

CAP. 157

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CAP. 157

FORESTS ACT, 19271

AN ACT for the protection of forests and for the constitution and protection of forest reserves and to provide for related matters.

Forest Reserves

1. Appointment of forest officers

The President or an officer empowered by the President in that behalf, may appoint forest officers by name or as holding an office, to carry out any of the purposes of this Act, or to do anything required or allowed by this Act to be done by a forest officer.

2. Creation of forest reserves

Subject to section 21 the President may by executive instrument, constitute as a forest reserve,

- (a) lands which are the property of the Government;
- (b) stool lands, at the request of the relevant authority;
- (c) private lands, at the request of the owner;
- (d) lands in respect of which the President is, on the advice of the Forestry Commission, satisfied that the forests on those lands ought in the public interest to be protected from injury or destruction, or from further injury or destruction or that forest growth should be established on those lands in order to
 - (i) safeguard the water supply of the district, or
 - (ii) assist the well-being of the forest and agricultural crops grown on those lands or in the vicinity of those lands, or
 - (iii) secure the supply of forest produce to the inhabitants of villages situated on those lands or in the vicinity of those lands.²

3. Notification to create a forest reserve

(1) When it is proposed to constitute an area of land a forest reserve, a notice shall be published in the Gazette,

- (a) specifying as nearly as may be the situation and limits of the land,
- (b) stating the reasons for constituting the forest reserve, and
- (c) appointing a reserve settlement commissioner.

(2) Where, due to absence, illness, or any other cause, the Commissioner is unable to perform or complete the Commissioner's functions under this Act, the President may, by notice published in the Gazette, appoint another person to act in succession.

(3) Where the Commissioner has, prior to the appointment, begun to hold, but has not completed, an enquiry under section 7 the person appointed to act, or in succession, shall not be obliged to begin the enquiry de novo but may, and with the consent of the parties, continue and complete the enquiry so begun but not completed.³

4. Restriction on acquisition of rights

During the period between the publication of the notice referred to in section 3 (1) and the date of an order made under section 16,

(a) in the case of a stool land comprised in the notice, a person shall not alienate the land or acquire the right in or over the land or a produce of the land;

(b) in the case of any other land comprised in the notice, a person shall not acquire a right in or over the land or a produce of the land except by succession or with the consent in writing of the Commissioner who may give or withhold the consent, and under an instrument in writing approved by the Commissioner and made by a person in whom the right to make the instrument was vested at the date of publication of the notice or by the successor in title; and

(c) a person shall not make a clearing, cutting or burning on a land comprised in the notice except with the permission of the Forestry Commission.⁴

5. Notice of enquiry

(1) On the publication under section 3 of the notice, the Commissioner shall make known the particulars contained in the notice in the district in which the land is situated,

(a) by causing the notice to be read and interpreted in the local language at a convenient session of the Magistrate's Court in the district,

(b) by causing the notice to be posted outside the Court, and

(c) by informing the traditional authority concerned.

(2) The Commissioner shall and in the manner provided for in subsection (1), fix a period of not less than six months within which, and a place to or at which a person or a traditional authority claiming a right

affecting the land rights over the land which it is proposed to constitute a forest reserve, shall send a written statement of the claim to the Commissioner or appear stating orally the nature and extent of the alleged rights.⁵

6. By-laws for enquiry

(1) Despite anything contained in this Act, the traditional authority concerned may, between the publication of a notice under section 3 and the beginning of the enquiry by the Commissioner under section 7, make by-laws constituting the area of land specified in the notice to be a forest reserve as if the notice had not been published.

(2) From the date of the publication of the by-laws further proceedings for constituting the area of land as a forest reserve under this Act shall be discontinued, subject always to the operation of subsection (5) of section 21.6

7. Enquiry

(1) Except as is otherwise provided in this section, the Commissioner shall enquire into and determine the existence, nature and extent of the rights in respect of which a claim under section 5 has been received.

(2) For the purpose of the enquiry, the Commissioner may divide the proposed forest reserve into as many portions of land as may be expedient and make a separate enquiry and determination in respect of each portion.

