

TIMBER INDUSTRY REGULATION.

17° GEO. V., No. LIX.

No. 59 of 1926.

AN ACT to provide for the Inspection and Regulation of the Timber Industry.

[Assented to 24th December, 1926.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Preliminary.

1. This Act may be cited as the *Timber Industry Regulation Act, 1926.* Short title.
2. In this Act, unless the context otherwise requires— Interpretation.
 - “Accredited representative” means the president, or vice-president, or secretary of the industrial union or any member thereof acting with the authority in writing of the secretary or president.
 - “Agent,” when used in connection with the word “owner,” means the person having, as the attorney or representative of the owner, control and supervision of the owner's operations in the industry, and of the manager. Sec 1906, No. 36, s. 3.
 - “Bush landing” means any place on a timber holding at which timber in the round is first loaded into trucks for transport or removal.
 - “District” means a district defined for the purposes of this Act by the regulations.
 - “Industrial magistrate” means an industrial magistrate appointed under the Industrial Arbitration Act, 1912-1925.

- “Inspector” means any person appointed to be an inspector under this Act.
- “Machinery” means every kind of mechanical appliance, and includes steam pipes, electrical wires, cables, belts, and ropes employed in or about a sawmill, yard, bush landing, mill landing, or workshop, or otherwise used in or in connection with the timber industry.
- “Manager” means the person having immediate charge and direction of the operations on a timber holding, and includes any deputy acting under his instructions.
- “Mill-gearing” includes every shaft whether upright, oblique or horizontal, and every wheel drum or pulley, or other appliances by which the motion of the first moving power is communicated to any machine appertaining to a saw-milling process.
- “Mill landing” means any place at a mill where timber in the round is unloaded or deposited.
- “Owner,” when used in relation to any timber holding, sawmill, yard, bush landing, mill landing, or workshop to which this Act applies, means any person who is the proprietor, lessee, or occupier thereof, and includes a person in occupation under contract with the owner, and a sub-contractor. The term includes a joint owner.
- “Sawmill” or “mill” means a place within a timber holding where any operation for the purpose of preparing or treating timber is carried on.
- “Serious bodily injury” means “such bodily injury as is likely to result in the injured person being disabled from following his ordinary occupation, and earning his usual rate of remuneration for two weeks or more.”
- “Timber” includes fallen trees, felled trees, and all wood whether sawn, split, hewn, or otherwise fashioned on a timber holding.
- “Timber holding” means and includes the area of a timber concession, or of a timber lease or sawmill permit granted under the Land Act, 1898, or the Land Act Amendment Act, 1904, or of a permit granted under the Forests Act, 1918, or any land, of freehold or other tenure, used for the like purpose as Crown land held under lease or permit as aforesaid.

“Timber industry” means and includes all operations of felling, hewing, sawing, splitting, cutting, removing, and treating timber on timber holdings.

“Yard” means any place on a timber holding to which timber is taken from the mill to be stacked or loaded for despatch.

Appointment of Inspectors and their Duties.

3. The Minister may appoint fit and proper persons to be inspectors in the timber industry.

Appointment of
Inspectors.

1915, No. 53, s. 5.

4. Every inspector shall be under the control of such person as the Minister may from time to time appoint (hereinafter referred to as the controlling officer), and shall act in such districts, or portions of districts, as the Minister may from time to time direct.

Control.

5. Inspectors shall be of three classes, namely:—

(a) District inspectors, who shall have the full powers of inspectors under this Act; but every district inspector, prior to being appointed, shall satisfy the Minister that he has had not less than five years' practical experience in the timber industry generally, and that he has passed an examination prescribed or approved by the Minister in accordance with the regulations.

Classification of
inspectors.

See 1915, No. 53,
s. 5.

(b) Special inspectors, who shall be appointed to make special inspections, inquiries, and investigations on matters within the scope of this Act, requiring special technical or scientific training or knowledge as the Minister may from time to time direct, and

(c) Workmen's inspectors, who shall in accordance with the regulations be elected by the majority of persons *bona fide* employed in the timber industry in the several districts; but no person shall be eligible for such appointment unless he has been engaged in general practical bush and mill work in the industry for at least five years:

Provided that a person who is not a natural born or naturalised subject of the King shall be disqualified from voting at any such election.

