

THE FOREST ACT

[BURMA ACT IV, 1902.] (19th April, 1902.)

CHAPTER I.

PRELIMINARY.

1. The President of the Union may, by notification, exclude any place from the operation of this Act. Such exclusion shall not affect anything done, or the liability for any offence committed, or any fine or penalty imposed, in such area before such exclusion.

2. * * * *

3. In this Act, unless there is anything repugnant in the subject or context,-

(1) "cattle" includes also elephants, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids ;

(2) "classification-mark " means a mark, other than a property-mark, placed on timber to denote its origin or the agency by which it has been handled, or for such other purpose may be specified by rules or by the conditions of an agreement with Government ;

(3)¹ * * * *

(4) " forest-offence" means an offence punishable under this Act;

(5) " Forest-officer " means any person appointed by or under the orders of the President of the Union to be a Conservator, Deputy Conservator, Extra Deputy Conservator, Assistant Conservator, Extra Assistant Conservator, Forest-ranger, Deputy Forest-ranger, Forester or Forest-guard, or to discharge any function of a Forest-officer under this Act ;

(6) " forest-produce" includes-

(a) the following when found in, or brought from a reserved forest, or public forest-land, that is to say-

¹ Deleted by the Union of Burma (Adaptation Laws) Order, 1948

- (i) trees and leaves, flowers and fruits, and all other parts or produce not hereinafter mentioned of trees;
 - (ii) plants not being trees (including grass, creepers, reeds and moss) and all parts of produce of such plants;
 - (iii) wild animals and skins, tusks, horns, bones, silk cocoons, wax, edible birds' nests, bats' guano and all other parts or produce of animals ; and
 - (iv) peat, surface-soil, rock and minerals (including lime-stone, laterite, mineral oils and all products of mines or quarries); and
- (b) the following whether found in, or brought from, any such forest or forest-land or not. that is to say-
- timber, charcoal, caoutchouc, catechu, wood-oil, resin; natural varnish, bark, lac, mahua flowers and myrabolams;
- (7) "land at the disposal of the State " means land in respect of which no person has acquired either-
- (a) a permanent, heritable and transferable right of use and occupancy under any law for the time being in force ; or
 - (b) any right created by grant or lease made or continued by, or on behalf of, the * * *¹ Government;
- (8) "Magistrate" means a Magistrate of the first or second class, and any Magistrate of the third class specially empowered by the President of the Union to try forest-offences ;
- (9) " property-mark " means a mark placed on timber to denote that, after all purchase-money or royalties due to the Government shall have been paid, the owner of the mark has or will have a right of property in the timber ;
- (10) "public forest-land" means land at the disposal of the State and not included in a reserved forest;
- (11) " reserved forest " means and includes a forest and every part of a forest-

¹ Deleted by the Union of Burma (Adaptation Laws) Order, 1948

- (a) declared to be a reserved forest under the provisions of section 18 of this Act or the corresponding section of any enactment previously in force in Burma; or
- (b) declared to be a reserved forest under the provisions of any rules in force in Lower Burma previous to the 1st July, 1882, and brought within the provisions of the Burma Forest Act, 1881,¹ by section 30 of that Act, which shall not, at the time being, have ceased to be a reserve forest under section 29 of this Act or the corresponding provision of any such enactment or rules;
- (12) " river" includes also streams, canals, creeks and other channels, natural or artificial;
- (13) "shifting cultivation " includes taungya cultivation and cultivation of such other kinds as the President of the Union may, by notification, declare to be shifting cultivation for the purposes of this Act ;
- (14) " timber" includes trees when they have fallen, or have been felled, and all wood, whether cut up or fashioned or hollowed out for any purpose or not ; and
- (15) " tree" includes palms, bamboos, stumps, brush-wood and canes.

CHAPTER II.

RESERVED FORESTS.

Power to constitute Reserved Forests.

4. The President of the Union may constitute any land at the disposal of the State a reserved forest in manner hereinafter provided.

Procedure. etc. on Proposal to constitute Reserved Forest.

- 5. (1) Whenever it is proposed to constitute any land a reserved forest, the President of the Union shall publish a notification-
 - (a) specifying as nearly as possible the situation and limits of such land;

¹ Repeated by the Burma Forest Act, 1902 (Burma Act IV, 1902)

- (b) declaring that it is proposed to constitute such land a reserved forest;
 - (c) appointing an officer (hereinafter called the Forest-settlement-officer) to inquire into and determine the existence, nature and extent of any rights claimed by, or alleged to exist in favour of, any person in or over any land comprised within such limits, and any claims relating to the practice within such limits of shifting cultivation, and to deal with the same as provided in this Chapter.
- (2) The Forest-settlement-officer shall ordinarily be a person other than a Forest-officer, but a Forest-officer may be appointed by the President of the Union to assist the Forest-settlement-officer in the enquiry prescribed by this Chapter.
6. When a notification has been published under section 5, the Forest-settlement-officer shall publish in the language of the country at the headquarters of each township * * *¹ in which any portion of the land mentioned in such notification is situate, and in every town and village in the neighborhood of such land, a proclamation-
- (a) specifying as nearly as possible the situation and limits of the forest proposed for reservation ;
 - (b) setting forth the substance of the provisions of the next following section;
 - (c) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest; and
 - (d) fixing a period of not less than three months from the date of the publication of such proclamation, and requiring every person claiming any right or making any claim referred to or mentioned in section 5 either to present to such officer within such period a written notice specifying, or to appear before him within such period and state the nature of, such right or claim.
7. (1) During the interval between the publication of such proclamation and the date fixed by the notification declaring the forest to be reserved as

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948

hereinafter provided, no right shall be acquired in or over the land mentioned in such notification, except by succession or under a grant or contract in writing made or entered into by, or on behalf of, the President of the Union or some person in whom such right or power to create such right was vested when the proclamation was published ; and on such land no new house shall be built or plantation formed, no fresh clearings for cultivation or for any other purpose shall be made, and no trees shall be cut for the purpose of trade or manufacture except as hereinafter provided.

