

THE FORESTS AND TIMBER (AMENDMENT) BILL 1984  
(NAME OF BILL)

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Bill

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Notice of Presentation

Covering letter from Minister to Clerk to Parliament

(Authorisation from Minister of Finance under s 60 of Constitution)

FROM

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Minister

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TO

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(for signing of letter to Clerk signifying Cabinet approval under s 60 of Constitution)

TO

Clerk to National Parliament

(for certificate by Speaker)

TO

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(for printing)

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(Date passed 30/5/84 Act No. 6/84)

TO

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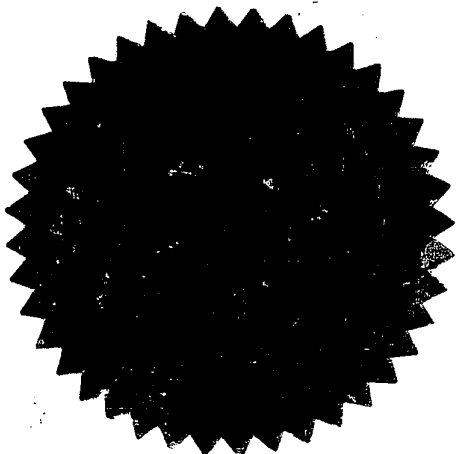
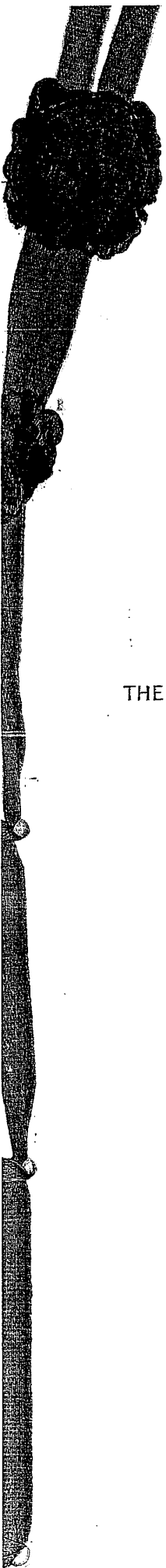
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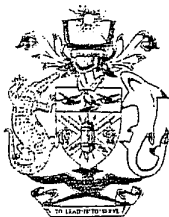
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THE FORESTS AND TIMBER (AMENDMENT) ACT 1984

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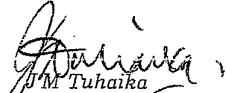


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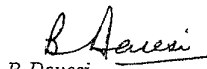
*Passed by the National Parliament this thirtieth day of May 1984.*

*This printed impression has been carefully compared by me with the Bill passed by Parliament and found by me to be a true and correct copy of the said Bill.*

  
J.M. Tuhaika

*Clerk to the National Parliament*

*Assented to in Her Majesty's name and on Her Majesty's behalf this twenty-second day of June 1984.*

  
B Devesi  
Governor-General

*Date of commencement: see section 1.*

AN ACT further to amend the Forests and Timber Act.

ENACTED by the National Parliament of Solomon Islands.

## ARRANGEMENT OF SECTIONS

## SECTION

1. Short title and commencement.
2. Renaming the short title and long title, Cap 90.
3. Amendment of section 2.
4. Amendment of section 3.
5. Certain consequential amendments.
6. Amendment of section 4.
7. Amendment of section 5.
8. Amendment of section 5A, and certain references in other provisions of Part IIA.
9. Amendment of section 5B.
10. Amendment of section 5C.
11. Amendment of section 5D.
12. Insertion of new sections 5J and 5K.
13. Amendment of section 6.
14. Amendment of section 7.
15. Amendment of section 8.
16. Amendment of section 11.
17. Amendment of section 12.
18. Amendment of section 16.
19. Amendment of section 17.
20. Amendment of section 18.
21. Amendment of section 19.
22. Amendment of section 20.
23. Amendment of section 28.
24. Amendment of section 33.
25. Substitution of new sections for section 34.
26. Insertion of Schedules.