(3) Where in the course of an enquiry any other rights affecting the proposed forest reserve are alleged to exist or are brought to notice, the Commissioner shall enquire into and determine their existence, nature and extent.

(4) Where in the course of an enquiry made under subsection (1) a dispute arises as to the ownership of a land which lies within the proposed forest reserve, the Commissioner shall try and determine the dispute, in the course of the enquiry or at a separate enquiry, and shall incorporate the findings of the enquiry in the judgment given under the provisions of section 14.

(5) Despite subsection (4), where a dispute is determinable by a district court the Commissioner may refer the dispute to the appropriate District Court and the reference shall for all purposes be a civil suit brought before that Court and subject to subsection (6) shall be tried and determined accordingly.

(6) Where a dispute is referred for determination in accordance with subsection (5), the Commissioner shall accept and adopt the judgment of that Court or, where there has been an appeal in accordance with subsection (7) the judgment of the Court of Appeal and shall incorporate that judgment in the judgment given under section 14.

(7) Where the District Court does not give judgment within three months after the date of the reference or in the case of an appeal the Court of Appeal does not give judgment within three months after the date of the determination by the District Court of the dispute, the Commissioner, after giving the relevant court notice in writing of the intention so to do may, proceed in accordance with subsection (4) as though there had not been a reference or, accept and adopt the judgment of the District Court in accordance with

subsection (6) as though there had not been an appeal and the proceedings in the District Court or the Appeal Court shall cease and determine from the date of the notice.

(8) Despite the provisions of an enactment under which the District Court or the Court of Appeal is constituted, an appeal does not lie from the judgment of a District Court given under subsection (5), other than

(a) to the Court of Appeal, where the enactment constituting the District Court provides for an appeal to the relevant Court of Appeal and that Court has been duly constituted under that enactment; or

(b) in accordance with section 15 of this Act.

(9) Where there has been an appeal to the relevant Court of Appeal in accordance with subsection (8) an appeal does not lie from the judgment of that Court, except in accordance with section 15 of this Act.⁷

8. Survey of land in dispute

Where there is a dispute as to the ownership of a land which lies within a proposed forest reserve,

(a) the expenses of a survey which is necessary for the determination of the dispute shall be borne by the Government, and

(b) the Commissioner may direct the competent forest authority to survey the boundaries of the land and to do any other acts as may be reasonably necessary for the survey and demarcation of the land.⁸

9. Commissioner as a court

(1) For the purpose of exercising the jurisdiction conferred by section 7, the Commissioner is hereby constituted as the Court of the Reserve Settlement Commissioner, which is a lower court within the meaning of article 126 of the Constitution and so far as is not inconsistent with the Constitution and this Act, the proceedings in that Court shall be governed and regulated accordingly.

(2) An enquiry in the court of the reserve settlement commissioner shall be entitled "In the Court of the Reserve Settlement Commissioner".⁹

10. Exclusion of land from proposed forest reserve

(1) The Commissioner may, after consultation with the Forestry Commission, exclude a land from the proposed forest reserve by altering the external boundary of that land or by demarcating the land within the external boundary.

(2) An alteration or demarcation under subsection (1) shall not have the effect of increasing the area of the proposed forest reserve.¹⁰

11. Commutation of rights

(1) Where, after consultation under section 10 the Commissioner finds it impossible, considering the establishment and maintenance of the proposed forest reserve, to permit wholly or in part the exercise of an established right within the forest reserve, the Commissioner shall assess a lump sum of money to be paid to the holder of the right in commutation of that right.

