

eSwatini

## Control of Tree Planting Act, 1972

Act 7 of 1972

Legislation as at 1 December 1998

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## eSwatini

# Control of Tree Planting Act, 1972

## Act 7 of 1972

Assented to on 8 February 1972

Commenced on 24 March 1972

*[This is the version of this document at 1 December 1998.]*

**An Act to provide for the control of the planting of certain trees grown for commercial purposes in specified areas, and for matters incidental thereto.**

### Part I – Preliminary

#### 1. Short title and application

- (1) This Act may be cited as the Control of Tree Planting Act, 1972.
- (2) This Act shall not apply to any rural land designated by the Minister by notice in the *Gazette* nor to land held in trust by the Ngwenyama for the Swazi Nation.

#### 2. Interpretation

In this Act, unless the context otherwise requires—

“**agricultural land**” means any land which is classified as agricultural land in the tree control areas plan published under [section 6](#);

“**agricultural production**” includes the pasturing, running or herding of animals for the production of dairy products or meat or for farming the land, but does not include the cultivation of commercial trees;

“**commercial tree**” or “**tree**” means any tree which is commonly planted and cultivated for its wood, wood pulp, bark or other products, but does not include citrus trees and other trees which produce edible fruits or seeds for human consumption, and includes all trees listed in the First Schedule to this Act;

“**grower**” means a person who, for the time being, whether as owner, lessee, licensee or otherwise, is entitled for his own account to have charge, control and management of any rural land on which a nursery, grove or forest of commercial trees has been planted over a total area of at least two hectares, not including any commercial trees which have been planted in two linear rows or less to serve exclusively as a border, fence, windbreak or soil conservation measure related to agricultural production in the immediate area;

“**intermediate land**” means any land which is classified as intermediate land in the tree control areas plan published under [section 6](#);

“**licence**” means a licence to plant commercial trees on agricultural land granted in accordance with sections [9](#) and [10](#);

“**marginal land**” means any land which is classified as marginal land in the tree control areas plan published under [section 6](#);

“**Minister**” means the Minister responsible for Agriculture;

“**Natural Resources Board**” or “**the Board**” means the Natural Resources Board established under the Natural Resources Act [No. 71 of 1951](#);

“**nursery**” means land on which commercial trees are grown for the purpose of transplanting in another area;

“**permit**” means a permit to plant commercial trees on intermediate land issued in accordance with sections [9](#) and [10](#);

“**Principal Secretary**” means the Principal Secretary of the Ministry responsible for Agriculture;

“**register of growers**” or “register” means the register of growers to be kept by the Board in terms of [section 13](#);

“**rural land**” means any land other than land within the boundaries of an urban area declared under section 2 of the Urban Areas Proclamation (Cap. 74);

“**tree control areas plan**” or “the plan” means the tree control areas plan prepared in accordance with [section 3](#).

## Part II – Tree control areas plan

### 3. Preparation of tree control areas plan

- (1) Within fourteen days after the commencement of this Act, the Natural Resources Board shall undertake a comprehensive survey of the whole of Swaziland with the object of preparing and recommending to the Minister a tree control areas plan for the purposes of this Act.
- (2) The tree control areas plan recommended by the Board shall classify all rural land into the following categories—
  - (a) agricultural land;
  - (b) intermediate land; and
  - (c) marginal land.
- (3) In preparing the tree control areas plan, the Board shall, having regard to the character and situation of the land and other relevant circumstances, and on the basis of land capability classes recognised by Government, classify—
  - (a) as agricultural land, any rural land which is clearly capable of supporting a reasonable standard of agricultural production subject to moderate limitations or hazards and without the application of intensive protection measures;
  - (b) as intermediate land, any rural land, except that which can be classified as marginal land, which is capable of supporting a reasonable standard of agricultural production subject to severe limitations or hazards and the application of intensive protection measures;
  - (c) as marginal land, any rural land—
    - (i) which cannot be classified as either agricultural land or intermediate land; and
    - (ii) which, although otherwise classifiable as intermediate land, has an average slope of at least fifteen per cent.
- (4) The Board shall at the time it submits the tree control areas plan, submit to the Minister a detailed report setting out the methods used, information relied upon, and the particular criteria applied in preparing the plan.

### 4. Objections and representations concerning plan

Within fourteen days after the Board has submitted the tree control areas plan, the Minister shall publish a notice in the *Gazette* and in a newspaper circulating in Swaziland stating that—

- (a) the Board has recommended a tree control areas plan in accordance with [section 3](#) of this Act; and

- (b) the plan is open to public inspection at the place or places and during the hours specified in the notice; and
- (c) the owner of any rural land may make any objection or representation to the Minister concerning the classification of such land by the Board; and
- (d) any objection or representation shall be made in writing to the Minister on or before a specified date which shall be not less than thirty days after the date of publication of the notice in the *Gazette* or newspaper, whichever occurs later.

