

[LEGAL NOTICE No. 50]

FOREST ACT
(CHAPTER 150)

FOREST (PRESERVATIVE TREATMENT) REGULATIONS 1992

In exercise of the powers conferred upon me by Section 35 of the Forest Act and all other powers enabling me in that behalf, I, Minister for Forests hereby make the following regulations:

Short title and commencement

1. These Regulations may be cited as the Forest (Preservative Treatment) Regulations 1992, and shall come into force on 1st May 1992.

Interpretation

2. In these Regulations unless the context otherwise requires:
- “Conservator” means the person who is performing the duties of the Conservator of Forests and include the Deputy Conservator of Forests;
- “Extension Scheme” means individual or community planters in the rural areas and the outer islands.
- “licensee” means the holder of a licence issued under these Regulations;
- “preservative treated” in relation to any timber means treated by a chemical substance with the object of protecting the timber from deterioration arising from any timber destroying fungus, insect or other animal, but does not mean treated solely by an anti-sapstain treatment; and “preservative treatment” has a corresponding meaning;
- “timber” includes sawn wood, roundwood, plywood and blockwood.

Licence to treat timber

3.—(1) A person shall not install or operate preservative treatment facilities for the treatment of timber or timber products unless he is the holder of a licence issued under these Regulations.

(2) Application for a licence required under sub-regulation (1) shall be made to the Conservator of Forests, who shall, subject to sub-regulation (4), issue or refuse to issue a licence.

(3) An application for a licence shall be in the form contained in Schedule 1 to these Regulations.

Conditions of licence

4. Every licence issued under these Regulations shall be in the form contained in Schedule 2 to these Regulations and shall be made subject to such conditions as the Conservator may consider necessary, including conditions relating to-

- (a) the location and installation of the preservative treatment facilities and associated environmental safety;
- (b) the types of preservatives and preservative treatment methods allowed;
- (c) the nature of the equipment to be installed and the accessories considered necessary by the Conservator for maintaining quality control;
- (d) the proper and safe operation of the equipment;
- (e) the maintenance of adequate treatment records;
- (f) the submission of annual or other periodic returns of statistical information, including details of stocks and sales of preservative treated timber; and
- (g) requirements and prohibitions under Regulation 10.

Provided that the holder of a licence under these Regulations shall be free to determine the scope of his operation.

Term of licence

5. Every licence issued under these Regulations shall be free of charge and shall expire on the 31st day of December in the year of issue.

Renewal of licence

6.—(1) The holder of a licence may, before the expiry of a licence issued under these Regulations, apply in writing for the renewal thereof stating any change to be made in the location, nature, or mode of operation of the existing preservative treatment facilities, and every such application shall, subject to the provision of sub-regulation (2), be deemed to be an application for a new licence and be dealt with accordingly.

(2) If an application for the renewal of a licence is lodged with the Conservator not less than 3 months before the date of its expiry, the Conservator shall not refuse the renewal thereof, nor impose new conditions on its renewal, unless he serves upon the applicant, not less than one month before the expiry date of the licence a written notice, stating his intention to do so and his reasons therefor.

Refusal of licence

7. The Conservator may refuse to grant or renew a licence under these Regulations for any good reasons, including failure by the applicant to satisfy him that

- (a) the equipment specified in the application is satisfactory and adequate for safely producing preservative-treated timber to standards approved by the Conservator;
- (b) the design, construction and maintenance of the total facility is adequate to contain any accidental spillage of preservative;
- (c) the equipment specified in the application will be or is being properly and safely operated;
- (d) the quality control procedures required to ensure that the preservative treatments comply with approved preservative treatments, are being fully implemented, including the keeping or maintenance of such records as in the opinion of the Conservator are necessary for this purpose.

Revocation of licence

8.—(1) The Conservator may revoke, suspend or amend the conditions of any licence granted under the provisions of these Regulations if the licensee fails to comply with any condition of the licence or with any other requirements of the Conservator, or if, through reports of Field Officers or in any other way, it is shown that the licensee is not capable of doing the work required; provided that the Conservator shall, before exercising his powers under this regulation, give to the licensee adequate notice of his intention and reasonable time within which to remedy the failure.