- SCHEDULE
- 1: Protected trees.
  - 2: Amendments to Part V and Part IX of the Land and Titles Act (Cap 93).

1. This Act may be cited as the Forests and Timber (Amendment) Act 1984, and shall come into force on such date as the Minister may, by notice published in the Gazette, appoint.

Short title and commencement.

2. The Forest and Timber Act (hereinafter called the principal Act) is hereby amended -

Renaming the short title and long title, Cap 90.

- (a) in the citation of its short title appearing below "Chapter 90" and in section 1, by substituting "Forest Resources and Timber Utilisation" for "Forests and Timber"; and
- (b) in the long title, by substituting "Forest Resources and Timber Utilization" for "Forests".

3. The principal Act is hereby amended in section 2(1) -

Amendment of section 2.

(a) by substituting the following definition, for the definition of "Conservator" -

"Commissioner of Forest Resources" means the Commissioner of Forest Resources appointed under section 3",

(b) by deleting the definition of "controlled forest";

(c) by inserting the following definition -

"enforcement officer" means an enforcement officer appointed pursuant to section 3;", immediately below the definition "Commissioner of Forest Resources", substituted as aforesaid;

(d) by substituting, "the Commissioner of Forest Resources and an enforcement officer" for "the Conservator", in the definition of "forest officer";

(e) by substituting, "forest reserves" for "controlled forest", in the definition of "forest produce";

(f) by inserting the following definition -

"land use plan" means a plan for the use of land for agriculture, livestock, reforestation, post logging development, aquaculture, or for infrastructure for any of the aforesaid things, and includes a plan for such other use of land as the Minister may, by legal notice, published in the Gazette, declare in this behalf;", after the definition of "forest produce";

(g) by inserting the following definition -

"Tambu place" means a Tambu place commonly so called and considered holy, sacred or forbidden by Solomon Islanders;", after the definition of "state forest"; and

(h) by inserting, “, other than protected trees specified in Schedule 1,” after “trees”, in the definition of “timber”.

Amendment  
of section 3.

4. Section 3 of the principal Act is hereby amended by substituting “Commissioner of Forest Resources, and such number of enforcement officers, forest officers, and other officers” for “Conservator of Forests and such number of Forest officers and other officers”.

Certain  
consequential  
amendments.

5. Consequent upon certain amendments made by section 3 and 4 to sections 2 and 3 of the principal Act, there shall be substituted in all other provisions of the principal Act -

- (a) “Commissioner of Forest Resources” for “Conservator”;
- (b) “forest reserves” for “controlled forests” and “forest reserve” for “controlled forest”; and
- (c) “enforcement officer or forest officer” for “forest officer”,

wherever “Conservator”, “controlled forests”, “controlled forest” and “forest officer” appear in those provisions.

Amendment  
of section 4.

6. The principal Act is hereby amended, in section 4(1), by substituting -

“three thousand dollars or to imprisonment of two years” for “four hundred dollars or to imprisonment for one year”, in the paragraph appearing immediately below paragraph (d).

Amendment  
of section 5.

7. The principal Act is hereby amended, in section 5 -

- (a) by substituting, “milling or sale” for “sale”, in the marginal heading;
- (b) by substituting the following subsections, for subsection (1) -

“(1) Upon an application made to the Commissioner of Forest Resources for the grant of a licence authorising the felling of trees upon and the removal of timber from -

- (a) any public land, land in which the Government holds a freehold interest in land or leasehold interest in land, land leased by or on behalf of the Government, land in respect of which the Government has a profit to fell and take away

trees, and any land contiguous or island adjacent to such land; or

- (b) any land, not being customary land, or land to which paragraph (a) applies; and
- (c) any customary land, when such felling and removal are the subjects of rights granted under an agreement duly approved by the Minister under Part IIA,

and upon payment of the prescribed fees for the grant of such licence, the Commissioner of Forest Resources may either accept the application or reject it:

Provided that no such application shall be rejected without hearing the applicant, if he so desires, and without communicating to him the reasons of such rejection.