## 5. Minister may amend classification of land

The Minister may, after considering any objections or representations submitted to him in accordance with [section 4](#), and after consultation with the Board, amend the classification of any rural land in respect of which an objection or representation has been submitted when he is of the opinion that such amendment is necessary to conform to the requirements of [section 3\(3\)](#).

## 6. Approval and publication of plan

- (1) When the Minister is satisfied that the classification of all rural land in the tree control areas plan conforms to the requirements of [section 3\(3\)](#), he shall approve the plan and publish a notice in the *Gazette* setting out the plan and any information required to interpret the plan, and the classification of any rural land in the plan shall take effect for the purposes of this Act as from the date of such notice.
- (2) Notwithstanding anything in this Act, the Board may prepare and submit the tree control areas plan in parts, and the Minister may, after soliciting objections and representations in respect of any such part in accordance with [section 4](#), amend, approve and publish a notice in the *Gazette* in accordance with (1) to give effect to such part as from the date of such notice, or any other date which the Minister may determine therein.

*[Amended K.O-I-C. 14/1973]*

## 6bis. Prohibition against tree planting before classification

Notwithstanding [section 6](#), no person shall plant any commercial trees prior to the date of the notices referred to in [section 6\(1\)](#) and (2) without the prior written permission of the Board.

*[Amended K.O-I-C. 14/1973]*

## Part III – Planting of trees in tree control areas

### 7. Agricultural land

- (1) No person shall plant commercial trees on agricultural land except under licence granted by the Board in accordance with this Act, and subject to any terms or conditions of such licence.
- (2) In deciding whether to grant or refuse a licence to plant commercial trees on agricultural land, the Board shall act on the principle that such land ought generally to be utilised for agricultural production, and that commercial trees should displace agricultural production on such land only for exceptional reasons consonant with efficient land management and the rational use of the land in relation to the surrounding area.

### 8. Intermediate land

- (1) No person shall plant commercial trees on intermediate land except under a permit issued by the Principal Secretary in accordance with this Act, and subject to any terms or conditions of such permit.

- (2) In deciding whether or not to issue a permit to plant commercial trees on intermediate land the Principal Secretary or the Board, after reference to it or review by it, shall act on the principle that a permit ought generally to be issued unless it appears that the planting of commercial trees on such land would inhibit or interfere with the agricultural land use capability of the area in which such land is situated.
- (3) If the Principal Secretary is of the opinion that a permit should not be issued, or should be issued subject to certain terms or conditions, he shall—
  - (a) within thirty days after the submission of the application for the permit, refer the application, together with any written objections or representations submitted in accordance with [section 9](#), to the Board for its decision; and
  - (b) within five days after the decision of the Board, issue the permit or notify the applicant and any person who has submitted an objection or representation, of the decision not to issue the permit, in accordance with the decision of the Board.
- (4) If the Principal Secretary decides that a permit should be issued, without having referred the application to the Board, he shall—
  - (a) if no person has submitted written objections or representations in accordance with [section 9](#), issue the permit to the applicant within thirty days after the submission of the application for the permit;
  - (b) in all other cases, so notify the applicant and any person who has submitted an objection or representation, within thirty days after the submission of the application, stating that his decision is reviewable by the Board upon a request being made to the Board for a review, within ten days after the posting of such notification, by any person who has submitted an objection or representation.
- (5) Within five days after the notification by the Board of its decision, on review, in terms of [section 10](#) to confirm the decision of the Principal Secretary to issue a permit, or to modify such decision by imposing certain terms or conditions on the issuing of such permit, the Principal Secretary shall issue the permit to the applicant in accordance with the decision of the Board.

## 9. Notice of applications for licences and permits

Within 14 days after an application for a licence or a permit is received the Board or the Principal Secretary, as the case may be shall cause a notice to be published in a newspaper circulating in Swaziland and shall cause a copy of such notice to be posted at the office of the Regional Administrator of the district in which the land is situated, stating—

- (a) the name and address of the applicant;
- (b) the legal description of the land on which commercial trees are intended to be planted under the licence or permit for which application has been made;
- (c) that any person may make written objections or representations to the Board or the Principal Secretary, as the case may be, concerning the granting or issuing of the licence or permit, and that such objections or representations must be submitted to the Board or the Principal Secretary within ten days after the publication of the notice.

## 10. Decisions by the board

After considering any objections or representations submitted in accordance with [section 8](#), the Board shall—

- (a) in the case of an application for a licence, decide whether to grant or refuse the licence, and notify the applicant of such decision, within thirty days after the receipt of the application;

- (b) in the case of reference by the Principal Secretary in accordance with [section 8\(3\)](#), submit its decision to the Principal Secretary within 10 days after such reference;
- (c) in the case of a review of a decision by the Principal Secretary in accordance with [section 8\(4\)](#), decide whether to confirm, modify or reverse such decision, and so notify the applicant and the person requesting the review of such decision, within fourteen days after the submission of the request for the review.

