

CONDOMINIUM DES NOUVELLES-HEBRIDES

NEW HEBRIDES CONDOMINIUM

ARRETE CONJOINT 30 de 1964

JOINT REGULATION 30 of 1964

JOINT REGULATION

No. 30 of
1964.

to provide for the Control of Forestry.

[Published: Condominium Gazette No. 225.]

MADE by the British and French Resident Commissioners under the provisions of paragraph 2 of Article 2 and Article 7 of the Anglo-French Protocol of 1914.

PART I

PRELIMINARIES

1. In this Regulation the following expressions shall have the meanings respectively assigned to them—

Interpreta-
tion.

"Forest Area" means an area declared to be a forest area under the provisions of Section 2 (1);

"Forest Licence" means a licence issued by the Resident Commissioners under the provisions of Section 18;

"Licensee" means the holder of a Forest Licence;

"Owner" includes the owner or reputed owner of any land;

"Valuable Timber" means any timber declared to be such under the provisions of Section 2 (2).

PART II

FOREST AREAS

2. (1) When the Resident Commissioners are satisfied that any area comprises either wholly or in part forest land which the public interest requires should be protected, exploited, developed or utilised in accordance with the principles of good forestry practice subject to provision for reforestation they may by Joint Decision declare such area to be a Forest Area:

Power to
declare forest
areas.

Provided that except in so far as it is provided in this Regulation otherwise expressly or by necessary implication nothing herein shall affect any rights, powers or remedies vested in any person by reason of the ownership of any estate in any land which is constituted a Forest Area by decision under this Regulation.

(2) The Resident Commissioners may furthermore declare any species of tree to be valuable timber for the purposes of this Regulation.

3. (1) Any land on which is taking place the felling of timber for commercial purposes or in respect of which an application for a Forest Licence has been made shall be a Forest Area and shall be subject to the provisions of Part III of this Regulation:

Priority for
certain areas.

Provided that the Resident Commissioners may exempt from the provisions of this Part any land upon which neither the amount of the timber being felled nor the interests of nature are such as to justify its being declared a Forest Area.

(2) Such lands shall receive priority for classification under this Part of this Regulation.

4. The Chief Condominium Agricultural Officer shall cause to be carried out a preliminary investigation of any area which by reason of—

Chief
Agricultural
Officer to
Investigate.

- (a) the size and the value of the forests thereupon;
- (b) the importance of maintaining forests thereupon for—
 - (i) the purpose of preventing soil erosion;
 - (ii) protecting springs or rivers required for irrigation or water supplies;
- (c) the desirability of reforestation thereupon;

the area so considered should be declared a Forest Area in pursuance of the provisions of Section 2 of this Regulation.

5. At the request of the Chief Condominium Agricultural Officer the Chief Condominium Surveyor shall cause such area to be surveyed with a view of delineating the boundaries thereof:

Boundaries
to be
surveyed.

Provided that if the Condominium Survey Department is unable to carry out an accurate survey immediately the said boundaries shall be delineated provisionally.

6. Before declaring any area to be a Forest Area the Resident Commissioners shall consult an advisory committee comprised of the following persons—

Advisory
Committee
to be
consulted.

- the Chief Condominium Agricultural Officer;
 - the Registrar of Land Titles;
 - the Chief Condominium Surveyor;
 - the District Agents of the District concerned;
 - three private members appointed jointly by the Resident Commissioners, and
- whenever the attendance of one or both of these officers or their representative is possible, the Chief Forestry Officer of the British Solomon Islands Protectorate and the Chief Forestry Officer of the Territory of New Caledonia.

7. (1) Every Joint Decision declaring a forest area shall be published in the Condominium Gazette and shall be sent to the District Agents of the District in which the said area is situated.

Publication
of decision.

(2) The District Agents, acting jointly, shall take whatever steps are necessary to apprise thereof the owners of the land situated

in the said area and shall ensure that such persons understand the consequences of the declaration of a Forest Area.

