the report; and
(c) uphold or reject the appeal; and
(d) advise the Board and the Managing Director and the appellant of his decision under Paragraph (c).

(3) The Managing Director shall give effect to a decision of the Minister under Subsection (2)(c).

(4) The decision of the Minister under Subsection (2)(c) is final.

114. OFFENCE TO PARTICIPATE, ETC., IN FOREST INDUSTRY UNLESS REGISTERED.

(1) A person who makes application for a timber permit, timber authority or licence without being registered under this Part, is guilty of an offence.

Penalty: A fine not exceeding K1000.00 or imprisonment for a term not exceeding one year, or both.

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

Forestry Act

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

(3) A person who, not being registered under this Part, claims to be so registered, or holds himself out as being so registered, is guilty of an offence.

Penalty: A fine not exceeding K1000.00 or imprisonment for a term not exceeding one year, or both.

(4) A person who, not being registered under this Part, enters into negotiations with a landowner in relation to any activity, to engage in which that person would require to be registered under this Part, is guilty of an offence.

Penalty: A fine not exceeding K1000.00 or imprisonment for a term not exceeding one year, or both.

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

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

PART V. - MARKETING.

115. STATE OPTION TO PURCHASE LOGS.

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

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

(3) Any exercise of purchase rights under this section shall be known as the State Purchase Option.

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

116. CERTAIN HOLDERS OF TIMBER PERMITS TO ESTABLISH MARKETING UNIT.

- (1) The holder of a timber permit with an annual log export quota of 72,000 m³ or greater shall -
- (a) establish a marketing unit within its corporate structure in Papua New Guinea; or
 - (b) employ the State Marketing Agency as its marketing unit.

(2) The holder of a timber permit shall not appoint a marketing agent based outside Papua New Guinea as the exclusive agent of the holder for the export of logs from Papua New Guinea.

117. QUALITY CONTROL.

The methods of grading logs and other forest produce for export and of seasoning and preservation of forest produce shall be as prescribed.

118. CONTROL, ETC., OF TRANSFER PRICING.

Provisions for the control or prevention of transfer pricing of forest produce and timber shall be as contained in the *Income Tax Act 1959* or as are prescribed.

PART VI. - FOREST FINANCE.

119. FOREST REVENUE SYSTEM.

There shall be established a forest revenue system which shall form the basis for prescribing royalties and other forest charges.

120. ROYALTIES.

(1) Subject to this section, the royalty payable on timber and forest produce taken or deemed to be taken under a timber permit is at a rate, fixed by the Minister in the timber permit, on the volume of merchantable timber or forest produce calculated at stump.

(2) In the case of a timber permit, the Minister may -

- (a) at least once in each year during the currency of the timber permit; and
 - (b) where in his opinion there exists a special reason to do so, at any other time during the currency of the timber permit,
- review the royalty payable for timber or forest produce under the timber permit.

(3) Where the Minister has conducted a review under Subsection (2) he may vary the royalty payable in relation to the timber permit by written notice to the holder of the timber permit.

(4) Where royalty is varied under Subsection (3) -

- (a) the varied royalty is, from the date specified in the notice, the royalty payable for timber or forest produce taken under the timber permit; and
- (b) the timber permit, is, from the date specified in the notice, subject to the payment as so varied.

(5) Notwithstanding this section, where the Minister is of the opinion that it is desirable in the national interest to do so, he may enter into an agreement with the holder of a timber permit, or any applicant for a timber permit, that the royalty fixed or to be fixed in the timber permit shall not be varied within such period as is specified in the agreement.

(6) Royalty payable under this section shall be paid by monthly instalments at the time of lodgement of such monthly statements by the holder of a timber permit as may be prescribed.

(7) A person to whom royalties are paid under this Act shall furnish to the Collector of Taxes such information in relation to the royalties as the Collector of Taxes may require.

121. LEVIES.

(1) The Minister, after consultation with the Board, may, by notice in the National Gazette, fix levies in respect of, but not limited to, all or any of the following:-

- (a) follow-up development;
- (b) provincial development;
- (c) forest management and development;
- (d) Papua New Guinea Forest Authority.

(2) A levy under Subsection (1) may be imposed on all holders of timber permits and of timber authorities and of licences or on such categories of holders of timber permits and of timber authorities and of licences as are specified in the notice.

(3) A levy under this section shall be paid and collected as prescribed.

PART VII. - ENFORCEMENT.