(2) If preservative treatment facilities cease operation for a period of more than 3 months without the written approval of the Conservator, the licence granted in respect thereof may be revoked by the Conservator by notice in writing to the holder thereof.

Right of Appeal

9.—(1) Any applicant or licensee aggrieved by the Conservator's refusal to issue or renew a licence, by his decision to revoke or suspend a licence, or by the imposition of conditions to a licence may appeal to the Minister within one month of such refusal, revocation or suspension.

(2) Every appeal under this Regulation shall be in writing and shall be lodged with the Conservator for transmission to the Minister whose decision shall be final.

Further powers of Conservator

10. In the further pursuance of the objectives of these Regulations, the Conservator may:

- (a) appoint a Timber Preservation Advisory Committee for the purpose of advising the Conservator on preservative treatment matters: the committee shall comprise:
 - (i) one designated Officer of the Department of Forestry, who shall be the Chairman;
 - (ii) one representative of the indigenous timber industry;
 - (iii) one representative of the pine industry;
 - (iv) one representative of timber preservative suppliers; and
 - (v) one representative of end-users;
- (b) make provisions for the timber industry to contribute funding of fifty per cent of the cost of operating any quality control assistance programme provided by the Department of Forestry: such funds to be collected in the manner deemed most appropriate by the Timber Preservation Advisory Committee;
- (c) consider such preservatives and preservative treatments as may be brought to his attention for the purpose of determining their efficiency and suitability;
- (d) require in writing that any person engaged in the preservative treatment of timber shall use only preservatives and preservative treatments which are approved by the Conservator;
- (e) revoke or suspend approval of any preservative or preservative treatment if he is satisfied that the treatment does not afford adequate protection or that the treatment is not properly effected;
- (f) require any licensee to mark or otherwise identify treated timber in a manner approved by the Conservator;
- (g) require any licensee to comply with all requirements, conditions specifications and codes of practise formulated or adopted by the Conservator;
- (h) require any person engaged in the importation of treated timber or timber products to comply with all preservative penetration and retention requirements currently approved by the Conservator;
- (i) at any reasonable time carry out any tests within the premises or the land or remove from the premises or land for testing purposes preservative materials or timber samples which have been or are being prepared for preservative treatment, or are alleged to have been preservative treated, whether or not the timber has been or is being used in the manufacture of any item or in the erection of any structure;
- (j) prohibit the use of any preservative material in respect of any timber if he is satisfied that the timber is not suitable for preservative treatment;
- (k) require any licensee to provide all facilities necessary for undertaking effective preservative treatment;
- (l) require any licensee to give details in any documentation relating to the sale of preservative treated timber, the hazard level to which the timber has been treated; and
- (m) require any licensee to submit treatment plant operators for such periodic medical examinations as the Conservator considers necessary.

False representation

11.—(1) No person shall:

- (a) describe or represent any timber to have been preservative treated; or
 - (b) use any mark or identification which conveys or is likely to convey an impression that the timber has been preservative treated;
- unless:

- (i) the timber has been properly treated in accordance with preservative treatment approved by the Conservator; and
 - (ii) the mark or identification conforms with that specified by the Conservator.
- (2) Any person who contravenes the provisions of sub-regulation (1) of this Regulation shall be guilty of an offence and shall be liable on conviction:
- (a) for a first offence to a fine not exceeding \$300; and,
 - (b) for a second and subsequent offence to imprisonment for six months, and a fine not exceeding \$300:

Pollution

12. Any person operating preservative treatment facilities, who in the course of treatment operations, in chemical handling or storage, or in the course of the disposal of any chemical bags, containers or waste products directly or indirectly pollutes any land or watercourse, shall be guilty of an offence under these Regulations and shall be liable on convictions:

- (a) for a first offence to a fine not exceeding \$300 (three hundred dollars); and
- (b) for a second and subsequent offence to imprisonment for a period of 6 months, and a fine not exceeding \$300.

