

PARLIAMENT OFFICE,
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The following Bill which was introduced in the National Assembly is published for general information.

F. A. NARAIN,
Clerk of the National Assembly.



GUYANA

BILL No. 28 of 1973

TIMBER MARKETING BILL 1973

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A BILL

Intituled

An Act to provide for the control of the sale and use of timber and for purposes connected therewith

Enacted by the Parliament of Guyana:—

A.D. 1973

1. This Act may be cited as the Timber Marketing Act 1973, and shall come into operation on such day as the Minister may, by order, appoint. Short title and commencement.

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

“approved grading rules” means any prescribed grading rules or grading rules approved by the Conservator;

“approved preservative treatment” means any prescribed method of preservative treatment of any method of preservative treatment approved by the Conservator;

“article” means anything, other than a building, in the manufacture or construction of which or any part thereof timber of any species has been or is being used;

“authorised timber grader” means a person who holds a valid licence to grade timber issued by the Conservator;

“branded” means stamped in accordance with the provisions of this Act;

“building” includes any structure or any part thereof, but does not include any building intended to have a life of less than two years nor any structure wherein the complete destruction of any sapwood on any component part thereof does not detrimentally affect the use or service for which the structure is intended;

“building operation” includes anyone or more of the following operations, that is to say —

- (a) erection, re-erecting, altering, adding to, constructing, reconstructing, building, rebuilding, renovating, repairing, plastering, panelling, lining or decorating any building (whether carried on at the site or elsewhere and whether above or below the surface);

(b) affixing to any building any fixtures or fittings;

“Conservator” means the Conservator of Forests;

“equilibrium moisture content” means the moisture content at which the timber does not tend to absorb moisture from, or lose moisture to, the surrounding atmosphere;

“export” means to take or cause to be taken out of Guyana;

“forest officer” means a person authorised by the Conservator under section 3 to perform the functions of a forest officer under this Act;

“forest produce” includes timber and trees;

“graded timber” means timber which has been classified, marked and branded as prescribed;

“grading rules” means rules for the classification of timber;

“marked” means marked in accordance with the provisions of this Act;

“preservative treated” means treated by chemical substance with the object of protecting any timber from attack by wood destroying insects, animals, fungi, or any other plants, or of increasing its resistance to fire; and the expression “preservative treatment” has a corresponding meaning;

“registered brand” means a brand approved and registered by the Conservator under this Act;

“sapwood” means the outer layers of the wood of a tree in which its food materials are conveyed and stored during the life of the tree;

“sell” includes barter, and offer or expose for sale;

“senior officer” means any forest officer of or above the rank of Assistant Conservator of Forests;

“timber” includes a tree or any ligneous part of a tree whether standing, fallen or felled, and all wood, whether or not sawn, split, hewn or otherwise cut up or fashioned and includes plywood and veneers;

“timber marketing inspector” means a person authorised by the Conservator under section 3 to perform the functions of a timber marketing inspector.

Authori-
sation
of forest
officers and
timber mar-
keting in-
spectors.

3.(1) The Conservator may, from time to time, authorise in writing any person to perform the functions of a forest officer or a timber marketing inspector for the purposes of this Act and may revoke any such authority at any time.

(2) Every authorisation issued under this section shall be personal to the holder thereof and shall expire on the 31st December of the year in which it is issued.

GRADING

4. No person shall sell —
- (a) any timber described or held out as graded timber unless the timber has been graded in accordance with approved grading rules, and marked and branded by an authorised timber grader as prescribed; Restriction on sale of timber not graded.
- (b) any timber or article described as being 'kiln dried', 'air dried', 'dry' or 'seasoned' unless —
- (i) such timber or article at the time of sale conforms with the specifications as to moisture content approved, from time to time, by the Conservator or as may be prescribed; or
- (ii) the specification of moisture content to which the timber (including the timber used in the manufacture or construction of the article) has been dried as at the date of sale of the timber or article is clearly shown on the invoice of sale, or is clearly stated in the offer of sale.