(1A) Where the Commissioner of Forest Resources accepts the application, he may grant to the applicant such licence on such terms and conditions as he may specify therein:

Provided that no such licence shall be granted unless the Commissioner of Forest Resources is satisfied -

- (a) that the applicant, who is a foreign investor complies with the provisions of the law relating to foreign investment and applicable to him;
- (b) that the applicant has obtained the approved agreement referred to in Part IIA, when such felling and removal are the subjects of rights granted under that agreement, from any customary land;
- (c) that the applicant has agreed -
  - (i) to comply with such logging methods, and post logging land use plans;
  - (ii) to provide such logging plans specifying such infra-structure facilities;
  - (iii) to undertake such reforestation plans with respect to the growth of such forest plants, and such modes of their maintenance, and
  - (iv) to take such measures for the conservation of catchment areas of rivers

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and prevention of soil erosion and preservation of environment, Tambu places and sites of historical importance, as may be specified by the Commissioner of Forest Resources; and

- (d) that the applicant will begin the operations with respect to felling of trees and removal of timber therefrom within such time as may be specified by the Commissioner of Forest Resources.”;
- (c) by substituting “(1A)” for “(1)”, in subsection (2); and
- (d) by deleting subsection (3).

Amendment  
of section 5A  
and certain  
references in  
other  
provisions  
of Part IIA.

## 8. The principal Act is hereby amended -

- (a) in section 5A, and in all other provisions of Part IIA, by substituting “area council” for “area committee” wherever “area committee” appears; and
- (b) in section 5A, by inserting the following definition before the definition of “approved agreement” -
- “appropriate Government” means -

- (a) in relation to any customary land situated in a province, the Provincial Executive formed in that province in accordance with the Provincial Government Act 1981; and
- (b) in relation to any customary land situated in Honiara -
- (i) the Government of Honiara City formed in accordance with law; or the Minister responsible for affairs relating to land, until such time as the Government of Honiara City is so formed;”.

No 7 of  
1981.

Amendment  
of section 5B.

## 9. The principal Act is hereby amended, in section 5B -

- (a) by substituting the following subsection, for subsection (1) -

“(1) Any person carrying on business in Solomon Islands as a timber exporter or sawmiller who wishes to enter into an agreement whereunder -

- (a) he acquires timber rights on customary land; and
- (b) in consideration of that acquisition, he agrees to -
- (i) give to the appropriate Government, for payment to the owners of that customay land, such quantum of share in the profits of his venture; and



- (ii) to allow the appropriate Government such representation in the management of that venture, as may be settled under section 5C,

shall first obtain the consent of the Commissioner of Forest Resources to negotiate with the appropriate Government and the area council on behalf such owners of the customary land, and thereafter make an application in that behalf in the prescribed form and manner to the Commissioner of Forest Resources.”; and

- (b) in subsection (2), by inserting “the appropriate Government and” after “forward copy thereof to”.

10. The principal Act is hereby amended in section 5C -

- (a) in subsection (1) -

- (i) by substituting the following paragraph, for paragraph (a) -

“(a) fix a place within the area of its authority, and days, not being earlier than two months, or later than three months, after the day on which such copy is received -

- (i) for a meeting with the appropriate Government and the applicant, in consultation with them, and settle at that meeting the quantum of share in the profits of the venture of the applicant, and the terms of the representation of the appropriate Government in the management of that venture; and
- (ii) for a meeting of the area council to consider such application and to determine the matters specified in subsection (4):

Provided that where the area council fails to secure the settlement referred to in subparagraph (i), no further action prescribed in this section shall be taken and the area council shall recommend to the Commissioner of Forest Resources the rejection of the application, and the application shall be rejected by him accordingly.”;

