

To be construed with Ord. 9 of 1931. Ord.  
9 of 1933.

## CHAPTER 176.

### FORESTRY.

[No. XXIX of 1927.]

[22nd October, 1927.]

Short title.

1. This Ordinance may be cited as the Forestry Ordinance.

Interpretation.

2. In this Ordinance, unless the context otherwise requires,—

“ Conservator ” means anyone holding the office of Conservator of Forests;

“ constable ” means any member of the police force;

“ district commissioner ” means anyone holding the office of commissioner in charge of any district of the colony;

“ forest offence ” means any contravention of the provisions of this Ordinance or of any regulations made hereunder;

“ forest officer ” means anyone whom the Governor, or any person empowered by the Governor, from time to time appoints by name, or as holding an office, to carry out all or any of the purposes of this Ordinance, or to do anything hereby, or by any regulations made hereunder, required to be done by a forest officer;

“ forest produce ” includes—

(a) timber or lumber, firewood, charcoal, bark and extracts of bark, and the following when derived from wild-growing trees or plants: fruit, oils, balata, rubber, and other latex, gums, resins, spices, tanstuffs, dyestuffs, drugs, leaves, fibres, flosses, thatching materials and orchids;

(b) the following when found in or brought from a forest reserve: trees, plants, and all parts and produce of trees and plants, grasses, wild animals and skins, shells, tusks, horns, bones,



silk cocoons, and all other parts and produce of animals, soil, peat, rock, sand, and any products of mines and quarries from time to time declared by the Governor in Council to be forest produce;

“ timber ” or “ lumber ” 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;

“ trees ” includes shrubs, bushes, palms, bamboos, creepers, climbers, canes, stumps, seedlings, saplings, and coppice shoots;

“ river ” includes streams, canals, creeks, reservoirs, lakes, ponds and other channels, natural and artificial.

3. Where the Governor in Council, after such inquiry as may be necessary, is satisfied that any part of Crown land should become a forest reserve, and that the rights and privileges (if any) of private persons in respect of that land have been satisfactorily defined and recorded, he may, by proclamation published in the Gazette, declare the land to be a forest reserve and from time to time vary or revoke the proclamation.

Power to declare forest reserves.

4. No right of any description shall be acquired in or over a forest reserve except by succession, or under a grant, lease, or contract in writing made by or on behalf of the Governor, or of someone in whom that right was vested at the time of proclamation of the forest reserve.

No right acquired over forest reserves except as herein provided.

5.—(1) The Governor in Council may make regulations for the further, better, or more convenient, attainment of any of the purposes of this Ordinance, and (without derogating from the generality of the power above conferred) in particular with respect to the following matters:—

Regulations for the protection of forest areas :

(a) the protection of trees and forest produce in or upon any forest reserve or other area of Crown land, and the prohibition of any person, as regards that reserve or area, from—

(i) felling, girdling, lopping, tapping, bleeding, burning, injuring or removing any tree or timber;

(ii) squatting, residing, building huts or cattle enclosures;



- (iii) setting fire to any grass or undergrowth, or kindling or carrying any fire, or leaving any fire burning in a manner endangering trees or forest produce;
- (iv) grazing or pasturing cattle, or permitting cattle to trespass;
- (v) hunting, shooting, fishing, trapping, poisoning water, or using explosives to destroy fish;
- (vi) clearing, cultivating, or breaking up land for cultivation or other purposes;
- (vii) quarrying stone, burning lime or charcoal, or collecting, manufacturing, or removing any forest produce;
- (viii) constructing any dam or weir across any river or otherwise obstructing the channel of any river;

except at the seasons and upon the terms and conditions, and upon payment of the fees and royalties from time to time prescribed, but nothing in any regulation made under this paragraph shall be deemed to prohibit any act done in exercise of a right recognised and recorded in respect of a forest reserve, or with the permission in writing of the Conservator or of any forest officer empowered to grant the permission.