District inspectors.

6. District inspectors shall be under the Public Service Act, 1904, but special and workmen's inspectors shall not be subject to the provisions of the said Act.

Conditions of
appointment of
special and work-
men's inspectors.
Ibid., s. 9.

7. All the terms and conditions of appointment of special inspectors and workmen's inspectors, and the districts in which they may exercise their powers, shall be as may be fixed from time to time by the Minister, subject to the regulations.

Term of appoint-
ment of workmen's
inspectors.
Ibid., s. 10.

8. (1.) Workmen's inspectors shall be appointed for a term not to exceed two years, and shall be eligible for re-appointment.

(2.) A workmen's inspector may be removed from his office by the Minister for any cause which the Minister may in his discretion deem sufficient.

Powers of
Inspectors.
See Ibid., s. 11.

9. (1.) A district or special inspector shall have power to do all or any of the following things, namely:—

(a) To make examination and inquiry to ascertain whether the provisions of this Act are complied with:

(b) To enter, inspect, and examine any timber holding at all times, with such assistants as may be reasonably necessary, but so as not unnecessarily to impede or obstruct the working of the industry:

(c) To examine into and make inquiry respecting the state and condition of any timber holding, sawmill, workshop, building, structure, yard, bush landing, or mill landing, and of all matters or things connected with or relating to the safety or well-being of the persons employed therein in connection with the industry; and to examine into, and make inquiries respecting, the condition of the mill, mill-gearing, machinery, plant and appliances, tram and train lines, and rolling stock:

(d) For the purpose of such examination or inquiry to require any person to answer any relevant questions:

(e) With the authority of the controlling officer, to initiate and conduct prosecutions against persons offending against the provisions of this Act:

(f) To obtain written statements from witnesses, and to appear at inquiries held respecting accidents, and at inquests, and to call and examine witnesses, and to cross-examine witnesses:

(g) To exercise generally such other powers as are in his discretion necessary for carrying this Act into effect.

(2.) A workmen's inspector may exercise the powers of a district inspector as prescribed by paragraphs (a), (b), and (c) of subsection (1) of this section, and may, where a district inspector is not available, or with the authority of the district inspector, obtain written statements from witnesses, appear at inquiries held respecting accidents in the timber industry, appear at inquests, call and examine witnesses and cross-examine witnesses.

10. Every owner, agent, or manager who refuses or neglects to furnish to an inspector the means necessary for making an entry, inspection, examination, or inquiry under this Act, or obstructs an inspector acting in the exercise of his duty, shall be guilty of an offence against this Act.

Penalty for refusing to give facilities for inspection.
1906, No. 36,
ss. 11, 12.

11. (1.) An inspector shall, after every inspection made by him, forthwith enter in a book to be kept by the owner, agent, or manager at the mill, and to be called the "Record Book," particulars of his inspection, and of every defect observed by him; but nothing contained in or omitted from such entry shall limit or affect the duties and obligations of the owner, agent, or manager.

Inspector to record result of inspections.
Ibid., s. 13.

(2.) The record book shall be open at all reasonable times to the examination of any inspector and of the accredited representative of any industrial union of workers employed in the timber industry and of any other person authorised in writing by the Minister.

Record book to be open for inspection
Ibid., s. 14.

12. (1.) Any person working on a timber holding may make complaint to an inspector of anything which it would be the duty of such inspector to report upon or remedy.

Upon worker making complaint inspector to make inquiry.
Ibid., s. 15.

(2.) The inspector may make inquiry into such complaint, and take such other steps as he may deem necessary to investigate the matter; and the name of the informant shall not be divulged.

Managers.

Duties and responsibility of manager,
Ibid., s. 25.

13. (1.) Every manager shall enforce the observance of all the provisions of this Act and the regulations on the timber holding under his charge.

(2.) As soon as practicable after the occurrence of any breach of the provisions of this Act, he shall report the same, in writing, to the district inspector, whether the same has been committed by a person employed by or under him, or by a contractor working therein or his employees, or any other person.