PART III

PROVISIONS RELATING TO FOREST AREAS

8. The owners of land situated within a Forest Area shall comply with the requirements of this Part of this Regulation. Applications of Land Owners.

9. (1) Every tree felled shall be—

- (a) clean cut so as to facilitate regeneration by sprouting from the stump;
- (b) trimmed of its branches before being removed from the place of felling; and
- (c) removed from the place of felling within a period of three months from the date thereof.

10. (1) Roads and tracks constructed for the requirements of timber felling shall avoid existing stands of timber and the destruction of timber not intended for felling shall, as far as is possible, be avoided. Roads to avoid trees.

(2) The Licensee shall carry out whatever instructions the Chief Condominium Agricultural Officer may give to this effect.

11. No tree reserved for seed-bearing by the Chief Condominium Agricultural Officer shall be felled and sufficient forest cover shall be maintained to protect young trees. Seed-bearing trees.

12. Clean felling and bush clearing shall be prohibited—

- (a) on the sides of mountains or hills of which the slope is thirty degrees from the horizontal or greater;
 - (b) on ridges or hill tops for a width of eighty metres on each side of the ridgeline except with special consent given by the Chief Condominium Agricultural Officer; and
 - (c) on river banks for a distance of ten metres from the bank.
- Clean felling—when prohibited.

13. No person shall light, keep or carry away fire or leave any fire burning whether within or without a Forest Area so as to endanger such Forest Area or the property of any person therein. Provisions relating to fire.

14. The Resident Commissioners may make Joint Rules to control the felling of sandalwood. Sandalwood.

PART IV

FOREST LICENCE

15. (1) No timber shall be felled in a Forest Area without a Forest Licence; No timber to be felled without Licence.
 Provided that the provisions of this Section shall not apply to

timber felled by the owner of the land comprised within a Forest Area for his personal needs including fencing.

(2) No valuable timber may be used for fencing and no tree may be felled for fencing unless its average circumference is at least 12 inches.

16. (1) No Forest Licence shall of itself confer any right of property in land or in standing timber.

Forest
Licence does
not confer
property.

(2) No felled timber shall become the property of a licensee until he has paid the royalty fixed by agreement between himself and the forest owner and the forest tax if any.

17. (1) Every application for a forest licence shall be made in quintuplicate by the forest owner or by a person authorised by such owner to make such application to the District Agents for the District to which the application relates.

Applications
—how to
submit.

(2) Every such application shall contain the following information—

- (a) the kind of timber which is to be felled;
- (b) the place where the timber is to be felled; and where the applicant does not own the timber the name of the owner;
- (c) the registration number (if any) of the land concerned or the number of the application for registration (if any);
- (d) the applicant's resources with respect to finance and equipment;
- (e) the purpose for which the timber is to be felled and where it is to be marketed.

(3) If the applicant is not the forest owner he shall attach to the application a certified copy of the agreement with the owner by virtue of which he is authorised to apply for a forest licence.

18. (1) Upon receiving an application for a forest licence the District Agents shall ascertain the legal rights in the land concerned.

Procedure
for
applications.

(2) If the land is registered they shall forward the application to the Chief Condominium Agricultural Officer without delay. The Chief Condominium Agricultural Officer shall transmit the application to the Resident Commissioners who shall issue the licence subject to whatever conditions may be imposed in pursuance of section 22 of this Regulation.

(3) If the land concerned is—

- (a) unregistered;
- (b) the object of a claim for registration;
- (c) part of a native reserve;

District Agents shall inform the inhabitants of the area concerned of the application.

(4) The District Agents shall then endeavour to ascertain where the owner is the applicant, whether he is the rightful owner of the land and, in any other case whether the applicant has the authorisation of the owner.