122. OFFENCES.

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

Forestry Act

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

Default Penalty: A fine not exceeding K10,000.00.

- (2) A person who -
- (a) without lawful authority, fells, cuts, injures, destroys, obtains or removes any forest produce in, on or from -
 - (i) a National forest or other Government land; or
 - (ii) land held under lease from the Government; or
 - (iii) land the subject of a Forest Management Agreement; or
 - (iv) a timber rights purchase area; or
 - (v) the project area of a timber authority or other agreement; or
 - (b) counterfeits or unlawfully affixes to any forest produce a mark used by Forest Officers or Forest Inspectors; or
 - (c) without due authority -
 - (i) makes or causes to be made; or
 - (ii) uses or causes to be used; or
 - (iii) has in his possession, a brand or stamp usually used by Forest Officers or Forest Inspectors; or
 - (d) unlawfully alters, obliterates, defaces, pulls up, removes or destroys a boundary mark or any stamp, mark, sign, timber permit, timber authority, licence or order, used or issued by the Minister, provincial Minister, Managing Director or a Forest Officer or Forest Inspector; or
 - (e) unlawfully -
 - (i) cuts, breaks, throws down or otherwise destroys or damages any building, fence or gate in or enclosing a National forest; or
 - (ii) cuts through, breaks down or otherwise destroys the bank, dam or wall or any part of any natural or artificial reservoir or pond of water within or partly within and adjoining any National forest; or
 - (f) for the purpose of obtaining -
 - (i) a favourable report, recommendation, certificate, valuation or royalty assessment, whether in respect of any place, employment, sale, auction, timber permit, timber authority, licence, lease or any other benefit; or
 - (ii) any abstention on the part of a Forest Officer or Forest Inspector or any member of the National Forest Service from any act which forms part of his duties, exercises compulsion on a Forest Officer or a Forest Inspector or any member of the National Forest Service by violence or threats, or corrupts or attempts to corrupt him by promises, offers, gifts or presents; or
 - (g) refuses or fails to comply with a lawful direction of a Forest Officer or Forest Inspector; or
 - (h) knowingly furnishes the Minister, provincial Minister, Managing Director, Forest Officer or Forest Inspector with a false or incorrect statement of any forest produce felled, cut, split, sawn or removed by the person or by an agent or employee of the person and on which fees, royalties, levies or charges are payable to the State or to the Authority, felled, cut, split, sawn or removed by the person or by an agent or employee of the person; or
 - (i) knowingly makes or causes to be made any entry or writing that is false in any material particular, in any book, return, declaration or statement required by this Act to be kept or made; or
 - (j) unlawfully occupies land for the purpose of carrying out forest industry operations; or
 - (k) ignites or maintains an open fire in a restricted area except under and in compliance with a burning permit issued to him, unless the fire is used only for cooking or warmth; or

Forestry Act

- (1) ignites or maintains an open fire in or near a forest and who -
 (i) leaves the fire unattended; or
 (ii) fails to extinguish the fire before leaving it,
is guilty of an offence.

Penalty: A fine not exceeding K50,000.00 or imprisonment for a term not exceeding three years, or both.

(3) (~~repealed~~).

- (4) A person who -
 (a) by intimidation or threat hinders or prevents a person from making an application for a timber permit, timber authority, licence or registration under this Act; or
 (b) for an improper purpose threatens to make an application for a timber permit, timber authority, licence or registration under this Act; or
 (c) participates in or is a party to an agreement or arrangement among two or more persons, under which -
 (i) one or more of the persons agrees or undertakes not to make an application for a timber permit, timber authority, licence or registration under this Act; or
 (ii) particulars of an application made for a timber permit, timber authority, licence or registration under this Act, or the amount of an offer to pay royalty or bonus to the State or to the Authority are arrived at,

is guilty of an offence.

Penalty: A fine not exceeding K5000.00 or imprisonment for a term not exceeding three years, or both.

- (5) Subsection (4) does not apply to -
 (a) an agreement or arrangement made only among two or more related corporations within the meaning of the **Companies Act** (Chapter 146); or
 (b) an application for a permit or licence made jointly by two or more persons.

(6) Where a person is convicted of an offence under Subsection (4), that person, and any corporation controlled by him, is disqualified from making an application for a timber permit, timber authority, licence or registration under this Act, either by himself or through an agent, for a period of five years commencing on and from the date of his conviction.