Amendment  
of section 5C

- (ii) in paragraph (b) -
- (i) by inserting "if it secures such settlement," before "forthwith give"; and
  - (ii) by substituting "paragraph (a)(ii)" for paragraph (a)";
- (b) by substituting the following subsection, for subsection (4) -
- "(4) Upon the conclusion of its considerations under subsection (3), an area council shall issue a certificate setting out -
- (a) the quantum of share in the profits of the venture of the applicant for payment to the owners of the customary land, and the terms of representation of the appropriate Government in the management of that venture on behalf of those owners, as settled with the appropriate Government and the applicant; and
  - (b) its determination as to -
    - (i) whether the persons proposing to grant the timber rights in question are the persons, and are all the persons, lawfully able and entitled to grant such rights, and if not, who such persons are; and
    - (ii) whether such timber rights in any modified form, may be granted, giving particulars of such modification, if any."; and
  - (c) in subsection (6), by inserting the following proviso at the end -
 

"Provided that such certificate shall be so forwarded through the appropriate Government."

Amendment  
of section 5D.

11. The principal Act is hereby amended, in section 5D(3), by inserting the following proviso at the end -

"Provided that the lodging of such appeal shall be so notified, and the information of the final determination of the appeal shall be so given, through the appropriate Government."

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12. The principal Act is hereby amended by inserting, after section 5I, the following new section:-

Insertion of  
new sections  
5J and 5K.

“Power 5J. Every enforcement officer and every to enter forest officer shall have authority to enter any custo- customary land to exercise the powers or to carry mary out the duties, or to perform the functions con- land. ferred on him by this Act.”

13. The principal Act is hereby amended, in section 6, by substituting “three thousand dollars or to imprisonment for two years” for “four hundred dollars or to imprisonment for one year”.

Amendment  
of section 6.

14. The principal Act is hereby amended, in section 7 -

Amendment  
of section 7.

(a) in subsection (1), by deleting “(if any)”;

(b) in subsection (2) -

(i) by deleting “and” appearing at the end of paragraph (a);

(ii) by substituting “specified period; and” for “specified period” appearing at the end of paragraph (b); and

(iii) by inserting, after paragraph (b), the following paragraph and the proviso -

“(c) the charges to be levied per cubic metre in the round or in such other manner as may be prescribed, and specified in such licence:

Provided that no such licence shall be issued to an applicant who is a foreign investor, unless he complies with the provisions of the law relating to foreign investment as applicable to him.”

15. The principal Act is hereby amended, in section 8 -

Amendment  
of section 8.

(a) by substituting “or timber products exported from or sold in Solomon Islands or milled or produced” for “exported from Solomon Islands or milled” in paragraph (a); and

(b) by inserting “or timber products” after “milled timber”, in paragraph (c).

16. The principal Act is hereby amended, in section 11, in the last paragraph, immediately below paragraph (g), by substituting “two thousand dollars or to imprisonment for one year” for “two hundred dollars or to imprisonment for six months”.

Amendment  
of section 11.

Amendment  
of section 12.

17. The principal Act is hereby amended, in section 12, by deleting "(if any)" appearing after "prescribed fee".

Amendment  
of section 16.

18. The principal Act is hereby amended, in section 16(1), in the last paragraph, immediately below paragraph (d), by substituting "three thousand dollars or to imprisonment for one year" for "one hundred dollars or imprisonment for three months".

Amendment  
of section 17.

19. The principal Act is hereby amended, in section 17, by deleting "(if any)".

Amendment  
of section 18.

20. The principal Act is hereby amended, in section 18 -

- (a) in paragraph (c), by substituting "forest officer; or" for "forest officer,";
- (b) by inserting the following paragraph, immediately after paragraph (c) and before "shall be guilty" -  
"(d) wastes timber by such acts or operations as are specified in the regulations,"; and
- (c) by substituting, in the last paragraph appearing immediately below paragraph (d), as so inserted, "three thousand dollars or to imprisonment of two years" for "four hundred dollars or to imprisonment for one year".

Amendment  
of section 19.

21. The principal Act is hereby amended, in section 19, by substituting "one thousand and five hundred dollars or to imprisonment for one year" for "two hundred dollars or to imprisonment for six months".

Amendment  
of section 20.

22. The principal Act is hereby amended, in section 20(2), by substituting "one hundred dollars" for "ten dollars".

Amendment  
of section 28.