(2) Where the assessment is increased by the Court on appeal under section 14, the President may in the public interest, direct that the right in question shall not be commuted and that the exercise of that right shall be permitted.¹¹

12. Restrictions on payment of compensation

Despite anything in this Act to the contrary compensation is not payable in respect of

(a) a restriction on the exercise of rights in stool lands which lie within a proposed forest reserve, subject to the operation of article 267 of the Constitution, and

(b) a restriction, whether in whole or in part, on the exercise of the rights of a person to collect forest produce, hunt, fish, set traps, obstruct the channel of a river, pasture cattle or light fires, where the restriction is for the protection and orderly management of the forest reserve.¹²

13. Extinction of rights

A right in or over a land in respect of which a claim has not been made under section 5 or of which knowledge has not been acquired at an enquiry, shall be extinguished unless the claimant satisfies the Commissioner before the delivery of judgment that the claimant had good reason for not preferring claim within the period fixed under section 5, in which event the Commissioner may defer judgment until the Commissioner has decided the claim.¹³

14. Judgment on completion of enquiry

(1) The Commissioner shall deliver judgment on the completion of an enquiry.

(2) The judgment shall

- (a) describe the limits of the land in respect of which the enquiry has been held;
- (b) describe the limits of the land which the Commissioner recommends for reservation;
- (c) specify, with the necessary particulars, the rights in respect of which the Commissioner has received claims under sections 5, 7 and 12 and any other rights alleged to exist, or brought to the Commissioner's notice at, or after, the enquiry, in favour of a person or a community;
- (d) specify those claims which the Commissioner considers not to have been established;
- (e) admit or prohibit, in whole or in part, the exercise of the rights which the Commissioner considers to have been established; and
- (f) specify the amount of money assessed under subsection (1) of section 10.¹⁴

15. Appeals

A person who has made a claim under section 5, 7 or 12 and the Forestry Commission may within six months from the date of judgment delivered by the Commissioner under section 13 appeal against the judgment which appeal may relate to a part of the judgment as was incorporated under subsections (4) and (6) of section 7.15

16. Order constituting forest reserve

(1) As soon as the Commissioner has delivered judgment under section 13 the President may, by executive instrument constitute the land as a forest reserve in respect of which the Commissioner has described the limits recommended for reservation as a forest reserve.

(2) The order shall set forth the limits and situation of the land which constitutes the forest reserve and the rights affecting the forest reserve as set forth in the judgment of the Commissioner.

(3) The order shall be published in the Gazette, and shall then come into operation.¹⁶

(4) For the purposes of this Act, the terms of the judgment shall be treated as valid and effectual.

(5) Where the judgment is altered or varied on appeal, the terms as altered or varied shall be effective as from the date of the delivery of the judgment of the Court of Appeal except as provided in subsection (2) of section 10.

(6) Notice of the alterations or variations under subsection (2) of section 10 and of an order of the President shall be published in the Gazette.¹⁷

17. Ownership of land within forest reserve

(1) The ownership of land within a proposed forest reserve shall not be altered by its constitution as a forest reserve.¹⁸

(2) A forest reserve shall be managed by

(a) the owner under the direction of the Forestry Commission, or

(b) the Government for the benefit of the owner.

(3) For the purposes of paragraph (b) of subsection (2), there shall be paid to the owner in the proportion decided by the Forestry Commission the whole of the gross yearly revenue of the forest reserve accruing under this Act, subject to the deduction of a sum of money not exceeding one third of the gross revenue as the Forestry Commission may reserve for expenditure on the improvement of the forest in the interest of the owner.

(4) Where the deduction is made the Forestry Commission shall render an account of its expenditure to the owner.¹⁹

(5) The method of management of a forest reserve shall be at the option of the Forestry Commission who may vary the method of management where a variation appears necessary or desirable.

(6) An owner may refuse to undertake the management under the method specified in paragraph (a) of subsection (2).

(7) Where a recognised fetish grove or fetish tree is included in a forest reserve, the forest officers concerned shall not wilfully interfere with the grove or tree, and shall do their utmost to ensure that the fetish character is respected.²⁰

18. Transfer of rights in a forest reserve

A right in a forest reserve shall not be alienated by sale, lease, mortgage, charge, or transfer, unless the right holder has given a written notification of that intention to the Forestry Commission.

19. Power to declare forest no longer reserved

The President may, if satisfied that a particular land should not be a forest reserve, by executive instrument published in the Gazette, direct that from a date specified in the order the land or a portion of that land reserved under this Act shall cease to be a forest reserve.