- (2) Nothing in this section shall be deemed to prohibit any act done with the permission in writing of the Forest-settlement-officer, or any clearings lawfully made for shifting cultivation by persons in the habit of practising such cultivation on such land.

Settlement of Rights, etc. before Reservation.

8. (1) The Forest-settlement-officer shall take down in writing all statements made under section 6, and shall enquire into all claims made under that section, and into the existence of any right or practice mentioned in section 5 in respect of which no claim is made.
- (2) The Forest-settlement-officer shall at the same time consider and record any objection which the Forest officer, if any, appointed under section 5 to assist him, may make to any such claim or with respect to the existence of any such right or practice.
- (3) In the case of a claim relating to the practice of shifting cultivation, the Forest-settlement-officer shall pass an order specifying the particulars of such claim, and permitting, or refusing to permit, such practice wholly or in part.
- (4) In the case of any other claim the Forest-settlement-officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part.

- (5) The particular recorded under sub-section (3) or sub-section (4) shall be such as may be necessary in order to define the nature, incidents and extent of the privilege solicited or right claimed.
9. (1) For the purposes of such enquiry the Forest-settlement-officer may exercise-
- (a) the powers of a Demarcation-officer under the Boundaries Act, and
 - (b) the powers conferred on a civil Court by the Code of Civil Procedure for compelling the attendance of witnesses and the production of documents.
- (2) Before the issue of the notification under section 18, the Forest-settlement-officer may, for sufficient reason and after due notice to the claimant and other persons concerned, within three months of any order passed under section 8, section 10, section 11, section 12, or section 13, review such order and pass a new order after holding such further enquiry as he may consider necessary:

Provided that no agreement or acquisition under section 12, sub-section (1), clause (c), or section 13, sub-section (1), clause (a) or clause (c), which has received the sanction of the President of the Union, shall be so reviewed without a like sanction or after such agreement has been performed or after possession has been taken of the land so acquired.

10. (1) If the practice of shifting cultivation is permitted wholly or in part under section 8, sub-section (5), the Forest-settlement-officer may-
- (a) alter the limits of the forest proposed for reservation so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient for the purposes of the claimants ; or
 - (b) cause certain portions of the forest proposed for reservation to be separately demarcated, and give permission to the claimants to practice shifting cultivation under such rules and conditions as he may prescribe.

- (2) The practice of shifting cultivation shall be deemed a privilege subject to control, restriction and abolition by the President of the Union without Payment of compensation, and, unless otherwise expressly permitted in the notification issued under section 18, such cultivation shall be practiced only by the person to whom such permission is granted.
11. When a claim to-
- (a) a right-of-way,
 - (b) a right to a water-course or to the use of water, or
 - (c) a right of pasture or to forest-produce, is admitted, wholly or in part, under section 8, sub-section (4), if the right is for the beneficial enjoyment of any land or building, the Forest-settlement-officer shall, in addition to the particulars required by sub-section (5) of that section, record the designation, position and area of such land, or the designation and position of such building.
12. (1) When the Forest-settlement-officer has admitted, wholly or in part, and recorded under sections 8 and 11 a claim to a right of pasture or to forest-produce, he shall-
- (a) as far as possible provide for the exercise of such right by altering the limits of the forest proposed for reservation so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient for the purposes of the claimant, or
 - (b) as far as possible provide for the exercise of such right by recording an order containing the particulars specified in sub-section (2), and continuing to the claimant a right of pasture or to forest-produce (as the case may be), subject to the control of the President of the Union ; or
 - (c) subject to the sanction of the President of the Union, commute such right by paying a sum of money in lieu thereof, or, with the consent of the claimant, by the grant of land or in such other manner as such officer thinks fit.

- (2) An order passed under clause (b) of sub-section (1) shall record, as far as practicable,-
- (i) in the case of a right of pasture, the number and description of the cattle which the claimant is from time to time entitled to graze, the local limits within which, and the seasons during which, such pasture is permitted, and such other particulars as may be required in order to define the extent of the right which is continued and the mode in which it may be exercised; and
 - (ii) in the case of a right to forest-produce, the quantity of such produce which the claimant is authorized to take or receive, and the local limits within which, the seasons during which, and the mode in which, the taking or receiving of such produce is permitted, and such other particulars as may be required in order to define the extent of the right which is continued and the mode in which it may be exercised.
13. (1) If a claim to a right in or over any land other than a right referred to in section 11 is admitted, wholly or in part, under section 8, sub-section (4), the Forest-settlement-officer may-
- (a) come to an agreement with the claimant for the surrender of the right subject to the condition that such agreement shall not be performed unless and until the sanction of the President of the Union has been obtained in that behalf ; or
 - (b) exclude the land from the limits of the forest proposed for reservation either by altering the external boundary of such forest or by demarcating the land within the external boundary ; or
 - (c) proceed to acquire such land in the manner provided by the Land Acquisition Act, as modified by sub-section (2) of this section.
- (2) For the purpose of so acquiring such land-
- (i) the Forest-settlement-officer shall be deemed to be a Collector proceeding under the Land Acquisition Act;

- (ii) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section 9 of that Act;
- (iii) the provisions of the preceding sections of that Act shall be deemed to have been complied with ;
- (iv) the Collector, with the consent of the claimant, may award compensation in land, or partly in land and partly in money ; and
- (v) possession of the land to be acquired shall not be taken on behalf of the Government, and no payment or transfer of land to the claimant shall be made, in pursuance of an award under this sub-section, unless and until the sanction of the President of the Union has been obtained in that behalf.

