Commencement: 3 February 1997

FORESTRY (MANAGEMENT AND CONTROL OF SANDALWOOD TRADE AND EXPORTS) REGULATIONS

Order 3 of 1997
Order 46 of 2004

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1. *(Omitted)*

2. Interpretation

In these regulations, unless the context otherwise requires –

"Act" means the Forestry Act ICap. 147];

"Department" means the Department of Forests of the Government of Vanuatu;

"Director" means the Director of Forestry or such other person as the Public Service Commission may appoint as Director for the purposes of this Act.

"forest officer" means any forest officer or any other officer carrying out the duties of a forest officer whose duties are approved by the Director under the Act, and without derogating from the generality of this definition, and for the purposes of these regulations, means the Principal Forest Utilization Officer;

"Minister" means the Minister responsible for forestry matters;

"sandalwood operations" means the purchasing, trading, or the processing of sandalwood;

"Sandalwood licensee" means a person or company who has been issued with a sandalwood licence in accordance with regulation 4(2).

3. Application of Regulations

The provisions of these Regulations shall apply to any person who is involved in sandalwood harvesting, purchasing, trading, processing and/or export operations.

4. Sandalwood licence

(1) No person may carry out sandalwood operations or export sandalwood without first obtaining a sandalwood licence.

(2) The Minister may grant or renew a sandalwood licence to any person for a period of up to 10 years subject to the deposit of a banker's guarantee with the Department, the payment of a sandalwood licence fee and the sandalwood management charges.

(3) An application for a sandalwood licence shall be in the form of Schedule 1.

(4) A sandalwood licence shall be in the form of Schedule 2.

**Editor's note: This Arrangement of Regulations contains links to the body of the Regulations (Control + click)*

5. Sandalwood licence fee

(1) Any person who intends to or is undertaking sandalwood operations in Vanuatu shall pay an annual fee to the Director.

(2) The sandalwood licence fee shall be calculated on the basis of the maximum quantity of sandalwood permitted to be purchased under the licence each year, at a rate of VT 120 for every kilogram to be exported from Vanuatu or VT 50 for every kilogram to be processed in Vanuatu.

6. Licence conditions

(1) The sandalwood licence shall be subject to the following general conditions:

(a) the sandalwood licensee shall maintain a banker's guarantee for the amount specified on the licence during the duration of the licence;

(b) the licence shall only cover sandalwood operations in the islands specified on the licence, unless written approval to operate on another island is granted by the Director of Forests;

(c) the sandalwood licensee shall only purchase sandalwood during the declared sandalwood trading season, unless granted a specific written approval by the Director of Forests to purchase sandalwood outside the declared trading season;

(d) the sandalwood licensee shall notify the Department at the beginning of each sandalwood trading season of the intended areas where sandalwood will be purchased, the names of any persons acting as an agent of the licensee under this licence, the prices to be paid and any agreements with landowner.

(e) the sandalwood licensee shall record the details of all sandalwood purchased in a sandalwood purchase register and shall submit a copy o£ this register to the Department within 14 days of the month in which the sandalwood was purchased;

(f) the sandalwood licensee shall pay to the Director the sandalwood management charge for all sandalwood purchased in any month by the last working day of the following month which charge shall be as prescribed under regulation l hereof:

(g) the sandalwood licensee must hold a valid permit to export sandalwood before any sandalwood purchased under this licence can be exported.

(2) The sandalwood licence shall be subject to any such special conditions as the Minister may impose in respect of that licence.

7. Suspension of licence

The Director may suspend the sandalwood licence for any breach of licence conditions or non-payment of the required fees and or charges.

8. Cancellation of licence

The Minister may cancel the sandalwood licence for repeated breaches of licence conditions, for non-payment of the required fees and or charges or when the licensee is convicted of an offence against these regulations.

9. Sandalwood purchase register

(1) A sandalwood licencee shall keep a sandalwood purchase register in which he shall record the details of all sandalwood purchased.

(2) Any sandalwood licencee who fails to record the details of any sandalwood purchased in the sandalwood purchase register, or who falsifies records in a sandalwood purchase register, commits an offence for which the Minister may impose a line of VT 20,000.