## 11. Persons not required to obtain licences or permits

Notwithstanding sections [7](#) and [8](#), no licence or permit shall be required by any person—

- (a) in respect of any commercial trees planted on marginal land;
- (b) in respect of any commercial trees planted by such person, or the predecessor in title or interest of such person, in accordance with the terms and conditions of any licence or permit prior to the cancellation or suspension of such licence or permit;  
*[Original (b) repealed K.O-I-C. 14/1973]*
- (c) who is listed in the Second Schedule to this Act, in respect of the land described for each such person in the Schedule;
- (d) who would not, after planting such trees, qualify as a grower in terms of this Act; or
- (e) who is exempted by the Minsiter by notice published in the *Gazette* and subject to any conditions of such exemption.

## 12. Power to cancel or suspend licence or permit

- (1) If a grower—
  - (a) wilfully violates any term or condition of a licence or permit which has been granted or issued to him in accordance with this Act; or
  - (b) wilfully refuses to furnish any information which he is required to furnish under this Act; or
  - (c) fails to comply with any direction lawfully given by the Board,the Board may, by registered notice sent to his address in the register of growers, require him to rectify the act or omission within thirty days after the posting of such notice.
- (2) If the grower fails to rectify such act or omission within the period of the notice, the Board may, after affording him an opportunity to be heard, order that his licence or permit be cancelled or suspended on such terms and conditions as the Board may deem just.
- (3) A grower whose licence or permit is cancelled or suspended may at any time apply to the Board for a new licence or permit or the removal of the suspension, and the Board may, upon such an application and in accordance with sections [9](#) and [10](#), make such decision as may be fitting.

## Part IV – Register of growers

### 13. Board shall maintain register

- (1) The Board shall maintain a register of growers at the headquarters of the Ministry of Agriculture.
- (2) The register shall be in such form as the Board may determine, but shall include in respect of each grower—
  - (a) his name;
  - (b) his postal and residential address;

- (c) the description, as recorded in the office of the Registrar of Deeds, of the land in respect of which he is a grower;
  - (d) the area of commercial trees growing on that land, other than trees growing in a nursery, expressed in hectares, such area to include recently clearfelled and awaiting replanting; and
  - (e) the terms and conditions of any licence or permit granted or issued to such grower in accordance with this Act.
- (3) The register may be inspected during ordinary office hours at the Ministry of Agriculture.

#### 14. Registration of growers

- (1) Within three months after the commencement of this Act, every person who, at the commencement of this Act, qualifies as a grower shall apply to the Board for registration in the register of growers by furnishing the Board with the information set out in [section 13\(2\)](#).
- (2) A grower who qualifies as such after the commencement of this Act shall likewise apply for registration within three months of his so qualifying.
- (3) In the event of any change occurring affecting the information required to be furnished by a grower, that grower shall, within one month after the last day of the month during which the change takes place, notify the Board of the change.
- (4) Upon receipt of an application for registration, the Board shall register the applicant as a grower if it is satisfied that the applicant is qualified as a grower and has been granted or issued any licence or permit that may be required in terms of this Act.
- (5) Upon notification of a change of information relating to a grower or upon a change otherwise coming to its attention, the Board shall record the change in the register if it is satisfied that such a change has occurred.
- (6) The Board may determine the manner and form of application and notification under this section, and may require growers to submit annual returns of the information required to be recorded in the register of growers and may, through its duly appointed agent, inspect the property of the grower to verify the facts advised to it or relevant to the grower's registration.

#### 15. Certificate of registration

- (1) The Board shall furnish every grower who is registered in accordance with [section 14](#) with a certificate of registration in such form as the Board may determine.
- (2) The certificate of registration, unless cancelled by the Board shall be *prima facie* proof of registration and compliance with the provisions of this Act.

#### 16. Cancellation of registration

The Board shall, after making such inquiries as it deems necessary, remove the name of any person who ceases to be qualified as a grower.

### Part V – General

#### 17. Functions of Natural Resources Board

Subject to this Act, the Natural Resources Board shall perform any function assigned to it under this Act in accordance with the rights, powers and procedures of the Board, and subject to the same rights of appeal from a determination of the Board, as prescribed in the Natural Resources Act, [No. 7 of 1951](#).

## 18. Destruction of trees planted without licence or permit

The Minister may, after consultation with the Board, order the destruction of any commercial trees planted in contravention of sections 7(1) or 8(1) or any term or condition of any licence or permit.