14. Any person who has made a claim under this Chapter may, within three months from the date of any order passed on such claim by the Forest-settlement-officer, under section 8, section 10, section 11, section 12, or section 13, present an appeal from such order to such officer of the Revenue Department, of rank not lower than that of a Deputy Commissioner, as the President of the Union may, by notification, appoint to hear appeals from such orders.

15. (1) Every appeal under the last foregoing section shall be made by Petition in writing, and may be delivered to the Forest-settlement-officer, who shall forward it without delay to the officer competent to hear the same.
- (2) In Upper Burma the appeals shall be heard in the manner prescribed for the hearing of appeals under the Upper Burma Land and Revenue Regulation, and in Lower Burma under the Land and Revenue Act; and such officer may, for the purpose of such appeal, exercise all the powers held by him under such Act or Regulation and the rules thereunder, and may, before the issue of the notification under section 18, likewise review any order passed by him on such appeal.

16. The President of the Union may, before the issue of the notification under section 18, revise any order passed by a Forest-settlement-officer or an appellate officer under

the preceding sections, and may remand the case for further enquiry or pass any order which the Forest-settlement-officer could have passed:

Provided that no agreement or acquisition under section 12, sub-section (7), clause (c), or section 13, sub-section (1), clause (a) or clause (c), which has been sanctioned by the President of the Union as required by such section, shall be set aside after a part performance of such agreement or after possession of the land has been taken under such acquisition.

Power to Abandon Proposal

17. The President of the Union may, at any time before the publication of a notification under section 18, withdraw from a proposal to constitute any land a reserved forest. When such withdrawal is determined on, a proclamation shall be published by the Deputy Commissioner in the same places and in the same manner as the proclamation under section 6 was published, announcing that the proposed reservation has been abandoned. On the publication of such proclamation, the provisions of section 7 shall cease to apply to such land.

Constitution of Reserved Forests and Powers, Rights and Duties therein.

18. (1) When the following events have occurred, namely,-
- (a) the period fixed under section 6 for preferring claims has elapsed, and all claims, if any, made within such period have been disposed of by the Forest-settlement-officer, and
 - (b) if such claims, have been made, the period fixed by section 14 for appealing from the orders passed on such claims has elapsed, and all appeals, if any, presented within such period have been disposed of by the appellate officer, and
 - (c) all lands, if any, to be included in the forest proposed for reservation which the Forest-settlement-officer has, under section 13, elected to acquire under the Land Acquisition Act, have become vested in the State under that Act, the President of the Union may publish a notification specifying the limits of the forest which it is intended to reserve, declaring the same to be reserved from a date

fixed by such notification, and mentioning the rights and privileges recognized and conceded in respect thereof.

- (2) From the date so fixed such forest shall be deemed to be a reserved forest and thereupon shall, together with all the produce thereof and animals or things found therein, be deemed to be the property of the State, subject only to the rights and privileges mentioned in such notification.

19. When the notification prescribed by section 18 has been issued, rights in respect of which no claim has been preferred under section 6, and of the existence of which no knowledge has been acquired by inquiry under section 8, shall be extinguished from the date therein fixed unless, before the publication of such notification, the person claiming them has satisfied the Forest-settlement-officer that he had sufficient cause for not preferring such claim within the period fixed under section 6, in which case the Forest-settlement-officer shall enquire into the same and pass orders thereon in the same manner as if the claim had been presented in time ; and, notwithstanding anything hereinbefore contained, any order so passed shall be subject to review, appeal and revision in the manner and during the period hereinbefore allowed for an order passed prior to the issue of such notification.

20. The Deputy Commissioner of the district in which the forest is situate shall, before the date fixed by such notification, cause a translation thereof in the language of the country to be published in the manner prescribed for the proclamation under section

21. The President of the Union may, within five years from the publication of any notification under section 18, revise any arrangement made under section 10, section 12 or section 15, and may rescind or modify any order made under this Chapter, and direct that a further enquiry be held by the Forest-settlement-officer or any other officer appointed for this purpose, or that any one of the proceedings specified in section 12, sub-section (1), clauses (a) and (6), be taken in lieu of the other of such proceedings, or that a right admitted under section 8 be commuted in the manner mentioned in section 12, sub-section (1), clause (c).

22. If any one of certain persons to whom permission has been granted to practise shifting cultivation under the provisions of section 10, sub-section (1), clause (b), omits

for a continuous period exceeding five years to practice such cultivation, either himself or by some member of his family, and if such person has not during such period been engaged in the cultivation of taungya plantations in reserved forests on behalf of the Government, the President of the Union, after such enquiry as he considers necessary, may, by notification, cancel the permission granted to such person and reduce the area demarcated under the said provisions in such manner as he thinks fit.

23. No right of any description shall be acquired in or over a reserved forest, except by succession or under a grant or contract in writing made by or with the previous sanction of the President of the Union, or by some person in whom such right, or the power to create such right, was vested when the notification under section 18 was published.

24. (1) Notwithstanding anything herein contained, no right continued under section 12 shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of the President of the Union:

Provided that, when any such right is continued for the beneficial enjoyment of any land or building, it may be sold or otherwise alienated with such land or building without such sanction.

(2) If any person to whom a right has been continued under the provisions of section 2, sub-section (1), clause (6), ceases for a continuous period exceeding five years to exercise or practice such right, the President of the Union, after such enquiry as he considers necessary, may, by notification, cancel the right.

25. Any Forest-officer may, from time to time, with the previous sanction of the President of the Union, or of a Forest-officer authorized in this behalf, stop any public or private way or water-course in a reserved forest:

Provided that for the way or water-course so stopped another way or water-course which, in the opinion of the President of the Union, is equally convenient, already exists or has been provided or constructed by the Forest-officer stopping the way or water-course.