23. The principal Act is hereby amended, in section 28(1), by inserting the following provisos at the end -

"Provided that no such licence or permit shall be cancelled or suspended without giving such holder of license or permit an opportunity of being heard:

Provided further that no such licence or permit shall be cancelled or suspended after the expiry of nine months from the date of such contravention."

24. The principal Act is hereby amended -

- (a) by substituting section 33 as subsection  
(1) thereof, and by amending subsection  
(1) as so substituted -

- (i) by inserting "or rates of stumpage to be paid for wastage of timber from a customary land in contravention of the prohibition imposed under paragraph (r), and the method of calculating such stumpage; after "leased by the Government", in paragraph (e);
- (ii) by substituting "standard methods of grading and measurement for "grading" in paragraph (i);
- (iii) by substituting the following paragraph, for paragraph (m) -

"(m) provide for -

(A) requiring the persons licensed under this Act -

- (i) to replant trees over land from which they have felled trees and removed timber;
- (ii) to construct, repair and maintain roads, pathways and bridges for the purpose of access to such land for felling trees and removing timber therefrom; and

(B) for the closing of such roads, pathways and bridges to persons or traffic or such persons or traffic as may be specified;";

- (iv) by re-lettering paragraph (r) as paragraph (t), and by inserting the following paragraphs before paragraph (t) as so re-lettered -

"(r) prohibiting -

- (i) the felling and removal of any protected tree;
- (ii) wastage of timber caused by such acts or operations as may be specified;
- (iii) logging within fifty metres on any side of any river or stream; and
- (iv) logging of forests above 400 metres above sea levels;

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- (s) declare any land whether it is a state forest land or customary land as a sanctuary for the purpose of conservation of flora or fauna, and prohibiting felling of any tree or removal of any timber from such sanctuary:

Provided that no customary land shall be declared as a sanctuary unless it is compulsorily acquired in accordance with the provisions of Part V of the Land and Titles Act as amended by Schedule 2.”; and

- (b) by inserting the following subsection, after subsection (1) as so substituted -

“(2) Regulations made under subsection (1) may also make a provision that the contravention of any such regulation as may be specified in that provision shall be an offence punishable with a fine not exceeding one hundred dollars or imprisonment for a term not exceeding three months, or both, in cases where no such contravention is constituted as an offence for which no penalty is provided, elsewhere under this Act.”.

Substitution  
of new  
sections for  
section 34.

25. The principal Act is hereby amended by substituting the following sections, for section 34 -

“Amendment 34. Section 11(1) of the Mining Act is hereby amended by substituting the following paragraph, for paragraph (h):-

“(h) any state forest or forest reserve within the meaning of the Forest Resources And Timber Utilization Act except with the consent of the Commissioner of Forest Resources and subject to such conditions as that Commissioner might impose.

Amendment 34A. The Provincial Government Act 1981 is hereby amended, in Schedule 5 (Statutory functions),

- (a) by substituting “The functions given to the Minister under Part VI (reservation of forests to conserve water resources)” for -  
“The functions given to the Minister under Part VI (control of forests to conserve water resources)”

- appearing opposite to the item -  
"The Forest and Timber Act; and  
(b) by substituting "The Forest Resources And  
Timber Utilization Act" for "The Forests  
And Timber Act."

26. The principal Act is hereby amended, by inserting after section 37, the following Schedules -

Insertion of  
Schedules.

Schedule 1

[Section 33(1)(r)]

Protected trees

1. Rosewood (*Pterocarpus indicus*),
2. Ironwood (*Intsia bijuga*);
3. Ebony (*Diospyros* spp.);
4. Kauri (*Agathis macrophylla*);
5. Nali Nuts (*Canarium indicum*);
6. all edible fruit trees; and
7. any other timber tree as the Minister may, by order, declares to be a protected tree in this behalf, for the conservation of timber producing trees in Solomon Islands.