(3.) The manager shall in every such case be deemed guilty of an offence against this Act unless such manager reports such breach and proves to the satisfaction of the court that all reasonable means of enforcing the provisions of this Act, and of preventing such breach, were taken.

Notice of accident to be given.
See 1920, No. 44,
s. 85.

14. (1.) The manager shall give notice in writing to the district inspector and to the controlling officer whenever an accident occurs on the timber holding which causes loss of life to any person or incapacitates any person from work for more than twenty-four hours.

(2.) Such notice shall—

- (a) in case of death be sent forthwith; and
- (b) in case of such incapacity be sent immediately after the expiration of such twenty-four hours; and
- (c) shall state the nature and extent of the injury, and the name of the person killed or injured, and the place to which any injured person has been removed.

Examination and inquiry as to cause of accident.
Ibid., s. 27.

15. (1.) Upon receipt of any such notice the inspector, or in his absence a person appointed by the controlling officer, may proceed to the scene of the accident, examine the place where it occurred, take down the statements of any witness, or of any person who can give any evidence as to the cause thereof, and thereupon forward to the controlling officer and the nearest police, resident, or industrial magistrate a full report.

(2.) For such purposes, a person appointed as aforesaid shall have all the powers and authorities conferred on inspectors under this Act.

(3.) The police, resident, or industrial magistrate shall, if he thinks it necessary, hold an inquiry into the nature and cause of the accident, and shall forward to the Minister a copy of the evidence taken at the inquiry, together with his report thereon.

(4.) The accredited representative of the industrial union of workers to which an injured worker belonged, or of the industrial union of workers in the class of work in which the injured worker was employed, shall, subject to the regulations, be entitled to examine the place where the accident occurred, and may appear at inquiries held respecting accidents, and shall have the right to call and examine or cross-examine witnesses.

(5.) For the purposes of any inquiry under this section, a police, resident, or industrial magistrate shall have all the powers of a court of petty sessions under the Justices Act, 1902-1920, as to summoning witnesses and taking evidence.

Power to summon witnesses, etc.

16. The place in which any fatal accident or accident causing serious bodily injury has occurred shall not be interfered with, except with a view of saving life or preventing further injury, until it has been examined as provided in section fifteen or, where the accident has proved fatal, until the coroner has granted permission:

Place of accident not to be interfered with.

Ibid., s. 29.

Provided that where immediate resumption of work in the place in which the accident has occurred is urgently necessary, a person appointed by a police, resident, or industrial magistrate may give permission in writing for such resumption, after making full examination of the place, and a report in writing of the result of such examination in the record book.

General Rules, etc.

17. (1.) Every owner shall provide efficient guards for—

- (a) all dangerous parts of machinery;
- (b) all dangerous appliances used in or in connection with the industry; and
- (c) all dangerous parts of a sawmill, yard, bush landing, mill landing, or workshop,

Dangerous machinery to be guarded.

See Vic., No. 2850, No. 59.

so as to prevent, so far as possible, loss of life or bodily injury; and the manager shall, unless he shall prove to the satisfaction of the court that the same has been removed or

altered by some particular person without his consent, keep all such guards constantly maintained in an efficient state and properly adjusted.

Machinery to be operated within the required guard, *Ibid.*, s. 61.

(2.) No person shall operate machinery or mechanical appliances, or any part thereof, without the guard required to be provided for the same, or when the guard is removed or not properly adjusted.

Guard to include fence.

In the construction of this section, the word "guard" shall be deemed to extend to and include a fence.

Aid to injured persons.

18. (1.) Where power driven machinery is used, an ambulance or stretcher, and a supply of lint, bandages, and antiseptic dressing shall be kept ready for immediate use in case of accidents.

(2.) Where more than twelve men who are ordinarily employed on a timber holding are camped in proximity to each other, without power driven machinery, a stretcher and a supply of lint, bandages, and antiseptic dressing shall be kept ready at such camp for immediate use in case of accidents.

Manager to inspect, 1906, No. 36, s. 32 (27).