26. Subject to the provisions of section 28, it shall not be lawful for any person to do any of the following acts in a reserved forest, namely:-

- (a) to trespass, or pasture cattle, or permit cattle to trespass, or
- (b) to fell, cut, girdle, mark, lop or tap any tree, or injure by fire or otherwise any tree or timber, or
- (c) to cause any damage by negligence in felling any tree or cutting or dragging any timber, or
- (d) to kindle, keep or carry any fire except at such seasons and in such manner as a Forest-officer specially empowered in this behalf may from time to time notify, or
- (e) to quarry stone, burn lime or charcoal, or collect, subject to any manufacturing process, or remove any forest-produce, or (1) to clear or break up any land for cultivation or any other purpose, or
- (g) to poison or dynamite water.

27. Subject to the provisions of section 28, it shall not be lawful for any person to set fire to a reserved forest, or, in contravention of any rules made by the President of the Union, to kindle any fire, or leave any fire burning in such manner as to endanger such a forest.

28. Nothing in section 26, section 27, section 54 or section 55 shall be deemed to prohibit-

- (a) the exercise, in accordance with the orders, if any, passed by the President of the Union under section 12, of any right continued under that section ; or
- (b) any act done with the permission in writing of a Forest-officer specially empowered to grant such permission ; or
- (c) any practice of shifting cultivation permitted under section 10 ; or
- (d) the exercise of any right created by grant or contract in the manner described in section 23.

Cessation of Reserve.

29. (1) The President of the Union may, by notification, direct that, from a date to be fixed by such notification, any forest, or any portion thereof, reserved under this Act shall cease to be reserved.
- (2) From the date so fixed such forest or portion thereof shall cease to be reserved, but the rights, if any, which have been extinguished therein shall not revive in consequence of such cessation.

CHAPTER III.

GENERAL PROTECTION, ETC., OF FORESTS AND FOREST-PRODUCE.

30. (1) All standing teak trees wherever situated, except such as have been expressly alienated by grant or lease made by or on behalf of the * * *¹ Government, shall be deemed to be the property of the State and shall be reserved trees.
- (2) The President of the Union may, by notification, declare that any other trees, or trees of any specified class, standing on any land at the disposal of the State shall, from a date to be fixed by such notification, be reserved trees.
31. No person shall fell, cut, girdle, mark, lop or tap any reserved tree, or injure by fire or otherwise any reserved tree or the timber of any such tree, except in accordance with rules made by the president of the Union in this behalf or as provided by the last section of this Chapter.
32. The President of the Union may, by notification, declare that all manufactured catechu or manufactured lac, or any bye-products from crude lac, on any other kind of forest-produce specified in section 3, sub-section (6), clause (b), whether obtained from land at the disposal of the State or from other lands, shall be subject to the payment of royalty at such rates as may be specified by the notification, and may also, by notification, declare certain areas from which catechu shall be exempt from royalty.
33. (1) Any person may use free of restriction the forest-produce growing upon, or found on, public forest-land, other than reserved trees and their timber,

¹ Omitted by the Union of Burma (Adaptation of Laws) Order, 1948

except as prohibited or otherwise provided by rules made by the President of the Union under this section or by any other enactment or rules for the time being in force.

- (2) The President of the Union may, by rules in respect of public forest-land,-
- (a) regulate or prohibit the kindling of fires, and prescribe the precautions to be taken to prevent the spreading of fires ;
 - (b) regulate or prohibit the felling, cutting, girdling, marking, lopping, tapping or injuring by fire or otherwise' or any trees or timber, the sawing, conversion and removal of timber, and the collection and removal of other forest-produce ;
 - (c) regulate or prohibit the manufacture of catechu, or the burning of charcoal;
 - (d) regulate or prohibit the cutting of grass and pasturing of cattle, and regulate the payments, if any, to be made for such cutting or pasturing ;
 - (e) * * * *
 - (f) regulate the sale or free grant of forest-produce ; and
 - (g) prescribe the fees, royalties or other payments for forest-produce, and the manner in which such fees, royalties or other payments are to be levied whether in transit, or partly in transit, or otherwise:
- (3) The President of the Union may, by a rule under this section, attach to the breach of any rule under this section any punishment not exceeding imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.
- (4) The President of the Union may exempt any person, or class of persons or any local area from the operation of any rule under this section;

34. Nothing in this Chapter, or in any rule under this Chapter, shall be deemed to prohibit any act done in the exercise of any right or with the permission in writing of a Forest-officer specially empowered to grant such permission.

CHAPTER IV.

DUTY ON IMPORTED FOREST-PRODUCE.

35. (1) The President of the Union may levy a duty, in such manner, at such places and at such rates as he may prescribe by notification, on all forest-produce which is brought into the territories to which this Act extends from or through any place beyond those territories.
- (2) In every case in which such duty is directed to be levied ad valorem, the President of the Union may, by notification, determine the manner in which the value is to be ascertained.
36. On all teak timber cut within the limits of the Ataran forest and floated down the Ataran River, duty shall be levied at the following rates, that is to say-

				Rs	A.	P.
On logs above 5 feet in girth	...	...	...	4	0	0 per log.
On logs below 5 feet in girth.	...	...	...	2	0	0 „ „
On stem pieces	...	...	...	0	9	0 „ piece
On ship crooks	...	...	...	0	4	0 „ crook.

These rates shall not apply to timber for which special rates have been fixed by any agreement entered into with the Government.

37. The President of the Union may exempt any forest-produce from the duty to which it is liable under section 35 or section 36.
38. Nothing in this Chapter shall be deemed to limit, the amount, if any, chargeable as purchase-money or royalty in respect of any forest-produce.

CHAPTER V.

CONTROL OF FOREST-PRODUCE IN TRANSIT, ETC.

General Control of Forest-produce in Transit, etc.

39. (1) The control of all rivers and their banks as regards the floating of timber, as well as the control of all forest-produce in transit by land or water, is vested in the State, and the President of the Union may make rules to regulate the transit of any forest-produce.

- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may-
- (a) prescribe the routes by which alone forest-produce may be imported into, exported from or moved within the territories to which this Act extends ;
 - (b) prohibit the import, export, collection or moving of forest-produce without a pass from an officer authorized to issue the same, or otherwise than in accordance with the conditions of such pass ;
 - (c) provide for the issue, production and return of such passes;
 - (d) fix the fees payable for such passes;
 - (e) in the case of timber formed into a raft or fastened to the shore, prohibit the loosening or the setting adrift of such timber by any person not the owner thereof or not acting on behalf of such owner or of the Government ;
 - (f) provide for the stoppage, reporting, examination and marking of forest-produce in transit in respect of which there is reason to believe that any money is payable to the Government, or to which it is desirable, for the purposes of this Act, to affix a mark ;
 - (g) establish revenue-stations to which forest-produce is to be taken by the persons in charge of it for examination, or for the realization of such money, or in order that such mark may be affixed to it, and prescribe the conditions under which forest-produce is to be brought to, stored at, and removed from, such revenue-stations;
 - (h) provide for the management and control of such revenue-stations, and for regulating the appointment and duties of persons employed thereat ;
 - (i) authorize the transport of timber, the property of the State, across any lane), and provide for the award and payment of compensation for any damage done by the transport of such timber ;

- (J) prohibit the closing up or obstruction of the channel or banks of any river used for the transit of forest-produce, and the throwing of forest-produce, grass, brushwood, branches or leaves into any such river, or any other act which tends to cause the obstruction of such channel ;
 - (k) provide for the prevention and removal of any obstruction in the channel or on the banks of any such river, and for recovering the cost of such prevention or removal from the person causing such obstruction ;
 - (l) prohibit, absolutely or subject to conditions, within specified local limits, the establishment of sawmills or sawpits, the converting, cutting, burning, concealing, marking or super-marking of timber, the altering or effacing of any property-marks or classification-marks on the same, and the possession of marking hammers or other implements used for marking timber ;
 - (m) regulate the use of marks for timber and the registration of such marks, authorize the refusal or cancellation of the registration of such marks, prescribe the time for which the registration of such marks is to hold good, limit the number of such marks which may be registered by any one person, and provide for the levy of fees for such registration; and
 - (n) provide for the issue of licenses to be in possession of marking hammers and for the levy of fees for such licenses:
- (3) The President of the Union may, by a rule under this section, attach to the breach of any rule under this section any punishment not exceeding imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.
- (4) The President of the Union may direct that any rule made under this section shall not apply to any specified class of forest-produce or to any specified local area.

Collection of Drift, Stranded and Other Timber.

40. (1) The President of the Union may, by notification, prescribe or empower a Forest-officer to prescribe, for any river rafting stations, below which timber shall not be allowed to float except when joined together in rafts.
- (2) Timber afloat on any river below a rafting station, otherwise than in rafts under control, shall be deemed to be "adrift".
- (3) Timber falling under any of the following descriptions, namely,-
- (a) timber, including timber in rafts not under control, found adrift, beached, stranded or sunk,
 - (b) timber bearing marks which have not been registered under rules made under section 39,
 - (c) timber which has been super-marked, or on which marks have been obliterated, altered or defaced by fire or otherwise, and
 - (d) in such areas as the President of the Union by notification directs, all unmarked timber, shall be deemed to be the property of the Government unless and until any person establishes his right thereto as provided in this Chapter.
- (4) Such timber may be collected by any Forest-officer or other person authorized by rule made under section 45 or by special order of a Forest-officer specially empowered in this behalf to collect the same, and may be brought to such stations as the Conservator may from time to time notify as stations for the reception of drift timber.
- (5) The President of the Union may by notification, exempt any class of timber from the provisions of this section.
41. (1) Public notice shall from time to time, as occasion may require, be given by a Forest-officer specially empowered in this behalf of timber collected under the last foregoing section.
- (2) Such notice shall contain a description of the timber, and shall require any person claiming the same to present to such officer, within a period not

less than one month from the date on which such notice is given, a written statement of such claim.

42. (1) When any such statement is presented as aforesaid, the Forest-officer may, after making such inquiry as he thinks fit, either reject the claim after recording his reasons for so doing, or deliver the timber to the claimant.
- (2) If such timber is claimed by more than one person, the Forest-officer may either deliver the same to any of such persons whom he deems entitled thereto, or may refer the claimants to the civil Court and retain the timber pending the receipt of an order from such Court for its disposal.
- (3) Any person whose claim has been rejected under this section may, within six months from the date of such rejection, institute a suit to recover possession of the timber claimed by him, but no person shall recover any compensation against the Government or against any Forest-officer on account of such rejection, or the detention or removal of any timber, or the delivery thereof to any other person under this section.
- (4) No such timber shall be subject to the process of any civil Court until it has been delivered or until a suit brought under this section has been decided.
- (5) Every suit instituted under this section shall be subject to the provisions of section 80 of the Code of Civil Procedure:

Provided that the notice required by the said provisions shall be given within three months from the date of the rejection, under sub-section (1) of the intending plaintiff's claim.

43. Where no statement is presented in the manner within the period prescribed by notice issued under section 41, or where such statement having been so presented and the claim rejected, the claimant omits to institute a suit to recover possession of such timber within the further period mentioned in section 42, the ownership of such timber shall vest in the State free from all incumbrances, or, when such timber has been delivered to another person under section 42, in such other person free from all incumbrances not created by him.

44. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until such sum as may be due for salving, collecting, moving, storing and disposing of the timber has been paid by him to the Forest-officer or other person entitled to receive the same.

45. (1) The President of the Union may make rules to regulate the following matters, namely :-

- (a) the salving, collection and disposal of all timber mentioned in section 40 ;
- (b) the use and registration of boats used in salving and collecting timber;
- (c) the amount to be paid for salving, collecting, moving, storing and disposing of such timber ; and
- (d) the manner of publication of public notices under section 41.