- (b) the regulation of the transport by land or water of any forest produce in transit, and—
  - (i) prescribing the routes by which alone timber or other forest produce may be imported, exported, or moved into, from, or within, the colony;
  - (ii) prohibiting the import and export into or from the colony, or removal, of that timber or other produce, without a pass from an officer duly authorised to issue the same, or otherwise than in accordance with the conditions of the pass, and empowering that officer to withhold the pass if necessary;
  - (iii) providing for the issue, production, and return of the passes and for the payment of fees therefor;
  - (iv) providing for the stoppage, reporting, examination, and marking of timber



- or other forest produce in transit, in respect of which there is reason to believe that any money is payable to the Government on account of the price thereof, or on account of any duty, fee, royalty, or charge due thereon, or to which it is desirable for the purposes of this Ordinance to affix a mark;
- (v) providing for the establishment and regulation of the dépôts to which the timber or other produce shall be taken for examination, or for the payment of the money or in order that the marks may be affixed thereto, and the conditions under which the timber or other produce shall be brought to, stored at, and removed from the dépôts;
  - (vi) prohibiting the closing or obstructing the channel or banks of any river used for the transit of timber or other forest produce, and the throwing of grass, brushwood, branches, and leaves into that river or any act which may cause it to be closed or obstructed;
  - (vii) providing for the prevention and removal of any obstruction of the channel or banks of that river, and for recovering the cost of the prevention or removal from the person whose acts or negligence necessitated it;
  - (viii) prohibiting absolutely, or subject to conditions within specified local limits, the establishment of sawpits, the converting, cutting, burning, concealing, or marking of timber, the altering, super-marking, or effacing of any marks thereon, and the possession or carriage of marking hammers or other implements used for marking timber;
  - (ix) regulating the use of property marks for timber, and their registration; prescribing the time for which the registration shall hold good; limiting the number of the marks that may be



registered by any one person, and providing for the levy of fees for the registration.

(2) The Governor in Council may direct that any regulation made under paragraph (b) of the last preceding sub-section shall not apply to any specified class of timber or other produce, or to any specified local area.

(3) (a) The Governor in Council may fix any penalties he thinks proper for the contravention of any regulation made under this Ordinance, not exceeding a fine of five hundred dollars or imprisonment with or without hard labour not exceeding six months, or both the fine and imprisonment; and the court may, in addition, order the forfeiture of any licence granted under the provisions of this Ordinance or of any regulation made hereunder, and of any forest produce in respect whereof a forest offence has been committed.

(b) Where no penalty is imposed by the regulations the contravention of a regulation shall be punishable to the extent aforesaid.

(c) The minimum penalty which may be imposed shall be not less than one-tenth of the maximum penalty.

(4) All regulations made by the Governor in Council under the provisions of this Ordinance shall be of the same effect as if herein contained :

Proviso.

Provided that within a period of three months from the date of publication the Legislative Council shall have power by resolution to order the rescission of any regulation or part thereof so made, and that regulation or part thereof shall cease to be valid after thirty days from the date of the resolution.

Certain kinds of timber to be deemed government property.

6.—(1) All timber found adrift, beached, stranded, or sunk; all timber bearing marks which have not been registered under the last preceding section, or on which the marks have been obliterated, altered, supermarked, or defaced by fire or otherwise, and in such areas as the Governor in Council directs all unmarked timber, shall be deemed to be the property of the Crown unless and until anyone establishes his right and title thereto, and may be collected by any forest officer or other person duly authorised and brought to the dépôts from time to time notified by the forest officer as dépôts for the reception of drift timber.

(2) The Governor in Council may by notification in the Gazette exempt any class of timber from the provisions of this section and withdraw the exemption.



7. All forest offences shall be punishable on summary conviction. Punishment of forest offences.

8. All informations for penalties incurred under this Ordinance shall be laid within two years after the offence has been committed. Informations.

9. All money payable under this Ordinance or under any rule made hereunder, or on account of the price of any forest produce, or of expenses incurred in the execution hereof in respect of that produce, may, if not paid when due, be recovered either as a civil debt or by the procedure laid down in any Ordinance for the time being in force for the recovery of arrears of revenue payable. Recovery of money due to the Crown.

