

CHAPTER 158

THE WATTLE BARK INDUSTRY ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 158

THE WATTLE BARK INDUSTRY ACT

An Act to provide the improvement and development of the wattle bark industry.

[20th February, 1959]

[G.Ns. Nos. 69 and 70 of 1959]

Ord. No. 38 of 1957

[R.L. Cap. 392]

[PCh158s1]1. Short title

This Act may be cited as the Wattle Bark Industry Act.

[PCh158s2]2. Interpretation

In this Act unless the context otherwise requires—

"Director" means the Director of Agriculture;

"factory" means any premises for the processing of wattle bark either wholly or partially by mechanical means;

"Minister" means the Minister responsible for natural resources;

"processing" means the chopping, grinding and compressing of dry wattle bark, or the aqueous extraction of tannin and other matter from wattle bark, but does not include the drying of wattle bark;

"wattle bark" means the bark of trees of the species *Acacia mollissima*, *Acacia decurrens*, or *Acacia pycnantha*;

"wattle bark industry development area" means any part of the country declared to be a wattle bark industry development area by the Minister under the provisions of section 3.

[PCh158s3]3. Declaration of wattle bark industry development areas

The Minister may by notice in the Gazette declare any part of the country to be a wattle bark industry development area.

[PCh158s4]4. Control over processing

No wattle bark shall be processed in any way in any factory within a wattle bark industry development area unless that factory is licensed under the provisions of this Act:

Provided that where any factory exists within a wattle bark industry development area at the date when that area is so declared, nothing herein contained shall render unlawful the processing of wattle bark in that factory during the three months following the declaration of that area.

[PCh158s5]5. Licences to operate existing factories

(1) Where any factory exists within a wattle bark industry development area at the date when that area is so declared the owner thereof shall within three months of that date apply in the prescribed manner to the Director for a licence under this Act.

(2) On receipt of an application under this section the Director shall grant a licence to the applicant subject, however, to such conditions, if any, as he may think fit to impose.

(3) Without prejudice to the generality of the foregoing provision the conditions subject to which a licence may be granted may include a condition that the holder shall process the bark of such species of trees only as may be specified in the licence.

[PCh158s6]6. Licences to establish factories

(1) Any person desirous of establishing a factory within wattle bark industry development area shall apply in the prescribed manner to the Director of a licence under this Act.

(2) On the receipt of an application for a licence to establish a factory within a wattle bark industry development area the Director shall, as soon as practicable, give notice of such application to the holders of all subsisting licences in respect of factories within that area and shall defer deciding the application for such period, not being less than twenty-one days, as may be specified in the notice.

(3) Every notice given under this section shall contain the name and postal address of the applicant, the place where he proposes to establish a factory and the species of trees the bark of which he proposed to process.

(4) Any person to whom notice is given under this section may give the Director notice in writing that he objects to the grant of a licence and shall in such notice set out the grounds of his objection.

(5) A copy of every such notice of objection shall be sent by registered post by the Director to the applicant.

(6) The Director shall consider all, if any, notices of objection given to him under this section and shall, if so required by the objector or the applicant, give to the objector and the applicant an opportunity of being heard and may thereafter—

(a) grant a licence, subject to such conditions, if any, as he may think fit to impose; or

(b) refuse to grant a licence.

(7) Without prejudice to the generality of the foregoing provision, the conditions subject to which a licence may be granted may include—

(a) a condition that the holder shall erect a factory of such capacity at such place and within such time as may be specified in the licence; and

(b) a condition that the holder shall process the bark of such species of trees only as may be specified in the licence.

(8) In deciding whether to grant or refuse a licence the Director shall take into consideration—

(a) the interests of producers of wattle bark in the area;

(b) the number and capacity of the factories for which licences have already been granted either within or without the wattle bark industry development area;

(c) the financial resources of the applicant;

(d) whether within the period of five years immediately preceding the application, the applicant has been convicted of an offence against this Act or the Business Licensing Act *; and

(e) whether a previous licence held by the applicant has been revoked under the provisions of this Act.

[PCh158s7]7. Renewal of licences

(1) The holder of a licence granted under this Act may at any time before the expiration of such licence apply to the Director for a renewal of the licence.

(2) On receipt of an application under subsection (1) the Director may renew the licence upon such conditions as he may think fit, either additional to or in substitution for those contained in the licence or any previous renewal thereof.

(3) The Director may refuse to renew a licence if—

(a) the applicant has failed, after notice, to comply with the conditions contained in the licence or any previous renewal thereof; or

(b) the applicant has, within the period of five years immediately preceding the application for renewal, been convicted of an offence under this Act or the Business Licensing Act *.

[PCh158s8]8. Duration of licences

Licences granted under this Act shall, subject to the provisions of section 9, be valid for a period of five years from the date of the grant and renewals granted shall be for the like period.

[PCh158s9]9. Revocation of licences

The Director may revoke a licence granted under this Act—

(a) if the holder fails to comply with any of the conditions contained in the licence or in any renewal thereof; or

(b) if the holder is convicted of an offence under this Act or the Business Licensing Act:

Provided that a licence shall not be revoked for the breach of any condition of the licence or any renewal thereof which is capable of being remedied, unless there has been

reserved on the holder a notice requiring him to remedy such defect and he has failed to do so within such time as may be specified in the notice.

[PCh158s10]10. Licences not transferable without consent

(1) No licence granted under this Act shall be transferred without the previous consent in writing of the Director.

(2) The Director may refuse consent to a proposed transfer of a licence—

(a) if the holder of the licence has failed to comply with the conditions contained in the licence or any renewal thereof;

(b) if in the opinion of the Director the financial resources of the proposed transferee are inadequate for the proper operation of a factory;

(c) if the proposed transferee has, within the period of five years immediately preceding the application for consent, been convicted of an offence under this Act or the Business Licensing Act *;

(d) if the previous licence held by the proposed transferee has been revoked under the provisions of this Act.

(3) Any instrument to which the consent of the Director has not been given which purports to transfer a licence granted under this Act shall be void.

[PCh158s11]11. Appeals

Any person aggrieved by the refusal of the Director to grant or renew a licence, or by the imposition of any conditions in a licence, or by the revocation of a licence may appeal in writing to the Minister, whose decision shall be final and not subject to any review.

[PCh158s12]12. Power for Director to inspect factories

The Director or any person authorised by him may at any reasonable hour of the day enter any factory in respect of which application has been made for the grant of a licence or in respect of which a licence has been granted and make such inspection and inquiry as may be necessary for deciding whether a licence should be granted for that factory or for ascertaining whether the conditions contained in the licence have been or are being complied with, as the case may be.

[PCh158s13]13. Offences and penalties

(1) Every person who is the owner or manager of a factory in a wattle bark industry development area in which any bark is processed in any way, unless the factory is licensed under this Act, commits an offence under this Act and is liable upon conviction to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

(2) Any person who knowingly gives false information relating to any material particular to the Director or who fails or refuses to give information in response to any lawful inquiry or who hinders or obstructs the Director or any person authorised by him from exercising any power conferred by this Act commits an offence under this Act and is liable upon conviction to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

[PCh158s14]14. Power to make rules

The Minister may make rules prescribing anything which may be prescribed under this Act and for the better carrying into effect of the provisions of this Act and, without

prejudice to the generality of the foregoing, such rules may provide for the forms to be used and the fees to be paid in respect of any matter required or permitted to be done under this Act.

[PCh158s15]15. Saving

Nothing in this Act shall be construed as repealing any provision of or as revoking any order, notice or rule made under the provisions of the Produce Export Act * or the Business Licensing Act *.