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

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

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

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

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

(4) Subject to Subsections (5) and (6), the net proceeds of sale of

Forestry Act

timber or other forest produce realized from a seizure and sale under this section shall be paid to the owner of the timber or forest produce at the time of the seizure.

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

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

124. UNLAWFUL POSSESSION OF FOREST PRODUCE

(1) A person who -

(a) is found within -

- (i) a National forest or other government land; or
- (ii) land held under lease from the State; or
- (iii) an area covered by a timber permit or timber authority,

or in the vicinity of any such forest, land or area; and

- (b) has in his possession any forest produce; and
- (c) on being required to do so by a Forest Officer or Forest Inspector, refuses or fails to give an account to the satisfaction of the officer of the manner in which he came into possession of the forest produce,

is guilty of an offence.

Penalty: A fine not exceeding K2000.00 or imprisonment for a term not exceeding two years, or both.

(2) Subject to Subsection (3), any forest produce in respect of which an offence against Subsection (1) has been committed is forfeited to the Authority.

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

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

(b) is known to the Authority,

the Authority shall give possession of the forest produce to the owner, or shall pay to the owner the net proceeds realised from a sale of the forest produce.

125. RECEIVING FOREST PRODUCE UNLAWFULLY OBTAINED.

A person, who receives any forest produce knowing it to have been unlawfully obtained, is guilty of an offence.

Penalty: A fine not exceeding K2000.00 or imprisonment for a term not exceeding two years, or both.

126. ENTRY AND INSPECTION ON LAND.

(1) The Minister, the Managing Director, a provincial Minister, a Forest Officer or a Forest Inspector may enter on any land on which activities are being carried out under a timber permit, timber authority or licence for the purpose of-

- (a) making inspections; or
- (b) carrying out silviculture or other forest work; or
- (c) preventing or suppressing fires.

(2) A person, who obstructs or hinders the Minister, the Managing Director, a provincial Minister, a Forest Officer or Forest Inspector in the exercise of his powers under Subsection (1), is guilty of an offence.

Penalty: A fine not exceeding K1000.00 or imprisonment for a term not exceeding one year.

127. AWARD OF DAMAGES.

A person who commits an offence against this Act is, on conviction, in

addition to the penalty for the offence, liable for any loss or damage caused by the offence, and the amount of such loss or damage may be -

- (a) awarded by the court in fixing the penalty; and
- (b) recovered in the same manner as a pecuniary penalty.

128. PRESUMPTION AS TO PROPERTY IN FOREST PRODUCE.

Where, in any proceeding under this Act, a question arises as to whether any forest produce is the property of the Authority, the forest produce shall be presumed to be the property of the Authority until the contrary is proved.

129. CONDUCT OF PROCEEDINGS.

(1) A Forest Inspector may lay informations and conduct prosecutions for offences under this Act, and the Authority may sue for and recover fees, royalties, levies and charges due and payable under this Act.

(2) In any prosecution or proceedings under this Act, proof is not required of -

- (a) the appointment of the Managing Director or of a Forest Officer or Forest Inspector; or
- (b) any authority, general or special, of any such officer to prosecute or to take any proceeding or to sue.

130. SEIZURE OF FOREST PRODUCE UNTIL ROYALTY, ETC., PAID.

(repealed)

131. SEARCH WARRANT FOR FOREST PRODUCE.

On the complaint on oath of a Forest Officer or Forest Inspector stating his belief that any forest produce liable to the payment of any royalties, levies, dues or charges is secreted in any place other than a National forest or an area in respect of which a Forest Management Agreement has been entered into, a Magistrate Grade II, III, IV or V may issue a warrant to search for the forest produce.

PART VIII. - MISCELLANEOUS.

132. PROTECTION OF OFFICERS.

The Minister, the Managing Director, a provincial Minister, a Forest Officer, a Forest Inspector or an officer of the National Forest Service is not personally liable for any matter or thing done by him in good faith in the exercise of his powers or the performance of his duties under this Act.

133. INDEMNITY OF MEMBERS OF BOARD, ETC.,

A member of the Board or of any Committee established under this Act is not personally liable for any act done, in good faith, in the course of carrying out the duties of the Board or Committee.

134. EXPORT OF CERTAIN TIMBER.

(1) The Minister may, by notice in the National Gazette, declare that any species or class of timber specified in the notice -

- (a) is banned from export; or
- (b) shall not be exported until -
 - (i) the timber has been inspected; and
 - (ii) the permission of the Minister to export has been obtained.