10.—(1) When an offender has been convicted of a forest offence the court may, in addition to any other penalty, assess the amount of damage caused by the offender, and cause it to be recovered as if it were a fine, or, in the case of unauthorised establishments, buildings, enclosures, huts, or standing crops on Crown land, may order their removal within a fixed period and the restoration of the places as nearly as possible to their previous condition; and, if the removal has not been effected within the period fixed as aforesaid, all those establishments, buildings, enclosures, huts, or standing crops, shall become the property of the Crown and may be disposed of by the Conservator with the approval of the Governor in Council in any manner deemed proper. Court may assess and order payment of damage.

(2) If the person convicted of the offence committed it as the agent or servant of another, the convicting court may, unless after hearing the 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 amount of damage assessed in accordance with sub-section (1) of this section.

11. Whenever any district commissioner, forest officer, or constable, has a reasonable suspicion that anyone has been guilty of a forest offence, or is in possession of forest produce in respect of which a forest offence has been committed, he may search that person, or any baggage, parcel, conveyance, tent, or building under the control of the person or his agent or servant, and if the district commissioner, Search and seizure of forest produce.



forest officer, or constable finds any forest produce, he may, if he has reason to believe that a forest offence has been committed in respect thereof, seize the forest produce and take it before a magistrate to be dealt with as provided by this Ordinance.

Unlawful possession of forest produce.

Penalty.

12. Anyone who receives, or is found in possession of, any forest produce with respect to which a forest offence has been committed shall, unless he can account for the possession or show that he came by that produce innocently and without knowledge of the offence, be guilty of an offence and be liable to a fine not exceeding five hundred dollars, or to imprisonment with or without hard labour for a period not exceeding six months, or to both that fine or imprisonment, and the forest produce shall be liable to forfeiture.

Arrest without warrant of persons suspected of offence.

13.—(1) Any forest officer or constable may without warrant arrest anyone reasonably suspected of having been concerned in a forest offence, if the accused person refuses to give his name and residence, or gives a name and residence reasonably believed to be false, or if there is ground for belief that he will abscond.

(2) Everyone making an arrest under this section shall without unnecessary delay take or send the person so arrested before the nearest magistrate, or to the constable in charge of the nearest police station.

Presumption of ownership.

14. When in any proceedings under this Ordinance a question arises as to whether any tree or forest produce is the property of the Crown, or whether the land is Crown land, the tree or forest produce shall be presumed to be the property of the Crown and the land to be Crown land until the contrary is proved.

Questions of title :

15. If in any proceedings under this Ordinance any question arises as to the title to any private land in respect of which the proceedings are taken, the court or officer having jurisdiction to entertain or adjudicate upon the proceedings shall, for the purposes thereof, have jurisdiction to try and determine the question of title :

Proviso.

Provided that the judgement or decision of the court or officer shall not be received as evidence of title or pleaded in bar in any civil suit or proceedings wherein the title to the land may be put in issue.



16. Anyone who commits, or aids or abets the person who commits, any of the following offences, namely,—

- Penalty for counterfeiting, defacing or removing marks.
- (a) counterfeits upon any tree or forest produce any mark used under authority of this Ordinance or of regulations made hereunder to indicate that the tree or produce is the property of the Crown or of someone, or that it may be lawfully cut or removed;
  - (b) counterfeits or issues without due authority any licence, permit, or pass, for the cutting, removal, or sale of trees or forest produce;
  - (c) alters, obliterates, or defaces any stamp, mark, sign, licence, permit, or pass, used or issued by a forest officer or under authority of this Ordinance;
  - (d) alters, moves, destroys, or defaces any boundary mark of any forest or land to which the provisions of this Ordinance are applied,

shall be liable to a penalty not exceeding five hundred dollars, or to imprisonment with or without hard labour not exceeding six months, or to both the penalty and imprisonment.

17. Nothing in this Ordinance shall be deemed to prevent anyone from being prosecuted under any other law for an act or omission which constitutes a forest offence, or from being liable under that other law to any higher punishment or penalty than is provided by this Ordinance, but no one shall be punished twice for the same offence.