(5) If upon enquiry the District Agents consider that the ownership of the land is disputed on reasonable grounds they shall inform the Chief Condominium Agricultural Officer accordingly together with any other circumstances which they consider to be relevant to the application.

(6) No forest licence shall be issued by the Resident Commissioners unless, upon examining the District Agents' report, they are satisfied that the land concerned in the application is the property of the applicant or the person with whom he has entered into an agreement for the exploitation of timber.

19. The period for which a forest licence shall be valid shall be determined in relation to the quantity of timber it is intended to be felled and to the applicant's resources with respect to finance and equipment:

Period of validity of licence.

Provided that in no case shall a licence be valid for more than twenty years.

20. (1) An application for the renewal of a forest licence shall be made in accordance with the requirements of Section 17 of this regulation.

Renewal of licences.

(2) In considering an application for the renewal of a licence the Resident Commissioners shall take into account the extent to which the applicant has previously complied with its conditions.

(3) A licence may be renewed for successive periods not exceeding ten years in each case.

21. (1) Before any timber may be felled under a forest licence the boundary of the area on which it is to be felled shall be determined at the Licensee's expense and such boundary shall be shown on a map to the scale of 1:10,000 and indicated on the ground by the use of survey marks and easily recognizable features.

Boundaries to be determined.

(2) Every forest licence shall define the area in which timber may be felled in relation to the said map.

22. (1) For the purpose of ensuring the rational and economic exploitation of timber a forest licence may contain one or more of the following conditions relating to—

Requirements of licences.

- (a) minimum and maximum amounts and species of the timber to be felled and the equipment to be used therefor;
- (b) the minimum girth in respect of any tree to be felled; or
- (c) the reforestation or facilities of natural regeneration of areas upon which timber has been felled; and

(d) any sylvi-cultural measures which the Resident Commissioners may deem necessary.

(2) The Chief Condominium Agricultural Officer shall ensure that the aforesaid conditions are complied with and for this purpose may issue to the Licensee such instructions as he considers necessary to supplement or clarify them.

23. In the event of any Licensee failing to comply with the conditions aforesaid the Resident Commissioners may withdraw his licence.

Withdrawal of licences.

24. (1) No tree shall be felled under a forest licence unless and until it has been marked for felling by an officer of the Condominium Agricultural Department:

Trees to be marked for felling.

Provided that a licence may grant exemption from the requirements of this sub-section.

(2) The Licensee shall clear whatever paths are necessary to facilitate the marking of trees.

25. (1) Every tree felled shall be marked with the Licensee's personal hammer on the stump and on the trunk unless it has been marked for felling in accordance with Section 24 of this Regulation.

Licensee's hammer-mark.

(2) Every tree felled and every log shall be numbered with a numbering hammer.

(3) Every Licensee shall register his hammer-mark with the Agricultural Department.

26. No timber shall be transported within the Group unless and until the carrier has obtained from the Licensee a Certificate of Origin signed by him showing the place and time of felling and the number of the forest licence.

Transportation of timber.

PART V

FOREST TAX

27. (1) The Resident Commissioners may by Joint Rules impose a Forest Tax on any timber felled in the Group, the amount of which shall be calculated by reference to the conditions of the Forest Licence under which the timber is felled.

Resident Commissioners' power to tax timber.

(2) Such tax shall be distinct from any duty that may otherwise be levied upon the export of timber from the Group.

28. The proceeds of the Forest Tax may—

Use of Forest Tax.

(a) be credited to general revenue; or

(b) to a special fund which may be used for the purpose of subsidising the reforestation of areas in which timber has been felled or the afforestation of areas not previously planted with valuable timber.

PART VI

DEFORESTATION

29. No person shall deforest any Forest Area, in whole or in part, for the purpose of settlement, agriculture, creation of pasturage, mining prospection or exploitation or other reason without obtaining a Deforestation Permit.

Deforestation prohibited without permit.