(2) A person, who exports any timber to which a notice under Subsection (1) applies and which does not bear a mark or brand affixed by a Forest Officer or Forest Inspector indicating that permission has been given under that subsection, is guilty of an offence.

Penalty: A fine not exceeding K10000.00 and a further penalty of a fine not exceeding K15.00 for each cubic metre of the timber exported.

135. REGULATIONS.

(1) The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in

Forestry Act

particular prescribing matters for and in relation to -

- (a) the management of -
 - (i) National forests; and
 - (ii) forests on other Government land and land held under lease from the State; and
 - (iii) areas subject to Forest Management Agreements; and
 - (iv) forests on customary land,including the regulation of -
 - (v) the cutting, removal, hewing and sawing of timber; and
 - (vi) the cutting, hewing, stripping, tapping and removal of other forest produce; and
- (b) the forms of timber permits, timber authorities and licences under this Act, and the manner of applying for, granting, issuing, registering and transferring them and the covenants, terms and conditions under which they shall be held, determined, cancelled or withdrawn; and
- (c) the procedure for the sale, by auction or by tender, of forest produce and enabling upset prices or minimum royalties to be fixed; and
- (d) the assessing of royalty on forest produce and the payment and distribution of royalties; and
- (e) the manner of doing or performing anything required by this Act to be done or performed; and
- (f) the fees or deposits to be paid with any application or tender; and
- (g) the rate or amount -
 - (i) of rents, fees, dues and charges payable in respect of timber permits, timber authorities, licences or registration under this Act; and
 - (ii) fees to be paid to the State in respect of services rendered by Forest Officers or Forest Inspectors; and
- (h) the fees (if any) payable in respect of any matter under this Act; and
- (i) regulating the exercise of the powers conferred by timber permits, timber authorities and licences under this Act, including -
 - (i) the protection and preservation of trees; and
 - (ii) the cutting, marking, and removing of timber and other forest produce; and
- (j) the making of declarations or written statements as to -
 - (i) the quantity and description of forest produce obtained, held, removed, hewn, sawn or otherwise treated, consigned or exported; and
 - (ii) the place where any forest produce was obtained; and
 - (iii) the place to which it was, or is intended to be, consigned; and
- (k) the inspection of forest produce for export and for local use, and the forms and certificates, and the brands or marks, to be used; and
- (l) rules for the grading of timber for export and for local use; and
- (m) regulating or prohibiting the export of any species or class of timber or other forest produce; and
- (n) prohibiting the cutting of reserved trees; and
- (o) the kinds, sizes and quantities of any forest produce that may be cut or removed in or from -
 - (i) a National forest; or
 - (ii) any other Government land; or
 - (iii) any land held under lease from the State; or
 - (iv) any land subject to a Forest Management Agreement; or
 - (v) a timber rights purchase area,and prohibiting the removal of any forest produce until branded by a Forest Officer or Forest Inspector; and
- (p) the mode in which any forest produce is to be branded or marked, and the way in which such brands or marks shall be registered; and