(2) The President of the Union may, by a rule under this section, attach to the breach of any rule under this section any punishment not exceeding imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

CHAPTER VI.

PENALTIES AND PROCEDURE.

Police-powers, etc. and Protection and Seizure of Property

46. Every Forest-officer and every police-officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offence.

47. (1) Any Forest-officer or police-officer may, without orders from a Magistrate and without a warrant, arrest any person reasonably suspected of having been concerned in any forest-offence punishable with imprisonment for one month or upwards, if such person refuses to give his name and residence, or gives a name or residence which there is reason to believe to be false, or if there is reason to believe that he will abscond.

(2) Every officer making an arrest under sub-section (1) shall, without unnecessary delay, take or send the person arrested before a Magistrate

having jurisdiction in the case or to the officer in charge of the nearest police-station.

48. (1) When there is reason to believe that a forest-offence has been committed in respect of any forester introduce, such produce, together with all tools, boats, carts and cattle used in the commission of such offence, may be seized by any Forest-officer or police-officer.
- (2) Every officer seizing any property under this section shall place on such property, or the receptacle, if any, in which it is contained, a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made :

Provided that, when the forest-produce with respect to which such offence is believed to have been committed is the property of the State and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

49. Cattle trespassing in a reserved forest shall be deemed to be cattle doing damage to a public plantation within the meaning of section 11 of the Cattle-Trespass Act, and may be seized and Impounded as such by any Forest-officer, or officer of police as defined in the said Act.

50. Every person who exercises any right in a reserved forest, or who is permitted to remove any forest-produce from, or to pasture cattle, or practice shifting cultivation in, such forest, and every person who is employed by such person in such forest, and every person in any village contiguous to such forest who is employed by the Government, or who receives emoluments from the Government for services to be performed to the community, shall be bound to furnish, without unnecessary delay, to the nearest Forest-officer or police-officer, any information which he may possess respecting the occurrence of a fire in or near such forest, or the commission of or intention to commit any forest-offence ;

and shall assist any Forest-officer or police officer-

- (a) in extinguishing any fire occurring in such forest; and

- (b) in preventing any fire which may occur in the vicinity of such forest from spreading to such forest; and shall assist any Forest-officer or police-officer demanding his aid;
- (c) in preventing the commission in such forest of any forest-offence; and
- (d) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.

51. In case of any accident or emergency involving danger to any Property at a revenue-station, every person employed at such revenue-station, whether by the Government or by any private person, shall render assistance to any Forest-officer or police-officer demanding his aid in averting such danger and securing such property from damage or loss.

52. When, in any proceedings taken under this Act or in consequence of anything done under this Act, a question arises as to whether any forest-produce is the property of the State, such produce shall be presumed to be the property of the State until the contrary is proved.

53. Any evidence recorded by a Forest-officer under clause (d) of section 74 shall be admissible in any subsequent inquiry or trial before a Magistrate or Court, provided that it has been taken in the presence of the accused person and recorded in the manner provided by section 355, section 356 or section 357 of the Code of Criminal Procedure.

Penalties.

54. Subject to the provisions of section 28, whoever in a reserved forest-
- (a) trespasses, or pastures cattle, or permits cattle to trespass, or
 - (b) causes any damage by negligence in felling any tree or cutting or dragging any timber, shall be punishable with fine which may extend to fifty rupees, or, when the damage resulting from his offence amounts to more than twenty-five rupees, to double the amount of such damage.
55. Subject to the provisions of section 28, whoever-
- (a) makes any fresh clearing or does any other act in contravention of section 7, or

- (b) sets fire to a reserved forest, or, in contravention of any rules made by the President of the Union, kindles any fire, or leaves any fire burning, in such manner as to endanger such a forest, or in a reserved forest;
- (c) kindles, keeps, or carries any fire except at such seasons and in such manner as a Forest-officer specially empowered in this behalf may from time to time notify, or
- (d) fells, cuts, girdles marks, lops or taps any tree or injures by fire or otherwise any tree or timber, or
- (e) quarries stone, burns lime or charcoal, or collects, subjects to any manufacturing process or removes any forest-produce, or (1) clears or breaks up any land for cultivation or any other purpose, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to [two thousand]¹ rupees, or with both-

56. Whenever fire is caused willfully or by gross negligence in a reserved forest by any person having rights in such forest or permission to practice shifting cultivation therein, or by any person in his employment, or whenever any persons having rights in such forest contravenes the provisions of section 24, the President of the Union may, notwithstanding that a penalty has been inflicted under section 55 in respect of such fire, direct that in such forest or any specified portion thereof ten exercise of all or any of such rights shall be extinguished, or be suspended for such period as he thinks fit, and may withdraw any permission to practice shifting cultivation in such forest or, portion thereof.

57. The President of the Union may, by notification, direct that, in lieu of the fines fixed by section 12 of the Cattle-Trespass Act, there shall be levied for each head of cattle impounded under section 49 of this Act such fines as he thinks fit, but not exceeding the following, namely :-

						Ks.	A.	P.
For each elephant	...	...	...	...	...	10	0	0
For each buffalo	...	...	...	...	...	2	0	0
For each horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow								

¹ Substituted by Act XXXII, 1948.

or heifer	...	...	...	...	...	1	0	0
For each calf, ass, pig, ram, ewe, sheep, Lamb, goat or kid					...	0	8	0

58. Whoever fells, cuts, girdles, milks, lops or taps any reserved tree or injures by fire or otherwise any reserved tree or the timber of any such tree, except in accordance with rules made by the President of the Union in that behalf or as permitted under the provisions of section 34, shall be punishable-

- (a) if the offence has been committed in respect of a teak or any other reserved tree, or the timber of any such tree, standing or found on land at the disposal of the State, with imprisonment which may extend to six months, or fine which may extend to [two thousand]¹ rupees, or with both; or
- (b) if the offence has been committed in respect of a teak tree or teak timber standing or found on land not at the disposal of the State, with fine which may extend to twenty rupees, or, when the damage resulting from his offence amounts to more than ten rupees, to double the amount of such damage.