20. Stoppage of ways and water-courses in a forest reserve

A Regional Minister may, on the request of the Forestry Commission stop a public or private way or water-course in a forest reserve, where a substitute for the private way or water-course so stopped, which the Minister considers reasonably convenient, already exists or has been provided or constructed by the Forestry Commission in lieu of that way or water-course.

21. Forest reserves constituted by by-laws

(1) Proceedings shall not be taken under this Act to constitute as a forest reserve an area of land which has already been constituted a forest reserve by the by-laws made by the appropriate traditional authority unless the President is satisfied that

(a) the administration of that forest reserve is not being effectively carried out under those by-laws, or

(b) the interest of a right holder has been adversely affected by the reservation of the area of land under those by-laws.

(2) Subject to subsection (3) in the case of an area of land which has not already been constituted a forest reserve by by-laws made by the appropriate traditional authority, proceedings shall not be taken to constitute the area of land, or part of that area as a forest reserve under this Act until the traditional authority concerned has received six months notice in writing of the President's intention to start the proceedings.

(3) After notice has been given, and until a notice made under section 3 is published, the restrictions laid down in section 4 shall have effect as if the intervening period were the interval of time mentioned in section 4.

(4) The President may appoint a Commissioner specially for the purpose of subsections (2) and (3) read together with section 4.

(5) Where the President is satisfied that complaints are likely to arise as to ownership, compensation or hardship in respect of the constitution of an area of land as a forest reserve by by-laws made by the traditional authority, the President may constitute the area of land as a forest reserve under this Act without giving the traditional authority an opportunity of making by-laws.

(6) Where proceedings have been started under subsection (1) or (5) to constitute an area of land as a forest reserve the area of land shall not be constituted a forest reserve under by-laws made by a traditional authority, and if already so constituted shall cease to exist as a forest reserve and the by-laws made in respect of that forest reserve shall cease to have effect from the date of the publication in the Gazette of the notice mentioned in section 3 (1).

(7) After a forest reserve has been constituted under this Act, a traditional authority may, with the consent of the President and on the recommendation of the competent forest authority make by-laws for the administration of the reserve or a part of that reserve.

(8) On the publication of the by-laws in the Gazette,

(a) the area of land referred to in the by-laws shall cease to be a forest reserve as defined in section 39 and shall be a forest reserve constituted under by-laws made by the traditional authority; and

(b) compensation assessed by the Commissioner under section 10 in respect of the forest reserve or part of the forest reserve and paid out of the Consolidated Fund shall be deemed to be an advance made to the traditional authority by the Government and shall become a first charge on the revenue derived by the traditional authority from the management of the forest reserve constituted under the by-laws.²¹

(9) Despite this section, the President may by legislative instrument, declare that the power to make regulations under paragraphs (a), (b) and (e) of subsection (1) of section 38 shall extend and apply to an area of land constituted of forest reserve by by-laws made by the appropriate local authority.

(10) Where there is a conflict between the Regulations made under this Act and the by-laws, the Regulations shall prevail.²²

Forests Improvement Fund 23

22. Establishment of the Fund

(1) There is hereby established a fund to be known as the Forests Improvement Fund which shall be under the control of the Minister responsible for Forests.

(2) Spent.²⁴

23. Payments into Fund

The revenues, and other payments, including moneys from the Government by way of grants-in-aid or endowment or otherwise due in respect of a forest reserve shall be collected by the Forestry Commission and paid into the Fund.

24. Disbursement from Fund

The Forestry Commission may, with the prior approval of the Minister, make payments from the Fund for costs incurred in connection with exploitation and silvicultural work.²⁵

25. Accounts and audit

(1) The Forestry Commission shall keep proper records in relation to the accounts and shall for each financial year not later than the last day of the fifth month after the close of the financial year following the end of the financial year, prepare a statement of accounts in the form directed by the Auditor-General.²⁶

(2) The accounts shall be audited by the Auditor-General and published in the manner determined by the Minister.

(3) The Minister shall lay a copy of the statement of accounts prepared by the Forestry Commission with a copy of the report made by the auditor on the statement of accounts before Parliament.