Forestry Act

- (q) the establishment of depots where timber and other forest produce may be deposited and stored and -
 - (i) charges for depositing and storing timber and other forest produce in such depots; and
 - (ii) the regulation and management of such depots; and
 - (iii) the detention of timber or other forest produce in such depots until the royalty or other charges on the timber or other forest produce are paid; and
- (r) requiring the holder of any timber permit, timber authority or licence under this Act to produce for inspection by the Managing Director or by a Forest Officer or Forest Inspector, all books of account, returns and other documents to enable the royalties payable to be ascertained; and
- (s) regulating or prohibiting the burning-off of forest produce and the lighting and use of fires; and
- (t) regulating traffic through National forests, and the prevention of trespass in any part of a National forest; and
- (u) enabling Forest Officers or Forest Inspectors to give directions regarding the roads or tracks in or by which any forest produce may be removed or taken through any part of -
 - (i) a National forest; or
 - (ii) other Government land; or
 - (iii) land held under lease from the State; or
 - (iv) any land subject to a Forest Management Agreement; or
 - (v) a timber rights purchase area,and the manner of such removal or taking; and
- (v) reserving any area of -
 - (i) a National forest; or
 - (ii) a timber reserve; or
 - (iii) other Government land; or
 - (iv) land held under lease from the State; or
 - (v) any land subject to a Forest Management Agreement; or
 - (vi) area subject to a Forest Management Agreement, from the operation of any permit, licence, or other authority under this Act; and
- (w) reserving any area of National forest or other Government land required for the agistment of draught cattle used by any person holding a permit, licence, or other authority under this Act from the operation of any permit, licence, or other authority under this Act; and
- (x) regulating reforestation in a National forest subject to a Forest Management Agreement; and
- (y) providing for advisory services and assistance to be made available by the State to stimulate economic development in areas where timber rights are purchased under this Act, and to encourage participation in such development by customary owners who dispose of their timber rights under this Act; and
- (z) prohibiting, except under permit, the depasturing of cattle within, and regulating the passage of cattle through, a National forest; and
- (zd) authorizing Forest Officers or Forest Inspectors to stop, detain, or seize any forest produce within the boundaries of, or on any public highway within or abutting on -
 - (i) a National Forest; or
 - (ii) any other government land; or
 - (iii) any land held under lease from the State; or
 - (iv) any land subject to a Forest Management Agreement; and
- (z b) requiring the holders of permits, licences, and other authorities under this Act to register in the Authority, and retain the use of, a brand by which timber cut in or proceeding from their holdings may be distinguished from any other timber; and
- (z c) the registration of sawmills and other factories or industrial plants dependent on supplies of forest produce; and
- (z d) regulating the purchase of forest produce from citizens by

Forestry Act

- non-citizens; and
- (ze) the form of authority to purchase forest produce from the owners of customary land, and the conditions subject to which such an authority may be granted; and
- (zf) the protection of forest produce on -
 - (i) any Government land; or
 - (ii) any land held under lease from the State; or
 - (iii) customary land, and regulating the cutting, hewing, sawing, or other methods of conversion of that forest produce; and
- (zg) matters relating to National Forest Inventory, National Forest Plan, forest classification and National Forestry Development Guidelines; and
- (zh) requirements in submissions by permit holders in relation to project statement, follow-up land use plan and working and logging plans; and
- (zi) regulating quality control on timber and other forest produce; and
- (zj) the regulation of transfer pricing in relation to forest produce and timber; and
- (zk) the imposition of penalties or fines not exceeding K100,000.00 for offences against the regulations.

(2) The regulations may be of general application or may be limited to a particular area or restricted in their operation to -

- (a) National forests; or
- (b) other Government land; or
- (c) land held under lease from the State; or
- (d) areas subject to a Forest Management Agreement; or
- (e) certain species of timber or other forest produce.

PART IX. - REPEAL.

136. REPEAL.

The following Acts are hereby repealed:-

- (a) **Forest Industries Council Act** (Chapter 215);
- (b) **Forestry Act** (Chapter 216);
- (c) **Forestry (Private Dealings) Act** (Chapter 217).

PART X. - SAVINGS AND TRANSITIONAL.

137. SAVING OF EXISTING PERMITS, ETC.,

(1) Subject to Subsection (2), all -

- (a) registrations granted under the **Forest Industries Council Act** (Chapter 215) (**repealed**); and
- (b) permits, timber rights purchase agreements, licences and other authorities granted under the **Forestry Act** (Chapter 216) (**repealed**),

valid and in force immediately before the coming into operation of this Act, shall continue, on that coming into operation, to have full force and effect for the term for which they were granted or entered into or until they sooner expire or are revoked according to law as if the Act under which they were granted or entered into had not been repealed.

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

(2) Where the Board is of the opinion that any term or condition of any -

- (a) registration as a forest product operator granted under the **Forest Industries Council Act** (Chapter 215) (**repealed**); or
- (b) permit, licence, timber rights purchase agreement or other authority granted under the **Forestry Act** (Chapter 216) (**repealed**); or
- (c) agreement entered into under the **Forestry (Private**

Dealings) Act (Chapter 217) (**repealed**),
is at variance with the provisions of this Act to an extent which makes it unacceptable, it shall by written notice -

- (d) advise the registered forest product operator, holder of the permit, licence or other authority or parties to the agreement or timber rights purchase agreement, as the case may be, of the term or condition that is unacceptable; and
- (e) specify the variation in the term or condition required to ensure compliance with this Act; and
- (f) intimate that variation shall apply in respect of the registration, permit, licence, other authority or agreement or timber rights purchase agreement, as the case may be, with effect from a date specified in the notice, unless it receives notification from the registered forest product operator, holder of the permit, licence or other authority or parties to the agreement or timber rights purchase agreement, as the case may be, that such variation is unacceptable, in which case the registration, permit, licence, other authority or agreement or timber rights purchase agreement, as the case may be, shall cease to have effect from the date specified.

