

## THE LOGGER AND THE LAW



*Cutting the regulations  
down to size!!*

Artwork by B. L. D. Anderson, F.R.I.

any documents. Any enquiries regarding the material mentioned here should be made to the Department which administers them, or to a legal advisor. Copies of any items mentioned in this report may be obtained from the Government Printing Office, Private Bag, Wellington, or from the Department concerned.

This is one of several reports covering aspects of the business of logging. Logging contractors, like any other citizens, are required to abide by the laws which come into force through Acts of Parliament, and any revisions and amendments to laws made after the initial Act has been passed. Certain of these Acts and amendments apply particularly to the employment of men, work with heavy machinery, and the forest environment. A contractor must be familiar with the Acts, safety codes, and union agreements which are relevant to logging.

The purpose of this report is to outline some of the more relevant Acts and documents relating to the activities of logging.

*WARNING: This report is in no way meant to be a legal interpretation of*

### **ACCIDENT COMPENSATION ACT, 1972** (Reprinted 1976)

(Accident Compensation Commission, A.C.C.)

This Act makes provision for the prevention of accidents, for compensation for accidents, and for rehabilitation after accidents. The Inland Revenue Department acts as agents for the A.C.C. in collecting levies, and the State Insurance Office handles claims. Safety Advisors have no enforcement powers such as the Inspectors who work under the Bush Workers Act. They promote rather than enforce safe operations.

A key element of this Act is that in order to receive earnings-related compensation in the event of an accident at work, it is necessary to pay a levy. It is important to determine who pays this levy and an explanation will be found in the LIRA Report on Taxation (Vol. 4 No. 1). Leviable earnings for employees include wages, salaries, overtime, holiday pay, piece-work payments, and bonuses. The rate for logging work, which includes all activities up to the loading point, is 4.7% of all leviable earnings. The rate for self-employed is 1% of earnings, or a minimum of \$36.00 per year, whichever is the greater.

The levy payment is due by 30 June each year to the Inland Revenue Department which has forms available in calculating the levy and will give help with its calculation. There are several valuable information booklets to help an employer understand his obligations, these being available from the Accident Compensation Commission or the Inland Revenue Department.

## **BUSH WORKERS' ACT, 1945, and AMENDMENTS**

(Department of Labour)

The Bush Workers' Act applies to all people who work in bush undertakings. This covers all logging operations, and trucking and transport operations on private forest roads. Inspectors are appointed and have powers to go to a site and to determine whether all the provisions of the Act are being adhered to. Any contract for bush undertakings must be notified to an Inspector of the Department of Labour within seven days of letting.

A wages and time book must be kept by employers of bush workers, showing the name, age (if under 20), kind of work, Award or Agreement being worked under, hours and days of week worked, and wages paid, for every employee. Records for the two previous years must always be available. When an accident occurs, which causes death or serious injury (i.e. likely to incapacitate a worker for more than 48 hours), an inspector must be notified no later than 48 hours after the accident. The details of the accident are to be recorded on the specified form. First Aid gear must be provided on the job to the satisfaction of the Inspector.

The Act requires all plant to be periodically inspected to ensure its safe condition. All plant must be used in a safe manner and an Inspector may give directions in writing to ensure safety in an operation and he may prohibit the use of any unsafe plant. Bush workers are obliged to report to their employer any defects in plant.

## **SAFETY CODE FOR BUSH UNDERTAKINGS** *(Third Edition 1978)*

(Department of Labour)

This code lays down safety rules which should be observed in the various operations connected with bush undertakings. Although this is not a legally binding document such as an Act of Parliament, failure to comply with it has been used as a basis for prosecution and as evidence in prosecutions. The Safety Code spells out in detail the provisions made under the various Acts, such as the Bush Workers Act, which deal with logging operations. It is an important document and all people working in the bush should possess a copy and be familiar with its contents. A separate publication, "Bush Tractor Canopies", gives design details for tractor safety frames.

## **TIMBERWORKERS' UNION AGREEMENTS**

(Timber Employees' Industrial Union of Workers/Timber Workers Union)

There are two unions covering all timberworkers in New Zealand: that covering the Nelson and Westland areas (Timbers Workers' Union) and that covering the rest of the country (The Timber Employees' Industrial Union of Workers). Within these areas employing organisations have entered into local agreements. The agreement will cover the wages and conditions of work for all workers who come under the definition of 'Timberworker'. These wages and conditions may also be covered in certain Acts, for example, the Annual Holidays Act of 1944 makes provision for annual holidays with pay for workers as does any timberworkers union agreement with an employer. In all cases where the agreement gives equal or greater benefits than the Act, then the agreement prevails. An agreement lays down the minimum wages which shall be paid, but does not specify a bonus

rate. This is left up to the employer to determine. Employers may be required to collect from their workers, union membership fees. Where union membership is compulsory, it will be important to determine who is a worker and who is not. In general, it can be said that unless a person is paying his own Accident Compensation levy, he should belong to the appropriate union. Salaried company staff are not normally union members.