19. The manager, or some duly qualified person appointed by him, shall, once in each week, carefully examine the buildings, plant, and machinery, and shall record in writing and sign, in the record book, his opinion as to their condition and safety, and any repairs and alterations required to insure greater safety to the persons employed.

Employees to satisfy themselves of safety of appliances. See 1906, No. 36, s. 50.

20. Every person employed on a timber holding shall, before commencing, and whilst at work, use ordinary and reasonable precaution to ascertain that the appliances he uses, and the place in which he works, are not unsafe; he shall not use anything or work in a place that is unsafe, or apparently unsafe; and every such person who witnesses on a timber holding anything likely to produce danger of any kind shall forthwith report the same to the person in immediate authority over him, and it shall be the duty of such last-mentioned person forthwith to report the same to the manager.

Inspector may give notice of dangerous or defective matters. See *Ibid.*, s. 36.

21. In any case where a district inspector finds any machine, plant, matter, thing, or practice on or connected with any timber holding to be dangerous or defective, so as, in his

opinion, to threaten or tend to the bodily injury of any person, the following provisions shall apply:—

- (1) The inspector shall, by requisition in writing addressed in general terms to and served on the owner, agent, or manager, specify the nature of such danger or defect, together with his reason for holding that the same exists, and require that the matter complained of be forthwith remedied, and may direct that any specified machine or appliance shall not be used.
- (2) On receipt of such requisition or direction the owner, agent, or manager shall forthwith comply therewith, or, if he intends to object thereto, as provided by the next following subsection, he shall cease to use the machine, plant, matter, thing, or practice, as to which such requisition or direction shall have been given, and shall forthwith withdraw all men from the danger indicated by the inspector until such time as the matter shall have been determined by a police, resident, or industrial magistrate: Provided that the Minister or the controlling officer may allow work to proceed during such period, under such restrictions and upon such conditions as he may consider necessary, and shall specify in writing to insure the safety of the workmen.
- (3) If the owner, agent, or manager objects to comply with such requisition, he may, within seven days after the delivery thereof as aforesaid, send his objections in writing, stating the grounds of his objections, to the inspector, who shall send a copy thereof to the controlling officer, and thereupon the matter shall be determined by a police, resident, or industrial magistrate.
- (4) If the owner, agent, or manager continues to use or carry on any such machine, plant, matter, thing or practice and fails to comply with the requisition, or in the event of objection and an inquiry, fails to comply with the decision of a police, resident, or industrial magistrate, he shall be deemed to have committed an offence against this Act.

- (5) No person shall be deemed to be precluded by any contract or agreement from doing such acts as may be necessary to comply with any of the provisions of this section, or be liable under any contract or agreement to any penalty or forfeiture for doing such acts.

Coroners' inquests.
See ibid., s. 35.

22. With respect to every coroner's inquest on the body of any person whose death has been caused by an accident on or about a timber holding, the following provisions shall have effect:—

- (1) A person having a personal interest in or in the management of the timber holding in which the accident occurred shall not be qualified to serve on the jury empanelled on the inquest; and it shall be the duty of the summoning officer not to summon any person disqualified under this provision, and it shall be the duty of the coroner not to allow any such person to be sworn or to sit on the jury.
- (2) Where practicable, the summoning officer shall summon as jurors persons accustomed to the working of timber holdings, and no person shall be summoned to act as a jurymen more than once in six months.
- (3) A representative of the person killed and the accredited representative of the industrial union of workers to which he belonged, or of the industrial union of workers in the class of work in which he was employed, or a representative of the majority of the workmen employed on the timber holding, and a representative of the owner may examine the locality of such accident and be present at an inquest, and may examine any witness as to the cause of the accident, subject, nevertheless, to the order of the coroner.
- (4) The district inspector shall, when practicable, be present and may examine witnesses and elicit evidence relative to the cause of death and to the issue whether the accident was attributable to negligence or any omission to comply with the provisions of this Act.

- (5) If the jury so desire, the coroner shall arrange for the jury to view the scene of the accident, and the owner and manager shall afford them the facilities accorded to an inspector.

Regulations.

23. The Governor may make regulations for all or any of the purposes following, that is to say:—

Power to make Regulations.