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

- (a) the provisions of this Act shall not apply; and
- (b) the provisions of the repealed Act under which the registration, permit, licence or other authority was granted or the agreement or timber rights purchase agreement was entered into shall apply.

138. TRANSFER OF ASSETS ETC., TO THE AUTHORITY.

(1) All -

- (a) assets (other than land held by the State) which, immediately before the coming into operation of this Act, were held or occupied by the Department of Forests and all liabilities and obligations of the Department of Forests immediately before the coming into operation of this Act; and
- (b) assets (other than land held by the State) which immediately before the coming into operation of this Act were held or occupied by the Forest Industries Council and all liabilities and obligations of the Forest Industries Council immediately before the coming into operation of this Act,

are, on that coming into operation, transferred to and become assets and liabilities and obligations of the Authority.

(2) Where any property transferred under Subsection (1) is land registered under the **Land Registration Act** (Chapter 191), the Registrar of Titles shall, without formal transfer and without fee, on application in that behalf by the Authority, enter or register the Authority in the Register kept under that Act and, on entry and registration, grant a certificate of title, lease or other instrument evidencing title to the land within that Act.

139. ACTIONS, ETC., NOT TO ABATE.

Where immediately before the coming into operation of this Act, any action, arbitration or proceeding was pending or existing by or against a person or body under the Acts repealed by Section 136, it does not, on that coming into operation, abate or discontinue, or be in any way affected by any provision of this Act but it may be prosecuted, continued and enforced by, against or in favour of the person or body as if this Act had not been made.

140. CONTRACTS.

All contracts and agreements entered into, made with or addressed to -

- (a) the State, through the Department of Forests; or
 - (b) the Forest Industries Council,
- in so far as they relate to the functions of the Authority under this Act,

are, to the extent that they were, immediately before the coming into operation of this Act, binding on and of full force and effect against or in favour of the Department of Forests or the Forest Industries Council are, on that coming into operation, binding on and of full force and effect against or in favour of the Authority as fully and effectually as if, instead of the State or the Forest Industries Council, the Authority has been a party to them or bound by them or entitled to the benefit of them.

141. STAFF.

(1) The person who, immediately before the coming into operation of this Act, held the position of Departmental Head of the Department of Forests, shall, on that coming into operation hold office as Director-General¹ and, subject to the **Salaries and Conditions Monitoring Act 1988** on the same terms and conditions, until such time as the Director-General is appointed and terms and conditions determined in accordance with Section 34.

(2) A person who, immediately before the coming into operation of this Act, held an office -

- (a) in the Forest Industries Council under the **Forest Industries Council Act** (Chapter 215) (~~repealed~~); or
 - (b) in the Department of Forests under the **Public Service (Management) Act 1986**, or
 - (c) in the Division of forests in a provincial government,
- shall, on that coming into operation, hold a similar office under this Act until such time as appointments are made under this Act.

142. APPLICATION OF ACTS, ETC.,

Where -

- (a) any Act, or subordinate enactment other than this Act; or
 - (b) any document or instrument wherever made or executed,
- contains a reference, express or implied, to the Department of Forests (or the Department responsible for forestry matters) or the Forest Industries Council, that reference shall, on the coming into operation of this Act, except where the context otherwise requires, be read and construed and have effect as a reference to the Authority.

143. BOARD MAY EXTEND SAVED PERMITS, ETC.,

The Board may, until -

- (a) the National Forest Plan has been drawn up under Section 47; or
 - (b) 31 December 1993,
- whichever shall first happen, notwithstanding the provisions of this Act -
- (c) extend the term of any permit or licence saved by Section 137; or
 - (d) grant a timber authority,
- for a period not exceeding one year in a form approved by the Board.

S.49(3) of the Forestry (Amendment) Act 1993 provides as follows - "The person who, immediately before the coming into operation of this Act ... , held office as Director-General of the National Forest Service shall, on that coming into operation, be deemed to have been appointed Managing Director of the National Forest Service and shall hold office as such for the balance of the period for which he was appointed to be Director General, or otherwise according to law, and on the terms and conditions under which he was appointed to be Director General."