## **BOILERS, LIFTS, AND CRANES ACT, 1950, and AMENDMENTS**

(Marine Department of the Ministry of Transport)

The technical details of this Act are spelt out in the N.Z. Power Crane Rules. In logging, it affects those cranes used for raising loads by means of ropes or chains. Hydraulic loaders are not covered by this Act. The rules require each affected crane to be inspected by an Engineer Surveyor each year, and that it must be in suitable condition to be given a certificate of good repair. The rules cover the details of construction, operation, and maintenance of cranes. No alteration may be made to a crane without first notifying the Engineer Surveyor in writing. Changes of ownership must also be notified.

## **THE MACHINERY ACT, 1950, and AMENDMENTS**

(Department of Labour)

This Act covers all machines working in the forest, except those loaders which are covered in the Boilers, Lifts and Cranes Act, and those transport vehicles which are covered by the Transport Act. Machinery Inspectors only visit or inspect machines for research into guarding problems, or at the request of Inspectors appointed under the Bush Workers Act, who have the same powers and carry out routine inspection visits.

Young people, if under 15 years of age, are not allowed to work or assist in working with machines. If under 18 years of age, they may not be left in charge of any machine.

The safe guarding of all machines must be provided. This applies to manufacturers and sellers of machines as well as to owners and operators. It is an offence to use any machine in an unsafe manner. Operators must be trained in the use of machines and instructed as to their dangers. An Inspector may prohibit the use of any unsafe machines.

## **TRANSPORT ACT, 1962, and AMENDMENTS; TRAFFIC REGULATIONS, 1976, and AMENDMENTS**

(Ministry of Transport/Ministry of Works)

The provisions of this Act normally apply to public roads. However the owner of private roads within a forest may declare that these Acts apply on those roads. Log trucking and personnel transport are particularly affected by the Acts which define such things as allowable truck dimensions and loads. Before taking any heavy logging machinery, such as a rubber-tyred skidder onto a public road, advice should be sought from the appropriate authority, as a licence or permit may be required. The provisions of this Act are generally well known and will not be repeated here.

## **FORESTS ACT, 1949, and AMENDMENTS**

(N.Z. Forest Service)

This Act relates to the management and protection of forests and forest land, particularly that land owned by the Crown. The parts of this Act affecting a logging contractor deal with the granting of permits, licences and leases for

entry to and operation on land administered by the N.Z. Forest Service, and the removal of forest produce from this land. The relevant parts will be covered in any contract drawn up between the N.Z. Forest Service and the contractor.

## **FOREST AND RURAL FIRES ACT, 1977**

(County Fire Authorities/Rural Fire District/N.Z. Forest Service/Ministry of Defence)

This Act makes provision for the prevention and suppression of fires in forests and other rural areas. A fire authority constituted under this Act may declare a restricted season and a closed season for the lighting of fires in the open, and the restriction of certain bush operations such as logging. Vehicles and machines operating within the area administered by a fire authority are required to have spark arresters and safe exhausts between August and April of the following year. Any person cutting timber is required to keep and maintain in working order, specified equipment for the prevention, control, and suppression of fires. In the event of a fire, a fire authority may demand that all fit persons fight the fire and special rates of pay apply while they are doing so. The Act provides for the recovery of fire fighting costs and property damage from the person or persons responsible for fires. Logging contractors will normally take out insurance to cover themselves in this event. The Forest and Rural Fires Regulations (1979) spell out the details of the requirements of this Act.

## **SOIL CONSERVATION AND RIVERS CONTROL ACT, 1941, and AMENDMENTS**

(Water and Soil Conservation Organisation of the Ministry of Works and Development)

This is an Act to make provision for soil conservation, prevention of erosion, and protection from flooding. It can directly affect logging, as under this Act a Catchment Authority may issue a public notice whereby certain activities (including logging, roading, and track formation) may not be carried out without the approval of the Catchment Authority. This prohibition may apply to a large area or to an individual land occupier where the method of using land is, or is likely, to cause erosion or deterioration of water courses. It is an offence under the Act to damage or destroy any water course or defence against water. The Catchment Authority may also regulate the way in which water courses are used and order their clearing and maintenance.

## **WATER AND SOIL CONSERVATION ACT, 1967**

(Water and Soil Conservation Organisation of the Ministry of Works and Development)

This is an Act to regulate the use of natural water. It is necessary to gain an appropriate water right from the Regional Water Board to dam, divert, take, use, or discharge waste into natural water. Water rights are also required to discharge waste onto ground where it might enter natural water. Water rights are not necessary for domestic or stock use or for fire fighting. Use of water without a water right, unless exempted as above, constitutes an offence under the Act and may result in a prosecution. Logging may be affected where any natural water is diverted or damned or where water transport of logs is considered.

For Further Information Contact:	N.Z. LOGGING INDUSTRY RESEARCH ASSOC. INC. P.O.Box 147, ROTORUA, NEW ZEALAND.	Phone 87-168
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