26. Schemes of improvement

The Forestry Commission shall on the coming into operation of this Act prepare a scheme covering a period of not less than five and not more than ten years for the improvement of forest reserves for the approval of the Minister.

27. Stool Lands revenue

In the application of this Act to forest reserves subject to article 267 of the Constitution the Forestry Commission shall be deemed to be acting for and on behalf of the Stool Lands Administrator for the purposes of the collection of revenue and accordingly the moneys in excess of the moneys spent by the Forestry Commission in the improvement of the forest reserves including moneys paid to landowners, shall be paid by the Forestry Commission to the Administrator of Stool Lands.

28. Payment of forest fines

The moneys paid by way of fines to a forest officer or the moneys derived from the sale of forest produce or instruments seized under this or any other enactment shall be paid into the Fund.

Offences

29. Forest offences

(1) A person who, in a forest reserve without the written consent of the competent forest authority,

- (a) fells, uproots, lops, girdles, taps, injures by fire or otherwise damages a tree or timber,
- (b) makes or cultivates a farm or erects a building,
- (c) causes damage by negligence in felling a tree or cutting or removing timber,
- (d) in any way obstructs the channel of a river, stream, canal or creek,
- (e) hunts, shoots, fishes, poisons water or sets traps or snares,

- (f) subjects to a manufacturing process, collects conveys or removes a forest produce, or
- (g) pastures cattle or permits any cattle to trespass,

commits an offence and is liable on summary conviction to a fine not exceeding one thousand penalty units or to a term of imprisonment not exceeding five years or to both the fine and the imprisonment.

(2) For a second or subsequent offence under subsection (1) an offender is liable on summary conviction to a fine of not less than two thousand penalty units or to a term of imprisonment not exceeding ten years or to both the fine and the imprisonment.²⁷

(3) A person convicted of an offence under subsection (1) (a) or (1) (f) is liable, in addition to any other punishment imposed under subsection (1) to pay to the Minister responsible for Lands twice the commercial value of each tree or of the timber or forest produce which is the subject matter of the offence.

(4) A person convicted of an offence under this section is liable, in addition to any other punishment imposed under this section, to pay to the person whose rights have been infringed the compensation that the Court may direct.

(5) This section does not prohibit the exercise in a forest reserve by a person of a right which under this Act is, or is treated as, an admitted right.

30. Offences relating to marks

(1) A person who

- (a) knowingly counterfeits or fraudulently uses on a timber or standing tree a mark used by forest officers or a registered property mark to indicate that the timber or tree is the property of a person,
- (b) without the written consent of a forest officer alters, defaces or obliterates a mark placed on a tree or on timber, or
- (c) alters, moves, destroys or defaces a boundary mark of a forest reserve,

commits an offence and is liable on summary conviction to a fine not exceeding one thousand penalty units or to a term of imprisonment not exceeding five years or to both the fine and the imprisonment.

(2) For a second or subsequent offence under subsection (1) an offender is liable on summary conviction to a fine not exceeding ten thousand penalty units or to a term of imprisonment not exceeding ten years or to both the fine and the imprisonment.²⁸

31. Banning persistent offenders

(1) A person who is convicted three times for an offence under this Act is prohibited from owning, operating or participating in a timber business or timber concession, and a permit and property mark held by that person under an enactment relating to forests, trees, or timber, shall be forfeited.

(2) A person who contravenes a prohibition imposed by subsection (1) commits an offence and is liable on conviction to a term of imprisonment not exceeding ten years without the option of a fine.

32. Duties of forest officers

(1) A forest officer shall take the necessary steps to prevent the commission of an offence under this Act.

(2) Where the Minister responsible for Lands is satisfied that a forest officer has aided, condoned or connived at the commission of an offence under this Act, that Minister may order the summary dismissal of that forest officer.

33. Arrest and seizure

(1) A forest officer may arrest without warrant a person whom the forest officer reasonably suspects has committed or has been concerned in an offence under this Act if that person fails to give that person's name and address or gives a name or address which is believed to be false, or if there is reason to believe that that person may abscond.