Schedule 2

[Section 33(1)(s)]

Amendments to Part V and Part IX of the Land  
And Titles Act (Cap. 93)

Provisions of Division 2 (compulsory Acquisition of land) of Part V and Part IX (Estates) read with such definitions of the words and expressions in section 2 of that Act as have been used in those provisions, of the Land And Titles Act, shall apply to the compulsory acquisition of customary land, for purposes of declaring it to be sanctuary under this Act, subject to the following amendments -

- (1) in section 70, in subsection (1) -
  - (a) substitute "the Minister is satisfied, having regard to the provisions of section 8(1)(a) and (b) of the Constitution, that any customary land is required for declaring it to be a sanctuary under the Forest Resources and Timber Utilization Act" for "it appears to the Minister that any land is required for any public purposes";

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(b) insert the following provisos at the end -

“Provided that before making such declaration, there shall be prior negotiations with the owner of such land;

Provided further that the owner shall have a right of access to independent legal advice throughout the acquisition proceedings;

Provided also that so far as practicable the interest to be acquired in such customary land shall be limited to a fixed term interest.”;

- (2) in section 71, substitute “registered customary land” for “registered land” appearing in the marginal heading, and in the text of the section;
- (3) in section 72, substitute “any unregistered customary land” for “interests in any unregistered land or land registered as customary land”;
- (4) in section 73, substitute “appropriate Government as defined in section 5A of the Forest Resources And Timber Utilization Act” for “Clerk to the Provincial Assembly” wherever it appears;
- (5) in section 76, -
- (a) in paragraph (a), substitute “registered customary land” for “registered land”; and
  - (b) in paragraph (b), insert “customary land” after “land is unregistered”;
- (6) in section 78 -
- (a) in subsection (2) -
    - (i) insert “or his lawyer” after “hearing the claimant”,
    - (ii) substitute “reasonable amount of compensation (the valuable consideration of which may take the form of cash or some other form and may be payable by way of lump sum or by instalments) having regard to all the relevant circumstances” for “such amount compensation as he may think proper”;and
  - (b) in subsection (3), substitute “If the claim has been rejected, or the claimant is dissatisfied with the offer, the claimant may, within three months from the service upon him of the notice or the offer as aforesaid, appeal



to the High Court for the determination of his right or interest in the land acquired, the legality of taking possession or acquisition of his customary land, the reasonableness of the amount of compensation offered, and the period of time of its payment, and the High Court may, determine and accept the relief claimed, or may reject the same, or may modify the Commissioner's rejection of claim, or his offer" for the words beginning with "If the claim has been rejected" and ending with the words "which may confirm the Commissioner's rejection of the claim or his offer";

(7) for section 83, substitute the following section:-

"Right of owner of customary land to purchase estate in land. 83. (1) Where the claimant is furnished under section 80, with an order for payment of compensation, he may, by notice, in writing, given to the Commissioner, choose to obtain from the Commissioner, by transfer or grant, made in his favour, in the manner provided by Part IX an estate in land, by paying the price or consideration of that transfer or grant, as the case may be, with the amount of compensation payable to him under that order.

(2) Where the Commissioner, upon receipt of the notice given under subsection (1), decides to accept the choice, he shall make an offer to the claimant, by notice in writing, the estate in land he proposes to transfer by sale, or grant, as the case may be, identifying such land, and setting out the nature of the estate offered, with the terms and conditions, if any, affecting the same.

(3) Where the claimant accepts such offer the Commission shall make the transfer of the estate as provided in Part IX, after receiving the price or the consideration for the transfer, and shall declare such estate in land to be customary land under such 221A.

(4) Where the claimant does not receive from the Commissioner the offer referred to in paragraph (2) within three months from the date of his notice given -

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under that paragraph, the choice made by the claimant shall be deemed to have been refused, and shall take effect as if it has not been made.”;

- (8) in Part IX, section 122(2) to (4), and sections 125 to 132 shall cease to have effect in their application to the estate in land transferred or granted under section 83; and
- (9) in section 123 -
- (a) insert “in land transferred or granted under section 83”, after “Every estate”; and
  - (b) the latter portion of that section beginning with the words “and, in addition” and ending with the words “as he may think fit” shall cease to have effect.