5. Any person who, in connection with the sale of any timber or article, issues or delivers any false specification or makes any false statement or representation concerning the moisture content to which that timber (including the timber used in the manufacture or construction of the article) has been dried at any time shall be guilty of an offence. False specification as to moisture content.

PRESERVATION

6. No person shall —
- (a) sell any timber or article described or held out as being preservative treated, unless the timber or article has been treated with an approved preservative treatment by a process of timber preservation approved by the Conservator and is branded with a registered brand; Restrictions on sale of timber not preservative treated.
- (b) sell any timber or article described or held out as being free from sapwood susceptible to attack by insects, unless such sapwood has been previously removed therefrom or treated with an approved preservative treatment.

Registration of brands to be affixed to preservative treated timber.

7.(1) The owner or person in control of a plant for the preservative treatment of timber which is to be sold as preservative treated or to be used in the manufacture of an article to be sold as preservative treated shall register with the Conservator a brand of a form and design to be approved by the Conservator and with such brand shall brand or cause to be branded all timber treated by the plant, prior to the removal of the timber therefrom.

(2) A person shall not brand or permit or allow to be branded with a registered brand any timber other than timber treated in the plant for the preservative treatment of timber with respect to which such brand is registered by the Conservator.

MARKETING

Restriction on export of timber.

8.(1) No person shall export or enter for export any timber except under an export certificate as prescribed.

(2) No person shall export any timber under an export certificate unless each piece of timber whether within a bundle or not conforms with the provisions of this Act.

Persons authorised to issue export certificates.

9. No person other than a senior officer or a timber marketing inspector shall issue an export certificate for timber.

Guarantee of certificate of a senior officer or a timber marketing inspector.

10. A senior officer or a timber marketing inspector shall have power to issue timber marketing certificates and a timber marketing certificate shall be deemed to be a guarantee that at the time of inspection the timber actually inspected by the senior officer or timber marketing inspector, as the case may be, was of the exact specification or quality shown in the certificate.

Prohibition of false export certificates or timber marketing certificates

11. Any person who signs, issues or uses in respect of any timber any document being or purporting to be an export certificate or a timber marketing certificate under this Act knowing or having reason to believe that the document is false either wholly or in any material particular shall be guilty of an offence.

Trade names of timber.

12.(1) The Conservator may, by notice published in the Gazette, assign a trade name to the timber of any species or alter the trade name of the timber of any species or alter the description of, or add or delete the trade name or description of, the timber of any species.

(2) No person shall sell any timber of any species to which a trade name has been assigned pursuant to subsection (1) except under the trade name assigned to it by the Conservator.

(3) Notwithstanding anything contained in sub-section (2), timbers to which trade names have been assigned by the Conser

vator, may be sold as mixed or unclassified if sold and accepted as such.

13. No person, other than a senior officer, or a timber marketing inspector, or an authorised timber grader, may use a registered brand or a mark which is authorised under this Act.

Restriction on the use of registered brands and authorised marks.

14. The Export of Timber Ordinance is hereby repealed.

Repeal of the Export of Timber Ordinance. Cap. 241.

MISCELLANEOUS

15.(1) The Conservator or any forest officer or timber marketing inspector may —

Powers of Conservator and other officers.

- (a) where he has reasonable cause to believe that an offence against this Act has been committed —
 - (i) enter at any reasonable time any premises or place where timber or any article is stored for sale for the purpose of inspecting the timber or article;
 - (ii) inspect any timber or article being conveyed to any place;
 - (iii) search any person or any package, parcel, stack, conveyance, storage shed or building under the control of any person.

and may retain for as long as is necessary for the purpose of any examination, investigation, inquiry or legal proceedings any timber or article or preservative solution found by him as a result of such inspection or search,

- (b) require the production of books, documents or other records for the purpose of examination by him if he believes that they contain or are likely to contain any information relevant to the enforcement of this Act and may take possession of such books, documents or records for the purpose of investigating any entries therein and may make copies thereof, or extracts therefrom,
- (c) require any person found in possession of any timber or article, or preservative solution or carrying out, or doing any work in the course of, or for the purpose of, carrying out any building operation, or manufacturing, or doing any work in the course of, or for the purpose of, manufacturing any article, or producing or using any

preservative solution to furnish his name and address and, if such timber or article or preservative solution was acquired by him from another person, the name and address of the person from whom he obtained such timber or article or preservative solution.