(2) A person arrested under subsection (1) shall within forty-eight hours be brought before a District Court if not sooner released.

(3) Where there is reason to believe that an offence has been committed under this Act, a forest officer may seize the forest produce to which the offence relates together with the instruments, vehicles and other articles suspected to have been used in committing the offence.

(4) A forest officer who seizes anything under this subsection (3) shall place on that thing a mark indicating that it has been seized and shall report the seizure to the Minister responsible for Lands.

34. Forfeiture and disposal of articles

(1) A Court which convicts a person of an offence under this Act shall order that the forest produce, instruments, vehicles and any other articles in respect of which or by means of which the offence was committed, including anything seized under section 33, shall be forfeited to the Republic.

(2) A vehicle or any other article which is seized under section 33 and whose owner cannot be ascertained is forfeited to the Republic, after the expiration of fourteen days from the date of seizure.

(3) A vehicle or any other article which is seized under section 33 and whose owner has been ascertained shall, if a prosecution is not brought under this Act, be restored to its owner.

(4) Anything which is forfeited to the Republic under this section may be sold or otherwise disposed of by the Minister responsible for Lands, and the proceeds applied for forest rehabilitation.

(5) Where a vehicle is forfeited, and the Minister is satisfied that the owner was not implicated in the offence, the Minister may restore the vehicle to the owner.

35. Burden of proof

The burden of proof that a forest produce has not been taken in contravention of this Act lies on the person in whose possession it is found.

Miscellaneous

36. Assistants to assist forest officers

(1) A person who exercises a right in or is permitted to take a forest produce from a forest reserve, and a person who is employed in a forest reserve, are bound to give to a forest officer without delay information that that person may have regarding the commission or intended commission of an offence under this Act, and shall assist the forest officer to

- (a) extinguish a fire in the reserve,
- (b) prevent a fire occurring nearby from spreading to the reserve, or
- (c) prevent the commission of an offence under this Act, and to assist in finding an offender.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding fifty penalty units.

37. Indemnity for acts done in good faith

An action does not lie against a person in respect of an act done in good faith by that person in the execution or intended execution of a power or a duty under this Act.

38. Regulations

(1) The President may, by legislative instrument, make regulations for the further, better or more convenient effectuation of this Act, and in particular with respect to

- (a) prescribing the fees to be paid under this Act;
- (b) prescribing the mode of collection of moneys due under this Act and the manner in which payment shall be made from the Fund;
- (c) prescribing the conditions of sale of forest produce taken from a forest reserve, and the manner of its collection;
- (d) providing for the protection of forest produce in a forest reserve, and prescribing the time at which and the manner and place in which rights which under this Act are, or are treated as, admitted rights may be exercised;
- (e) prescribing the form of leases or permits dealing with forest produce, the conditions under which they may be granted, and providing for their issue, production, revocation, and return;
- (f) providing for the management, utilisation, and the protection of forest reserves;
- (g) prescribing the marks which may be used by forest officers for the purpose of this Act;

(h) prescribing the functions of forest officers, and providing for the maintenance of discipline;

(i) prescribing the rewards to be paid to Government servants and informers out of the proceeds of fines and compensation; and

(j) prescribing for the survey and demarcation of forest reserves or of land the survey or demarcation of which is required for the purposes of this Act.²⁹

(2) Omitted.³⁰

(3) A person who contravenes a regulation or the conditions of a permit issued under the Regulations for which a fine or a term of imprisonment is not expressly provided in the Regulations, is liable to a fine not exceeding two hundred penalty units or to a term of imprisonment with or without hard labour not exceeding six months.