Other offences

- 13.—(1) It shall be an offence under these Regulations:
- (a) to install or operate preservative treatment facilities without licence issued under these Regulations or contrary to the provisions of any such licence issued; or
 - (b) to interfere in any way, with an Officer performing his duties under these Regulations; or
 - (c) for any person to refuse to give such assistance as he may be reasonably required to render, by or to any officer performing his duties under these Regulations.
- (2) Any person who commits an offence under sub-regulation (1) or this Regulation shall be liable on conviction:
- (a) for first offence to a fine not exceeding \$300; and
 - (b) for second and subsequent offence to imprisonment for 6 months, and a fine not exceeding \$300.

Responsibility of licensee

14. Nothing in these Regulation shall absolve the licensee from responsibility for his actions and/or products.

Small Sawmillers

15.—(1) Nothing in these Regulations shall be deemed to affect the rights of a small sawmiller, who holds a sawmill licence, to continue to operate a sawmill without undertaking timber preservative treatment operation if the small sawmiller does not wish to undertake such operation.

(2) Subject to sub-regulation (1) the Ministry of Forests shall take all necessary steps to encourage the small sawmillers to improve and increase their production capacity.

(3) The Minister of Forests shall ensure that the implementation of these Regulations is effectively monitored, for the purpose of submitting to Cabinet, at such intervals and in such form as Cabinet may direct, a report on the effect of the Regulations on the small sawmillers.

SCHEDULES
(Regulations 3 and 4)

SCHEDULE 1
FOREST (PRESERVATIVE TREATMENT) REGULATIONS 1992

APPLICATION FOR A LICENCE TO PRESERVATIVE TREAT TIMBER
REGISTRATION OF PRESERVATIVE TREATMENT FACILITIES

Name of applicant _____

Postal address _____

Proposed location of facility _____

Quality assurance administrator _____

Technical adviser _____

Equipment

(1) Pressure Process

(i) Manufacturer _____

(ii) Proposed installation by _____

(iii) Cylinder:

(a) diameter _____ m (b) length _____ m

(c) void volume _____ m (d) safe working
pressure _____ kPa

(iv) Tank capacities:

(a) mix tank(s) _____ l (b) storage tank(s) _____ l

(v) Pumps:

(a) vacuum : manufacturer _____

: specification _____

(b) pressure : manufacturer _____

: specification _____

(vi) Other items _____

(vii) Type of pressure process intended _____

(2) Other Process (Describe fully equipment) _____

Proposed Treatment Hazard Classes _____

Preservative: Trade name(s) _____

Ancillary equipment

For m.c. determinations _____
For spot testing _____
For laboratory analysis _____

Staffing

Name(s) of plant operator(s) _____
Technical experience _____

If inexperienced, what steps have been taken to ensure technical competence prior to operations commencing?

Output

Estimated annual output of treated timber _____ m

Main species _____

Main commodities _____

Estimated percentage custom treated _____ %

Any other relevant information _____

Signed: _____
Applicant

Date: _____

SCHEDULE 2
FOREST (PRESERVATIVE TREATMENT) REGULATIONS, 1992

LICENCE TO OPERATE PRESERVATIVE TREATMENT FACILITIES

Licence is hereby granted to _____
to operate preservative treatment facilities as detailed in Schedule 1 subject to the
general requirements of the Forest (Preservative Treatment) Regulations, 1992, and
to the requirements of any preservative treatment specifications issued by the Con-
servator, including any subsequent amendments or additions, and to the specific
additional conditions detailed hereunder.

This licence shall remain valid until the 31st day of December in the year of
issue.

Supplementary conditions of licence:

Signed: _____
Conservator of Forests

Date _____

Made at Suva this 21st day of April 1992.

SERUPEPELI U. NAIVALU
Minister for Forests