(2) A forest officer or a timber marketing inspector shall produce his authorisation —

- (a) to the owner or occupier of any premises or place which he enters pursuant to subsection (1);
- (b) to the person in possession or control of any timber, article, preservative solution, package, parcel, stack, conveyance, storage shed or building,

if the owner or occupier or other person aforesaid, as the case may, requires him to do so.

(3) The owner or occupier of any premises or place entered by a forest officer or a timber marketing inspector pursuant to subsection (1) and every person found therein shall give the forest officer or timber marketing inspector all reasonable assistance in his power and furnish him with such information as he may reasonably require.

(4) Any timber or article seized under this Act may, at the option of the forest officer or a timber marketing inspector, be kept or stored in the place where it was seized or may, at the direction of the forest officer or timber marketing inspector, be removed to any other proper place.

Power of Conservator and other officers to charge fees.

16.(1) It shall be lawful for the Conservator, a forest officer or a timber marketing inspector to charge such fees as may be prescribed for performing any function under this Act.

(2) The Conservator or a forest officer or a timber marketing inspector may, in any case, decline to make an inspection, process an application, carry out a test or grade any timber or article unless the prescribed fees are paid in advance.

(3) All fees charged pursuant to this section shall be paid into the Consolidated Fund.

Return of timber or article

17. If the Conservator or a forest officer or a timber marketing inspector acting under the provisions of this Act tests or investigates or causes to be tested or investigated any timber or article in respect of which he suspects an offence has been committed, and is satisfied that no such offence has been committed, he shall promptly return such timber or article to

the person from whom it was taken, and shall pay compensation to the owner thereof if the timber or article cannot be returned penalty than is provided by this Act.

18.(1) All penalties, fines and costs in relation to this Act ^{Prosecution of offences.} may be imposed, sued for, prosecuted, realised and recovered in the manner provided by the Summary Jurisdiction Ordinances.

(2) Any such proceedings for any offence against this Act may be instituted within eighteen months from the time when the offence was committed.

19. Nothing in this Act shall be deemed to prevent any- ^{Penalties under this Act nor substituted for others.} one from being prosecuted under any other law for an act or omission which constitutes an offence under this Act, or from being liable under that other law to any higher punishment or penalty than is provided by this Act.

20. Any person who —

- (a) counterfeits or fraudulently or without lawful authority possesses or uses upon forest produce any registered brand or mark used by virtue of this Act; ^{Counterfeiting and other offences.}
- (b) counterfeits, fraudulently alters, obliterates, defaces, destroys or removes any stamp, brand, mark, sign, licence, permit, certificate, document or receipt used or issued under this Act;
- (c) uses a registered brand or a mark authorised under this Act except for the purpose for which the brand or mark has been registered or authorised;
- (d) fails to safeguard against the unauthorised use of any hammer or brand issued to him;
- (e) marks any timber with a mark so similar to any authorised mark that it may be or can be mistaken **therefor**;
- (f) fraudulently issues any licence, permit, document or certificate,

shall be guilty of an offence.

21. Any person who obstructs, hinders, prevents or ^{Obstruction an offence.} interferes with, any other person acting under the provisions of this Act in the exercise of any of the functions conferred on him by this Act, or who fails to afford such assistance as he is reasonably required to render to any such person shall be guilty of an offence.

22.(1) If any person authorised to perform any function under this Act takes a bribe, gratuity, recompense, or reward, in connection with the exercise of his functions under this Act, he shall be guilty of an offence.

(2) Anyone who gives or offers, or procures to be given or offered, any bribe, gratuity, recompense, or reward to, or makes any collusive agreement with, any person to induce him in any way to neglect his duty under this Act or to do, conceal, or connive at any act whereby any of the provisions of this Act may be evaded shall be guilty of an offence.

Other offences.

23. Any person who contravenes, or fails to comply with, the provisions of section 4, 6, 7, 8, 9, 12(2) or 13 shall be guilty of an offence.