39. Interpretation

In this Act, unless the context otherwise requires,

“cattle” includes sheep, goats, horses, mules, donkeys, camels, and pigs;

“Commissioner” means the reserve settlement commissioner appointed under section 3;

“competent forest authority” includes the Chief Executive of the Forestry Commission and a forest officer acting within the scope of the functions assigned by the Forestry Commission;

“Court” unless otherwise specifically states means a court of competent jurisdiction;

“forest officer” means an officer of the Forestry Commission;

“forest offence” means an offence punishable under this Act;

“forest produce” includes, if found in or brought from a forest reserve,

(a) timber, charcoal, rubber, wood oil, resin, and natural varnish;

(b) trees and leaves, flowers and fruit, and any other parts and produce not mentioned under trees;

(c) plants which does not fall under trees, including grass, creepers, reeds, and moss, and the parts and produce of those plants;

(d) wild animals and skins, tusks, horns, bones, silk, honey, wax, and the parts and produce of wild animals; and

(e) peat, surface soil, and minerals, other than minerals within the meaning of an enactment regulating the working of minerals;³¹

“forest reserve” means a forest reserve constituted under section 16;

“functions” include powers and duties;

“Fund” means the Forest Fund established under section 22;

“Minister” means the Minister responsible for Agriculture but as regards the Fund means the Minister in consultation with the Minister responsible for Finance;

“private land” means a land alienated from Stool Lands and owned or held by an individual or a group of individuals;

“property mark” means a mark placed on a tree or timber to denote that, after the purchase money due on the trees or timber has been paid, the registered holder of the property mark has or will have a right to the tree or timber;³²

“revenue” includes rents, dues and royalties from forest produce, fees for silvicultural work, including works made necessary by mining or digging for minerals;

“river” includes a stream, canal, creek, and any other channel, natural and artificial;

“timber” means timber, either float or stranded, bearing no marks of ownership, or timber obviously out of control;

“tree” includes palms, bamboos, stumps, brushwood, and canes.

40. Repeals

Spent.³³

N.R.C.D. 243

FORESTS PROTECTION ACT, 1974

ARRANGEMENT OF SECTIONS

1. Forest offences.
2. Offences relating to marks.
3. Persistent offenders to be banned.
4. Duties of forest officers.
5. Arrest and seizure.
6. Forfeiture and disposal of articles.
7. Burden of proof.

8. Persons bound to assist forest officers.
9. Indemnity for acts done in good faith.
10. Interpretation.
11. Repeals.

N.R.C.D. 243

FORESTS PROTECTION ACT, 1974

AN ACT to provide for the functions of forest officers, offences relating to forest reserves and for related matters.

1. Forest offences

(1) A person who in a forest reserve, without the written authority of the competent forest authority

- (a) fells, uproots, lops, girdles, taps, damages by fire or otherwise damages a tree or timber,
- (b) makes or cultivates a farm or erects a building,
- (c) causes damage by negligence in felling a tree or cutting or removing timber,
- (d) sets fire to grass or herbage, or kindles a fire without taking due precaution to prevent its spread,
- (e) makes or lights a fire contrary to an order of the Forestry Commission,
- (f) obstructs the channel of a river, stream, canal or creek,
- (g) hunts, shoots, fishes, poisons water or sets traps or snares,
- (h) subjects a forest produce to a manufacturing process, collects, conveys or removes a forest produce,
- (i) pastures cattle or permits cattle to trespass,

commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment,

(2) For a second or subsequent offence under subsection (1) an offender is liable on summary conviction to a fine of not less than two hundred and fifty penalty units or to a term of imprisonment not exceeding one year or to both the fine and the imprisonment.²

2. Offences relating to marks

(1) A person who

(a) knowingly counterfeits or fraudulently uses on a timer or standing tree a mark or indicates that the timber or tree is the property of a person,

(b) without the written consent of a forest officer alters, defaces or obliterates a mark placed on a tree or on a timber, or

(c) alters, moves, destroys or defaces a boundary mark of a forest reserve,

commits an offence and is liable on summary conviction to a fine not exceeding seven hundred and fifty penalty units or to a term of imprisonment not exceeding three years or to both the fine and the imprisonment.

(2) For a second or subsequent offence under subsection (1), an offender is liable on summary conviction to a fine of not less than two hundred and fifty penalty units or to a term of imprisonment not exceeding three years or to both the fine and the imprisonment.³

3. Persistent offenders to be banned

(1) A person who is convicted three times of an offence under this Act is hereby prohibited from owning, operating or participating in a timber business or timber concession, and the permits and property marks held by that person under an enactment relating to forests, trees, or timber are forfeited.