59. (1) Whoever-

- (a) except as permitted by section 34, commits a breach of any rule made by the President of the Union under section 33, to which a penalty has been attached by a rule made under the provisions of that section ; or
- (b) commits a breach of any rule made by the President of the Union under section 39, to which a penalty has been attached by a rule made under the provisions of sub-section (3) of that section; or
- (c) commits a breach of any rule made by the President of the Union under section 45, to which a penalty has been attached by a rule made under the provisions of that section; or
- (d) commits a breach of any rule made by the President of the Union under section 77, to which a penalty has been attached by a rule made under the provisions of that section;

¹ Substituted by Act XXXII, 1948

shall be liable to the punishment prescribed therefor in such rule.

- (2) If an offence referred to in clause (b) of sub-section (1) is committed-
 - (i) after sunset and before sunrise, or
 - (ii) after preparation for resistance to the execution of any law or any legal process, or
 - (iii) after a previous conviction of the offender for a like offence, the convicting Court may inflict double the penalty prescribed for such offence.
60. (1) Whoever, being a Forest-officer or police-officer, vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.
- (2) Any fine imposed under sub-section (1), or any portion thereof, shall, if the convicting Court so directs, be given as compensation to the person aggrieved by such seizure.
61. Whoever, with intent to cause damage or injury to the public or to any person or to cause wrongful gain as defined in the Penal Code,-
- (a) knowingly counterfeits upon any tree or timber, or has in his possession any implement for counterfeiting, a mark used by Forest-officers to indicate that such tree or timber is the property of the Slate or of some person, or, that it may lawfully be felled or removed by some person, or
 - (b) unlawfully affixes to any tree or timber a mark used by Forest-officers, or
 - (c) alters, defaces, or obliterates any such mark placed on any tree or timber by or under the authority of a Forest-officer, or
 - (d) alters, moves, destroys or defaces any boundary-mark of any forest-land to which any provisions of this Act apply, shall be punishable

with imprisonment for a term which may extend to two years, or with fine, or with both.

Compounding of, and Compensation for Forest-offences.

62. (1)¹ The President of the Union may, by notification, empower a Forest officer in charge of a range or ranges, a Forest-ranger, or any Forest-officer of higher rank,-
- (a) to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence, other than an offence specified in section 60 or section. 61, a sum of money not exceeding [five hundred]² rupees by way of compensation for the offence which such person is suspected to have committed, and
 - (b) when any property has been seized as liable to confiscation, to release the same on payment of [a sum of money equivalent to double of the value]² thereof as estimated by such officer.
- (2) On the payment of such [Sum or sums of money]², as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property.
63. (1) When any person is convicted of felling, cutting, girdling, marking, lopping or tapping trees or timber, or of injuring them by fire or otherwise, in contravention of this Act, the convicting Court [shall]², in addition to any other punishment which it may award, order that person to pay to the Government such compensation [not exceeding fifty rupees for each tree or log of timber with respect to which the offence was committed, as it deems just, or as is equivalent to the value of the damage resulting from such offence, whichever is higher.]²
- (2) If the person convicted of the offence committed it as the agent or servant of another person, the convicting Court may, unless after hearing that

¹ Substituted by Act XVIII, 1947

² Substituted by Act XXXII, 1948

other person it is satisfied that the commission of the offence was not a consequence of his instigation or of any neglect or default on his part, order him, instead of the person who committed the Offence, to pay the compensation referred to in sub-section (1).

- (3) An appeal from any order under sub-section (1) or sub-section (2) shall lie to the Court to which orders made by the convicting Court are ordinarily appealable, and the order passed on such appeal shall be final.

Disposal of Property Seized.

64. (1) When any person is convicted of a forest-offence, all forest-produce which is not the property of the State and in respect of which such offence has been committed, and all tools, boats, carts and cattle used in the commission of such offence, shall be liable, by order of the convicting Court, to confiscation.

- (2) Such confiscation may be in addition to any other penalty prescribed for such offence.

65. When the trial of any forest-offence is concluded any forest-produce in respect of which such offence has been committed shall, if it is the property of the State or has been confiscated, be taken possession of by a Forest-officer specially empowered in this behalf, and, in any other case, may be disposed of in such manner as the Court may order.

66. (1) When the offender is not known or cannot be found, the Magistrate inquiring into the offence, if he finds that an offence has been committed, may, on application in this behalf, order the property in respect of which the offence has been committed to be confiscated and taken possession of by a Forest-officer specially empowered in this behalf, or to be made over to such Forest-officer or other person as the Magistrate considers entitled to the same:

Provided that no such order shall be made till the expiration of one month from the date of the seizure of such property, or without hearing the person, if any, claiming

any right thereto, and the evidence, if any, which he may produce in support of his claim.

- (2) The Magistrate shall either cause a notice of any application under subsection (1) to be served upon any person whom he has reason to believe to be interested in the property seized, or publish such notice in any way which he thinks fit.

67. The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section 48 and subject to speedy and natural decay, and may deal with the proceeds as he might have dealt with such property, if it had not been sold.

68. Any person claiming to be interested in property seized under section 48 may, within one month from the date of any order passed by a Magistrate under section 64, section 65 or section 66 present an appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

69. When an order for the confiscation of any property has been passed under section 64 or section 66 and the period limited by section 68 for presenting an appeal from such order has elapsed and no such appeal has been presented, or when, on such an appeal being presented, the appellate Court confirms such order in respect of the whole or a portion of such property, such property or portion, as the case may be, shall vest in the State free from all encumbrances.