Falsification of proof.

24.(1) In any proceedings against any person for any offence against this Act a document purporting to be a certificate under the hand of the Conservator that —

- (a) a brand or mark used for branding or marking timber was or was not on any date or during any period specified in the certificate registered or authorised under this Act; or
- (b) a preservative treatment of timber was or was not on any date or during any period specified in the certificate an approved preservative treatment,

shall be prima facie evidence of the facts stated in such certificate.

(2) Where in any proceedings under this Act an offence is proved in regard to any portion or sample of timber or article such offence shall prima facie be deemed to have been proved with regard to the whole lot of timber or articles from which that portion or sample was taken.

Penalty for offences.

25.(1) Any person who commits an offence against this Act shall be liable to a fine of one thousand dollars and to imprisonment for a term of twelve months.

(2) Where a person is convicted for an offence against this Act the court may, in addition to any penalty imposed, order the timber in respect of which the offence was committed to be forfeited to the State or where the person convicted is not the owner thereof, an additional fine equal to its value at the of the commission of the offence.

26. Any person convicted of an offence against this Act in respect of any timber or article may be liable for reasonable costs, charges and expenses incurred in handling, storing, transporting, or otherwise dealing with such timber or article and any sum for which any such person is liable shall be recoverable by the Conservator from him by action as a civil debt. ^{Recovery of expenses}

27. Notwithstanding any other provisions of this Act, the Conservator or any Assistant Conservator of Forests may, in any case he deems proper and in substitution for any proceedings, accept on behalf of the State a sum of money by way of compensation from any person reasonably suspected of a contravention of this Act not being an offence under paragraph (a), (b) or (e) of section 20. ^{Power to accept compensation for offences.}

Provided that such compensation shall be accepted only where the person reasonably suspected of such contravention has expressed in writing his willingness that the contravention as aforesaid shall be so dealt with.

28. Nothing contained in this Act shall prejudice the right of the State or of anyone to sue for and recover at common law or otherwise compensation for or in respect of damage or injury caused by an offence against this Act. ^{Civil remedy reserved.}

29. The Minister may make regulations generally for the purposes of this Act and, without prejudice to the generality of the foregoing, regulations may be made in particular — ^{regulations}

- (a) prescribing standards of classification for forest produce;
- (b) prescribing the methods for the determination of moisture content of timber;
- (c) prescribing any matter or thing relating to the grading of timber;
- (d) prescribing any matter or thing relating to the drying or seasoning of timber;
- (e) requiring particulars to be furnished in respect of any preservative treatment, and the ingredients and methods thereof, the approval of any preservative treatment and the registration of brands to be used for the purposes of this Act and the form of brands so used;
- (f) prescribing the ingredients to be used and the methods of preservative treatment to be adopted for the purposes of this Act;

- (g) prescribing any matter or thing relating to the preservative treatment of timber;
- (h) prohibiting or regulating the marketing of forest produce;
- (i) prescribing any matter or thing relating to the marketing of forest produce;
- (j) regulating the marking or branding of timber, including the registration, authorisation, possession and use of marks or brands;
- (k) relating to the registration of premises where timber is stored, seasoned, graded, preservative treated, or is stored, for the purposes of marketing;
- (l) prescribing the records, returns and other documents to be kept and furnished for the purposes of this Act;
- (m) prescribing methods for determining whether or not any timber contains starch;
- (n) prescribing the fees to be charged for any matter or thing under this Act including the registration of brands or the authorisation of marks, the making of any inspection, test or application, or for the approval of a preservative treatment;
- (o) prescribing anything which is required to be prescribed.

EXPLANATORY MEMORANDUM

This Bill seeks to provide comprehensive legislation for the purpose of regulating the sale and use of timber in order to ensure that timber produced for marketing maintains accepted standards. The Bill seeks to confer powers on the Conservator of Forests, forest officers and timber marketing inspectors who will be vested with power to inspect premises where timber is stored for sale and to carry out tests in order to determine whether the timber confirms to acceptable standards.

H. O. JACK,
Minister of Energy and Natural Resources.

(Bill No. 26/1973)

(ENR: 22/1).