30. Any person wishing to obtain a deforestation permit shall apply to the District Agents of the District concerned who shall forward it to the Chief Condominium Agricultural Officer with their comments. The Chief Condominium Agricultural Officer shall submit the application with his recommendations to the Resident Commissioners who may issue such a permit if they are satisfied that the application is justified.

Procedure for issue of deforestation permit.

PART VII

FOREST RESERVES

31. If upon the advice of the Advisory Committee referred to in Section 6 of this Regulation, the Resident Commissioners decide that the public interest requires any land to remain permanently under forest they may by Joint Rules declare such area to be a Forest Reserve.

Power to declare Forest Reserve.

32. The Resident Commissioners may make Joint Rules to provide—

- (a) restrictions on the use of any land included in a Forest Reserve;
- (b) the prohibition of the felling or damaging of trees in a Forest Reserve;
- (c) the compensation of any owner or user of land affected by the application of the provisions of this Section.

Power to make Rules for Forest Reserves.

PART VIII

PROCEDURE AND PENALTIES

33. (1) Every person being in charge of any timber felling shall keep and on the demand of a District Agent, officer of the Condominium Agricultural Department, or any other person authorised in that behalf, produce a register of trees felled.

Register to be kept of trees felled.

- (2) Such register shall contain the following information—
 - (a) the species of tree,
 - (b) the number of trees felled,
 - (c) the girth of each tree measured in the middle of the log,
 - (d) the length and volume of each log.

(3) During the month following the end of each quarter the person referred to in the preceding sub-section of this Section shall present the register aforesaid or a certified extract therefrom to the Chief Condominium Agricultural Officer for verification and initialling.

34. Any officer of the Condominium Agricultural Department or other person authorised in that behalf may at any time enter upon and inspect any part of a forest area other than a dwelling house or the curtilage thereof for ensuring compliance with the conditions of any forest licence or deforestation permit.

Power of entry.

35. Any person who—

- (a) knowingly counterfeits upon any tree or timber or has in his possession any implement for counterfeiting any mark used by officers of the Condominium Agricultural Department to indicate that such tree or timber may be lawfully felled or removed by some person;
- (b) unlawfully affixes to any tree or timber any mark used by officers of the Condominium Agricultural Department;
- (c) alters, defaces, or obliterates any such mark used on any such tree or timber by or under the authority of an officer of the Condominium Agricultural Department;
- (d) alters, removes, destroys or defaces any boundary mark of a forest area or forest reserve,

Penalties for falsification or alteration of marks.

shall be guilty of an offence and on being convicted thereof shall be liable to a fine not exceeding five hundred pounds sterling or its equivalent in francs at the current rate of exchange or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

36. Without prejudice to the provisions of Section 36 any person who contravenes or fails to comply with any of the provisions of this Regulation shall be guilty of an offence and shall upon being convicted thereof be liable to a fine not exceeding five hundred pounds Sterling or its equivalent in francs at the current rate of exchange or to a term of imprisonment not exceeding one year or to both such fine and imprisonment.

Penalties for offences against the Regulation.

47. (1) Where any person is convicted of an offence against the provisions of this Regulation the Court may order the confiscation of all timber in respect of which such an offence has been committed and all tools, boats, conveyances and cattle or horses used in the commission of such an offence.

Forfeiture of property after conviction for an offence.

(2) Such forfeiture may be in addition to any other penalty prescribed for such an offence.

38. In addition to the Rules specifically provided for in this Regulation the Resident Commissioners may generally make Joint Rules for the better carrying out of the provisions of this Regulation.

General power to make Rules.

39. This Regulation may be cited as the Joint Forestry Regulation No. 30 of 1964 and shall come into operation upon publication in the Condominium Gazette.

Citation.

Made at Vila, this 10th Day of November, 1964.

M. DELAUNEY

COLIN H. ALLAN

The Resident Commissioner
for the French Republic.

Her Britannic Majesty's Acting
Resident Commissioner.