- (1) Regulating the duties of inspectors and defining the districts in which they are to carry out their duties. See 1906, No. 36, s. 63.
- (2) Regulating methods of inspection.
- (3) Dealing with the ventilation of mills and matters relating thereto, and the prevention of dust.
- (4) Dealing with the sanitary condition of timber holdings, including the removal of stagnant water, the provision of pure water for drinking, the provision of sanitary conveniences, and the placing of stables at a prescribed distance from dwelling-houses.
- (5) For the good order and condition, safety, and use of sawmills, workshops, mill-gearing, machinery, plant, yards, mill landings, and bush landings, and of tram lines, and rolling stock, and brakes on trolleys, and for the regulation of the loads to be carried, and for the safe handling of "jockeyed" logs.
- (6) For the provision of sufficient working space for workers in mills clear of skids and sawdust belt races.
- (7) To regulate the length of timber to be cut with regard to the space behind the saws, and for the safety of the workers.
- (8) For the protection of workers from the danger of exposed belts.
- (9) For the sufficient lighting (including artificial illumination) of mills for safe working.
- (10) Requiring skids and decking to be kept in repair.
- (11) For the keeping of the space between the skids of the first tier of the landing clear of bark and other refuse.
- (12) For the drainage of tram lines, bush landings, and other places.

- (13) To prohibit the employment of persons unable to speak the English language in such work that the inability would be a source of danger to other workers.
- (14) Requiring bush lines to be cleared of dangerous trees.
- (15) For the clearing of house sites of dangerous trees.
- (16) To regulate the construction of bush landings and mill landings, and for the prevention of overcrowding of logs at such landings.
- (17) To regulate and control the treatment of timber by the powellising process, and the use in the industry of other processes dangerous or injurious to health.
- (18) For the inspection of the housing and accommodation provided for workers.
- (19) For the election of persons for appointment as workmen's inspectors.
- (20) Generally for carrying this Act into execution.

Governor may vary regulations where observance not reasonably practicable.
See 1906, No. 36, s. 33.

24. If, in the opinion of the inspector, the observance of any regulation made under this Act is not reasonably practicable on any particular timber holding, the Governor may, by notice in the *Gazette*, suspend, alter, or vary such regulation in respect of such holding.

Printed copy of regulations to be posted on every mill.
See Ibid., s. 34.

25. A printed copy of the regulations for the time being in force shall be posted on a building or board in some conspicuous place on every timber holding, and the same shall be maintained in a legible condition.

Penalties.

Penalties.

See 1906, No. 36, ss. 57, 58.

26. Any person who contravenes or does not comply with any of the provisions of this Act or any regulation made thereunder, shall be deemed guilty of an offence against this Act, and shall be liable to a penalty not exceeding ten pounds for each offence.

Proceedings to be taken by inspector.
 1906, No. 36, s. 59.

27. All proceedings for offences under this Act shall be taken by a district or special inspector or a person authorised by the Minister. Costs incurred by or awarded against an inspector or authorised person in connection with any such

proceedings shall be payable out of moneys from time to time appropriated by Parliament, and the inspector or authorised person shall not be personally responsible for the same.

28. All proceedings in respect of offences against this Act shall be heard and determined by a police or resident magistrate, or an industrial magistrate appointed for the purposes of the Industrial Arbitration Act, 1925, and shall be commenced within six months after the offence shall have been committed.

Proceedings to be heard and determined by Police or Resident Magistrate and limit of time.

29. The provisions of sections fourteen, fifteen, seventeen, eighteen, and twenty-one of this Act, and of the regulations made under paragraphs (3), (4), (5), (6), (8), (9), and (17) of section twenty-three of this Act, shall be in lieu of the provisions of the Inspection of Machinery Act, 1921, and any amendment thereof, and of the Factories and Shops Act, 1920, and any amendment thereof, and the regulations under those Acts, relating to similar matters, which provisions and regulations shall not apply to the timber industry; but nothing in this Act shall affect the provisions of the Inspection of Machinery Act, 1921, relating to boilers or to the certificates required to be held by engine-drivers, crane and hoist drivers, boiler attendants, and other persons.

Application of regulations under this and other Acts.