(3) Any sandalwood licensee who has purchased sandalwood and who fails to submit a sandalwood purchase register by the required date in compliance with condition (e) of his licence, shall pay to the Director a fine of VT 5,000 for every month or part of a month that the submission of the register is late.

10. Sandalwood trading season

(1) The Minister may after considering advice from the Director declare a sandalwood trading season by specifying the period during which sandalwood can be cut and traded.

(2) Any person who cuts sandalwood, arranges for sandalwood to be cut or purchases sandalwood outside the specified sandalwood trading season commits an offence.

(3) Where in the opinion of the Minister a person had committed an offence against regulation 10(2) he may impose a penalty of not more than VT 50,000 for every village or every custom land where sandalwood has been cut or traded.

(4) The Director may grant written approval to a sandalwood licensee to purchase specified quantities of sandalwood for up to two months after the close of the sandalwood trading season, provided that a forest officer certifies that the sandalwood was cut during the sandalwood trading season.

11. Minimum prices

(1) The Director may establish minimum prices to apply for the purchase of various grades of sandalwood through out Vanuatu at the beginning of any sandalwood trading season.

(2) No person shall purchase sandalwood for less than the minimum price unless granted a specific exemption by the Director.

12. Sandalwood management charge

(1) There shall be a sandalwood management charge payable to all sandalwood cut during the course of sandalwood operations.

(2) The sandalwood management charge as provided for in subregulation (1) shall be VT 30 per kilogram.

(3) The revenue from the sandalwood management charge shall be deposited in the Forestry Fund and shall be used by the Department to monitor sandalwood operations and to encourage replanting of sandalwood.

(4) Any sandalwood licensee who has purchased sandalwood and who fails to pay the sandalwood management charge by the required date in compliance with condition (f) of his licence, shall pay to the Director a penalty interest payment equal to 5% of the total outstanding payment for every month or part of a month that the payment is late.

13. Suspension of sandalwood operations

A forest officer may suspend any sandalwood operations in any particular area that are conducted illegally or when he is of the opinion that a dispute exists about the ownership of the sandalwood or the payment for the sandalwood.

14. Dispute resolution

(1) A forest officer after considering all relevant information, may make a decision to settle any dispute between a sandalwood licensee and any landowner, including disputes about the weight of the sandalwood, the quality of the sandalwood and the price to be paid.

(2) If a person disputes a decision made by a forest officer he may within 10 days request a review of the decision by the Principal Forest Utilization Officer whose decision shall be final but any aggrieved person may have recourse to the Courts.

15. Export of sandalwood

(1) Any person who wishes to export sandalwood shall apply to the Director for a permit to export sandalwood.

(2) An application for a permit to export sandalwood shall be in the form of Schedule 3.

(3) Having considered an application to export sandalwood the Director may grant a permit in the form of Schedule 4.

16. Offence

Any person who contravenes any provisions of these regulations for which no specific fine is prescribed, commits an offence and upon conviction, the Court may in addition to awarding a fine of not more than VT 50,000, order the cancellation of the offender's sandalwood licence and or the confiscation of any sandalwood purchased illegally.

SCHEDULE 1

(Regulation 4(3))

REPUBLIC OF VANUATU

DEPARTMENT OF FORESTS

APPLICATION FOR A SANDALWOOD LICENCE

1. Name and Address of Applicant:
……

……

2. Period Requested for Licence: .....to .....(dates)

3. Annual Quantity to be Purchased:

(a) for domestic processing ....tonnes

(b) for exporting ....tonnes

4. Sandalwood to be Purchased from these islands:

……

……

……..

5. Price(s) Offered for Sandalwood:

.....……

……

……

6. Details of Domestic Processing Arrangements (if any):

……

……

……

7. Details of Proposed Sandalwood Planting Programmes.

……

……

……

8. Financial Arrangements:

I understand that if this application is approved I will need to establish a Banker's Guarantee for VT …….. (official use) and to pay an annual sandalwood licence fee of VT …… (official use) and the required sandalwood management charges according to the actual quantity of sandalwood purchased.

……(signature)……..…(date)

SCHEDULE 2

(Regulation 4(4))

REPUBLIC OF VANUATU

DEPARTMENT OF FORESTS

SANDALWOOD LICENCE

Licence No:……..