Penalties under Ordinance not substituted for others, but no conviction twice for the same offence.

18. Nothing contained in this Ordinance shall take away, or interfere with, the right of the Crown or of anyone to sue for and recover at common law or otherwise compensation for or in respect of damage or injury caused by a forest offence.

Civil remedy reserved.

~~19. The court may award any amount not exceeding one-half of the fine imposed for a forest offence to the person who has supplied information leading to the conviction of an offender.~~

Share of fine may be paid to informer.

*Repealed*  
*Sec: 4*  
*Ord:*  
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20. Any forest produce forfeited under this Ordinance shall be sold or otherwise disposed of as the Governor in Council by general or special order directs.

Disposal of forest produce.



Powers of  
forest  
officers.

21.—(1) The Governor in Council, by proclamation published in the Gazette, may from time to time empower a forest officer by name, or as holding an office,—

- (a) to accept from anyone against whom a reasonable suspicion exists that he has committed any forest offence, other than an offence specified in section sixteen hereof, a sum of money, in no case to exceed fifty dollars, by way of compensation for the offence he is suspected to have committed;
- (b) to seize any forest produce in respect of which there is reason to believe that a forest offence has been committed, provided a report of the seizure is made without avoidable delay to the magistrate having jurisdiction;
- (c) to release any forest produce seized under paragraph (b) of this section, or under section eleven hereof, either on payment of its value as estimated by the officer, or on the execution by its owner of a bond for the production of the property so released, if and when so required, before a magistrate, or, if the offence is compoundable under paragraph (a) of this section, before an officer empowered under that paragraph to accept compensation;
- (d) to release anyone arrested under the provisions of section eleven hereof upon his entering into recognisance to appear before a magistrate;
- (e) to enter upon any land and to survey, demarcate and make a map thereof;
- (f) to hold an inquiry into forest offences and, in the course of the inquiry, to receive and record evidence.

(2) Any evidence recorded under paragraph (f) of this section shall be admissible in any subsequent trial before a magistrate if it has been taken in the presence of the accused person.

(3) Nothing herein contained shall be deemed to prevent any forest officer empowered under paragraph (a) of sub-section (1) of this section to compound forest offences, or any other officer empowered in that behalf by the Governor, from directing—

- (i) the release of any property seized under paragraph (b) of that sub-section, provided the release is ordered before the property is made an exhibit in the magistrates' court; and



(ii) the withdrawal of any charge made relating to the property.

**22.** Any forest officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Ordinance shall be liable to imprisonment with or without hard labour for a term not exceeding six months, or to a fine not exceeding five hundred dollars, or to both the imprisonment and fine.

Penalty for vexatious seizure of property.

**23.** When anyone, in accordance with any provision of this Ordinance or in compliance with any regulation hereunder, binds himself by bond or instrument to perform any duty or act, or to abstain from any act, the whole sum mentioned in the bond or instrument as the amount to be paid in case of a breach of the conditions thereof may, in case of the breach and notwithstanding any enactment to the contrary, be recovered from him or from his surety or sureties.

Recovery of sums due under bond.

**24.** No suit shall lie against any public officer or other person for anything done by him in good faith in the execution or intended execution of his duties or powers under this Ordinance.

Acts done in good faith.

**25.** Everyone who obstructs any forest officer or person acting under the provisions of this Ordinance shall be guilty of an offence and on conviction thereof be liable to a penalty not exceeding fifty dollars, or to imprisonment with or without hard labour for any term not exceeding two months.

Penalty for obstructing officer.

**26.** Nothing in this Ordinance shall be construed to prejudice, alter, or affect any right or privilege heretofore legally possessed, exercised, or enjoyed, by any aboriginal Indian in the colony:

Protection of rights of aboriginal Indians:

Provided that the Government from time to time by publication in the Gazette may make any regulations to him seeming meet defining the privileges and rights to be enjoyed by aboriginal Indians in relation to the Crown forests.

Proviso.

### THE FOREST TRUST.

**27.** The management of the Crown forests of the colony, subject to the forest policy of the Government, shall be vested in a forest trust, hereinafter referred to as "the Trust."