(2) A person who contravenes a prohibition imposed on that person by subsection (1) commits an offence and is liable on conviction to a term of imprisonment not exceeding ten years without the option of a fine.

4. Duties of forest officers

(1) A forest officer shall take the necessary steps to prevent the commission of an offence under this Act.

(2) Where the Minister is satisfied that a forest officer has aided, condoned or connived at the commission of an offence under this Act, the Minister may order the summary dismissal of the forest officer.

5. Arrest and seizure

(1) A forest officer may arrest without warrant a person whom the forest officer reasonably suspects to have committed or to have been concerned in an offence under this Act, if that person fails to give the name and address of that person or gives a name or address which that person believes is false, or if there is reason to believe that that person may abscond.

(2) A person arrested under subsection (1) shall, within forty-eight hours, be brought before a magistrate, if not sooner released.

(3) Where there is reason to believe that an offence has been committed under this Act, a forest officer may seize the forest produce to which the offence relates together with the instruments, vehicles and any other articles suspected to have been used in committing the offence.

(4) A forest officer who seizes a thing under this section shall place on that thing a mark indicating that it has been seized and shall report the seizure to the Minister responsible for Lands.

6. Forfeiture and disposal of articles

(1) A Court which convicts a person of an offence under this Act shall order the forfeiture to the Republic of the forest produce, instruments, vehicles and any other articles in respect of which or by means of which the offence was committed, including anything seized under section 5.

(2) A vehicle or any other article which is seized under section 5 and whose owner cannot be ascertained, is forfeited to the Republic after the expiration of fourteen days from the date of seizure.

(3) A vehicle or any other article which is seized under section 5 and whose owner has been ascertained shall be restored to its owner if a prosecution is not brought under this Act.

(4) Anything which is forfeited to the Republic under this section may be sold or otherwise disposed of by the Minister responsible for Lands, and the proceeds applied for forest rehabilitation; but where a vehicle is forfeited, and the Minister is satisfied that the owner was not implicated in the offence, the Minister may restore the vehicle to the owner.

7. Burden of proof

The burden of proof that a forest produce has not been taken in contravention of this Act lies on the person in whose possession it is found.

8. Persons bound to assist forest officers

(1) A person who exercises a right in or is permitted to take a forest produce from a forest reserve and a person who is employed in a forest reserve, are bound to give to a forest officer without delay an information that person has regarding the commission or intended commission of an offence under this Act, and shall assist the officer to

(a) extinguish a fire in the reserve,

(b) prevent a fire occurring nearby from spreading to the reserve, or

(c) prevent the commission of an offence under this Act, and to assist in discovering an offender.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding twenty-five penalty units.

9. Indemnity for acts done in good faith

An action does not lie against a person in respect of an act done in good faith in the performance or intended performance of a function under this Act.

10. Interpretation

In this Act, unless the context otherwise requires,

“cattle” includes cows, sheep, goats, pigs and horses;

“competent forest authority” means a forest officer not below the rank of assistant forest manager who is able to take decisions on behalf of the Executive Director of the Forest Services Division or the Chief Executive of the Forestry Commission;⁴

“Court” means a court of competent jurisdiction;

“forest produce” includes, if found in, or brought from a forest reserve

- (a) timber, charcoal, rubber, wood, oil, resin and natural varnish,
- (b) trees, plants, leaves, flowers, and fruit, and any other parts and produce of trees and plants,
- (c) wild animals and birds and their skins, and any other parts and produce of wild animals and birds,
- (d) eggs, snails, crabs, fish silk, honey and wax, and
- (e) peat, surface soil, and minerals, other than minerals within the meaning of an enactment regulating the working of minerals;

“forest reserve” means a forest reserve constituted under section 16 of the Forests Act, 1927;⁵

“Minister” means the Minister responsible for Lands;

“timber” includes trees when they have fallen or have been felled, and the wood, whether or not it has been cut up or fashioned or hollowed out for a purpose;

“tree” includes palms, bamboos, stumps, brushwood and canes.

11. Repeals

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