## 19. Penalties

A person shall be guilty of an offence and liable on conviction to a fine of E200 or, in default of payment thereof, to imprisonment for six months if he knowingly—

- (a) contravenes [section 6bis](#);  
*[Amended K.O-I-C. 14/1973]*
- (b) contravenes [section 8\(1\)](#); or
- (c) contravenes any term or condition of any licence or permit; or
- (d) in an application for a licence, permit or registration, or in a written objection or representation made in relation to such an application, makes or supplies a statement, map or diagram which is false in any material respect; or
- (e) obstructs the Principal Secretary or any member or agent of the Board in the execution of his functions or duties under this Act.

## 20. Amendment of the Swazi Administration Act No. 79 of 1950

Section 10(1) of the Swazi Administration Act [No. 79 of 1950](#) is hereby amended by adding after the word “destruction” in paragraph (f) thereof, the words “or planting”.

## 21. Regulations

- (1) After consultation with the Board, the Minister may make regulations, not inconsistent with this Act—
  - (a) as to the form of applications for licences, permits or registration, and the information to be included in such applications;
  - (b) as to the destruction of trees in terms of [section 18](#), by the grower, and for making the owner responsible for ensuring that the grower complies with a destruction order issued by the Minister, and, in default of such compliance, for providing for the destruction of the trees by the Principal Secretary or the Board at the expense of the grower or owner;
  - (c) generally, as to all matters for which he deems it necessary or expedient to make regulations in order to carry out the principles and purposes of the Act.
- (2) Regulations made under sub-section (1) may provide for the imposition of penalties for a breach of a regulation, but such a penalty shall not exceed a fine of one hundred emalangeni or, in default of payment thereof, imprisonment for a period of three months.

**First Schedule**  
**Commercial trees**

<b>Common name</b>	<b>Scientific name</b>
Pines	(Pinus species)
Gum Trees	(Eucalyptus species)
Black Wattle	(Acacia decurrens var-mollissima)
Poplars	(Populus species)
and any other tree that may from time to time be gazetted by the Minister.	

## Second Schedule

### Usutu Pulp Company Limited

Farm No.	18	Mbabane
Farm No.	26	Mbabane
Farm No.	33	Mbabane
Farm No.	35	Mbabane
Remaining Extent of Farm No.	45	Mbabane
Portion A of Farm No.	53	Mankaiana
Remaining Extent of Farm No.	79	Mbabane
Farm No.	115	Mbabane
Farm No.	116	Mbabane
Farm No.	118	Mankaiana
Remaining Extent of Farm No.	191	Mbabane
Farm No.	208	Mbabane
Farm No.	209	Mankaiana
Farm No.	380	
Remaining Extent of Farm No.	388	
Portion A of Farm No.	388	
Portion B of Farm No.	388	
Farm No.	631	

Remaining Extent of Farm No.	670	
Farm No.	671	
Farm No.	680	
Remaining Extent of Farm No.	689	
Farm No.	789	
Remaining Extent of Ptn. D of Farm	792	
R/E of Ptn. 23 of Ptn. "Q"	792	
Ptn. E of Farm No.	792	
Ptn. F of Farm No.	792	
Ptn. H of Farm No.	792	
Ptn. I of Farm No.	792	
Ptn. J of Farm No.	792	
Ptn. K of Farm No.	792	
Ptn. M of Farm No.	792	
Ptn. N. of Farm No.	792	
Ptn. O of Farm No.	792	
Ptn. P of Farm No.	792	
R/E Ptn. Q of Farm No.	792	
Ptn. R of Farm No.	792	
Ptn. S of Farm No.	792	

Ptn. T of Farm No.	792	
Ptn. U of Farm No.	792	
Ptn. V of Farm No.	792	
Ptn. 24 of Farm No.	792	
Ptn. 25 of Farm No.	792	
Ptn. 28 of Farm No.	792	
R/E Farm No.	813	
Lot No.	82	Matsapa
Ptn. A of 85L		Matsapa Mbabane
R/E of Ptn. B of 85L		Mbabane
Ptn. 2 (ptn. of Ptn. A) of Farm No.	96	Manzini
R/E of Concession	136	
Concession	175L	Mbabane
R/E of Farm No.	172	

Certain Portion of Land Concession 29P measuring 1070 morgen 60 square roods.

### **Tonkwane Estates Ltd.**

Farms No. 73/4, 73/2.

### **Swaziland Plantations Ltd.**

Farms No. 38/RE, 38/12E.

### **Peak Timbers Limited**

Farm No. 754, 755, 790, 791, 803, 804, 825, R/E

Portion 11 of 648, 529, 592

Portion 647, R/EX Portion 1 of 648

Portion 2 of 648, 665, R/X. 688

Portion 1 of 688 R/EX 701, 702, 703, 25, 168

Portion 1 of 352

R/EX 647, R/No. 3

Portion 63 (a portion of portion A) of Farm No. 3