Management of Crown forests.

See Ord 9 of 1931.



Definition  
and expen-  
diture of  
forest trust  
funds.

28. All moneys appropriated from the general revenue of the colony, or assigned under the provisions of any loan Ordinance for the development and maintenance of the forests of the colony, together with the income from any investment by the trust of those moneys, shall be termed forest trust funds, and their expenditure shall be at the discretion of the trust subject to the proviso that no expenditure in excess of one thousand dollars not provided for in the estimates hereafter mentioned shall be incurred without the approval of the Governor in Council.

Composition  
of the trust.

29.—(1) The trust shall be composed of the following persons, namely, the Colonial Secretary and the Conservator, and two persons (to be appointed by the Governor) holding office in the public service and four other persons not connected with the public service, two of whom shall be elected members of the Legislative Council.

(2) Appointed members shall hold office for three years but shall be eligible for re-appointment.

(3) The Colonial Secretary shall be chairman of the trust and shall preside at all meetings, but in his absence the senior official member shall act as chairman.

(4) The chairman of a meeting shall have an original and a casting vote.

(5) Three members including the presiding member shall form a quorum.

(6) The Governor may at any time revoke the appointment of any appointed member.

(7) If any appointed member—

- (a) departs from the colony without the leave of the Governor; or
- (b) remains out of the colony after the expiration of his leave; or
- (c) fails without reasonable excuse (the sufficiency whereof shall be determined by the Governor) to attend three consecutive meetings of the trust

he shall cease to be a member of the trust.

(8) A member of the trust who is an elected member of the Legislative Council shall cease to be a member of the trust if he ceases to be a member of Council.

(9) An appointed member may resign with the permission of the Governor.

See Ord. 98 (1931)



(10) When the Governor has given leave of absence to a member he may appoint an acting member in that member's place.

(11) The Conservator shall perform the duties of manager of the trust and, together with all officers subordinate to him, shall be deemed to be employed by and responsible to the trust, but nothing in the foregoing shall be held to affect his or their position as public officers.

See Ord. 9  
of 1931.

(12) The Governor may from time to time appoint a secretary and the necessary clerks.

(13) The trust may from time to time make rules for the conduct of its proceedings and, subject to the previous approval of the Secretary of State, for the upkeep and audit of its accounts.

~~30. (1) In pursuance of a resolution of the Combined Court No. XLI dated the thirteenth day of July, nineteen hundred and twenty-seven, there shall be appropriated from general revenue as a contribution to forest trust funds a sum of fifty thousand dollars in each financial year, and also, in any financial year when the forest revenue exceeds fifty thousand dollars, twenty per centum of that excess revenue, which amount shall increase annually by ten per centum until a maximum of fifty per centum of the excess revenue has been reached.~~

Annual appropriation of trust funds from general revenue.

See Ord. 9  
of 1931.

~~(2) In this section "forest revenue" includes all revenue received in respect of forest produce, whether as royalties, rents, licences, fees, permissions, registrations, or in any other way, with the exception of export tax, and also such other revenue as the Governor in Council may from time to time with the approval of the Legislative Council, determine to be general forest revenue.~~

31. The trust shall, on or before the first day of August in each year, prepare and submit to the Governor in Council a statement of the estimates of expenditure to be incurred for a period of one year commencing from the first day of January next ensuing, and the estimates, as approved by the Governor in Council, shall thereafter be presented to the Legislative Council for its information with the estimates annually prepared in connection with the service of the colony.

Annual estimates.

See Ord. 9  
of 1931.



Statement of  
expenditure  
to be  
prepared.

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~~32. On the conclusion of each financial year, and on or before the twenty-eighth day of February then next ensuing, the trust shall prepare and submit to the Auditor of the colony a statement showing the actual expenditure of all moneys appropriated to its use during that financial year, whether from loan funds or from general revenue, and, after the statement has been examined and certified by the Auditor aforesaid, it shall be laid before the Legislative Council and transmitted by the Governor to the Secretary of State.~~

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