The Licence is granted to: …… (Name or Company)

of ……. (Address)

to conduct Sandalwood operations for a period commencing on the ……..…….day

of……..(year) and ending on the ……day of……...(year).

The maximum quantity of sandalwood which can be purchase in any one calender year under this licence is ……. tonnes. The licensee shall process …….. tonnes of sandalwood in Vanuatu each year and many apply for a permit to export up to …….. tonnes of sandalwood each year.

This licence is licence is valid for sandalwood operations in the following regions or islands:

……

……

……

A banker's guarantee of VT …… must be established within 30 days of the date of issue of this licence otherwise the licence shall be null and void.

An annual sandalwood licence fee of VT ……must be paid to the Director of Forests before the 30 June each year.

This Licence is subject to the following conditions:

a) the sandalwood licensee shall maintain a banker's guarantee for amount specified on the licence during the duration of the licence.

b) the licence shall only cover sandalwood operations in the islands specified on the licence, unless written approval to operate on another island is granted by the Director of Forests.

c) the sandalwood licensee shall only purchase sandalwood during the declared sandalwood trading season, unless granted a specific written approval by the Director of Forests to purchase sandalwood outside the declared trading season.

d) the sandalwood licensee shall notify the Department of Forests at the beginning of each sandalwood trading season of the intended areas where sandalwood will be purchased, the names of any persons acting as an agent of the licensee under this licence, the prices to be paid and any agreements with landowners.

e) The sandalwood licensee shall record the details of all sandalwood purchased in a sandalwood purchase register and shall submit a copy of this register to the Department of Forests within 14 days of the month in which the sandalwood was purchased.

f) The sandalwood licensee shall pay to the Director of Forests the sandalwood management charge for all sandalwood purchased in any month by the last working day of the following month.

g) The sandalwood licensee must hold a valid permit to export sandalwood before any sandalwood purchased under this licence can be exported.

In addition to the foregoing conditions the Minister hereby imposes the following special conditions into respect of this sandalwood licence:

……

……

……

……

……

…… ……..
Signature of Minister Official Stamp Date of Issue

SCHEDULE 3

(Regulation 15(2))

REPUBLIC OF VANUATU

DEPARTMENT OF FORESTRY

APPLICATION FOR SANDALWOOD EXPORT PERMIT

1. Name of exporter

……
(Name) (Company) (Address)

2. Weight of sandalwood to be exported ……

3. Port from which the sandalwood will be exported
……

4. Expected date of export
……

5. Port and country of destination of consignment.
……

6. Expected FOB value/ton of sandalwood
……

7. Expected CIF value/ton of sandalwood at final destination
……

8. Area where sandalwood may be inspected prior to shipment
……

9. Are you the holder of a sandalwood licence and the sole supplier of sandalwood to be exported under the permit application? YES/NO.

   If YES you need no complete 10 below, but you will be expected to produce the sandalwood licence with this application.

   If NO please complete 10 below.

10. Names and address of sandalwood licence holders who will supply sandalwood. Weight expected and agreed price per kg to be paid to them.

(a) …… Price agree

…… VT…… per kg
(Name and Address of Licence Holder)

(b) …….. Price agreed

…… VT …… per kg
(Name and Address of Licence Holder)

(c) …….. Price agreed

…… VT ……. per kg
(Name and Address of Licence Holder)

I hereby declare that:

(a) The answers given to particulars 1 – 10 above are, to the best of my knowledge, correct.

(b) I will pay the suppliers of sandalwood in full for all acceptable sandalwood delivered to the assembly pint prior to shipment.

Signed: …….
(Applicant)

Dated: …….

On completion this form should be returned to: The Director, Department of Forestry, Port Vila.

SCHEDULE 4

(Regulation 15(3))

REPUBLIC OF VANUATU

DEPARTMENT OF FORESTS

PERMIT TO EXPORT SANDALWOOD

1. Issued to ……
2. Address of Permit holder:
   ……..……..……

   ……..
3. Valid…… to ……
4. Estimated quantity ……..
5. FOB value/ton …….
6. CIF value/ton ……

Issued by: ……..
Director of Forests

Date of issue ……

Table of Amendments

1 Repeal of previous Order omitted
5(2) Amended by Order 46 of 2004