70. Notwithstanding anything hereinbefore contained, any Forest-officer empowered in this behalf by the President of the Union may direct at any time the immediate release of any property seized under section 48 which is not the property of the State and the withdrawal of any charge made in respect of such property.

Recovery of Money under Act.

71. All money, other than fines, payable to the Government under this Act, or on account of the price of any forest-produce or of expenses incurred in the* execution of this Act in respect of any forest-produce, may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of revenue.

66. (1) When the offender is not known or cannot be found, the Magistrate inquiring into the offence, if he finds that an offence has been committed, may, on application in this behalf, order the property in respect of which the offence has been committed to be confiscated and taken possession of by a Forest-officer specially empowered in this behalf, or to be made over to such Forest-officer or other person as the Magistrate considers entitled to the same:

Provided that no such order shall be made till the expiration of one month from the date of the seizure of such property, or without hearing the person, if any, claiming any right thereto, and the evidence, if any, which he may produce in support of his claim.

- (2) The Magistrate shall either cause a notice of any application under subsection (1) to be served upon any person whom he has reason to believe to be interested in the property seized, or publish such notice in any way which he thinks fit.

67. The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section 48 and subject to speedy and natural decay, and may deal with the proceeds as he might have dealt with such property, if it had not been sold.

68. Any person claiming to be interested in property seized under section 48 may, within one month from the date of any order passed by a Magistrate under section 64, section 65 or section 66 present an appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

69. When an order for the confiscation of any property has been passed under section 64 or section 66 and the period limited by section 68 for presenting an appeal from such order has elapsed and no such appeal has been presented, or when, on such an appeal being presented, the appellate Court confirms such order in respect of the whole or a portion of such property, such property or portion, as the case may be, shall vest in the State free from all incumbrances.

70. Notwithstanding anything hereinbefore contained, any Forest-officer empowered in this behalf by the President of the Union may direct at any time the immediate release of any property seized under section 48 which is not the property of the State and the withdrawal of any charge made in respect of such property.

Recovery of Money under Act.

71. All money, other than fines, payable to the Government under this Act, or on account of the price of any forest-produce or of expenses incurred in the* execution of this Act in respect of any forest-produce, may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of revenue.

72. (1) When any such money as is referred to in the last foregoing section is payable for, or in respect of, any forest-produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by a Forest-officer specially empowered in this behalf and may be retained by him until such amount has been paid.

(2) If the amount is not paid when due, such Forest-officer may sell the produce by public auction, and the proceeds of the sale shall be applied first in discharging such amount.

(3) The surplus, if any, if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to the State.

73. When any person, in compliance with any rule under this Act, binds himself by any instrument to perform any duty or act, or covenants by any instrument that he, or that he and his servants and agents, will abstain from any act, the whole sum mentioned in such instrument as the amount to be paid in case of a breach of the conditions thereof may, notwithstanding anything in section 74 of the Contract Act, be recovered from him in case of such breach as if it were an arrear of revenue.

CHAPTER VII.

FOREST-OFFICERS.

74. The President of the Union may invest any Forest-officer with all or any of the following powers, to be exercised for the purpose of this Act, namely

(a) the powers of a Demarcation-officer under the Boundaries Act;

- (b) the powers of a civil Court to compel the attendance of witnesses and production of documents;
- (c) power to issue search-warrants under the Code of Criminal Procedure ;
- (d) power to hold inquiries into forest-offences, and in the course of such inquiries to receive and record evidence ;
- (e) power to notify the seasons and manner in which fire may be kindled, kept or carried in a reserved forest;
- (f) power to grant any permission referred to in sections 28 and 34 ;
- (g) power to notify stations for the reception of drift-timber ;
- (h) power to give public notice of timber collected under section 40; (0 power to take possession of property under this Act *,
- (i) power to direct the release of property or withdrawal of charges.

75. All Forest-officers shall be deemed to be public servants within the meaning of the Penal Code.

76. No Forest-officer shall, as principal or agent, trade in forest-produce, or be or become interested in any lease or mortgage of any forest or forest-produce or in any contract for working any forest, whether in the Union of Burma or foreign territory.

CHAPTER VIII.

SUPPLEMENTAL PROVISIONS.

Rules

77. (1) In addition to the powers hereinbefore conferred, the President of the Union may make rules to carry out the objects and purposes of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may-
- (a) declare by what Forest-officer or class of Forest-officers the powers or duties conferred or imposed by or under this Act on a Forest-officer are to be exercised or performed;
 - (b) regulate the procedure of Forest-settlement-officers; he rewards to be paid to officers and informers from the proceeds of fines and confiscations under this Act or from the I public treasury ; and

(c) provide for the issue, production and return of licenses for regulating any matter provided for in this Act and fix the fees payable for such licenses.

(3) The President of the Union may, by a rule under this section, attach to the breach of any rule under this section any punishment not exceeding imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

78. All rules made by the President of the Union under this Act shall be published in the Gazette, and shall thereupon have the same effect as if enacted by this Act-

Limitation of Proceedings.

79. No suit or criminal prosecution shall lie against any public servant - for anything done under this Act, or in good faith intended to be done under this Act.

80. The Government shall not be responsible for any loss or damage which may occur in respect of any forest-produce while at a revenue-station, or while detained elsewhere for the purposes of this Act, or in respect of any timber collected under section 40; and no Forest-officer or Police-officer shall be responsible for any such loss or damage unless he causes the same negligently, maliciously or fraudulently.

81. Whenever it appeals to the President of the Union that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of section 4 of the Land Acquisition Act.

Saving of Rights of Profit.

82. Nothing in the Land and Revenue Act shall be deemed to affect, or ever to have affected, any right by which one person is entitled to remove and appropriate for his own profit any part of the soil belonging to another person or to the State, or anything growing in or attached to, or subsisting upon, the land of another person or of the State.

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