

N.R.C.D. 243
FORESTS PROTECTION ACT, 1974

ARRANGEMENT OF SECTIONS

SECTION

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N.R.C.D. 243

FORESTS PROTECTION ACT, 1974¹

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,

1. The Act was issued as the Forest Protection Decree, 1974 (N.R.C.D. 243) made on the 12th day of February, 1974 and published in the *Gazette* on 22nd February, 1974.

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 timber 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.

2. Amended by P.N.D.C.L. 46 and substituted by paragraph (a) of the Forest Protection (Amendment) Law, 1986 (P.N.D.C.L. 142), and again substituted by section 1 (a) of the Forest Protection (Amendment) Act, 2002 (Act 624).

3. Substituted by paragraph (b) of the Forest Protection (Amendment) Law, 1986 (P.N.D.C.L. 142), and further by section 1 (b) of the Forest Protection (Amendment) Act, 2002 (Act 624).

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

*Spent.*⁶

4. Inserted by section 1 (c) of the Forest Protection (Amendment) Act, 2002 (Act 624).

5. Cap. 157 of the 1951 Edition.

6. The section provided for the repeal of

- (a) sections 22 to 33 of the Forest Ordinance (Cap. 157);
- (b) the Forest Offences (Compounding Fines) Act, 1959 (No. 83);
- (c) the Forest Offences (Compounding Fines) (Amendment) Act, 1962 (Act 99);
- (d) section 16 (11) of the Concessions Act, 1962 (Act 124).

THE FOREST PROTECTION (AMENDMENT) ACT, 2002

AN ACT to amend the Forest Protection Decree 1974 (NRCD 243) to provide for higher penalties for offences therein and to provide for related purposes.

DATE OF ASSENT: 2nd May, 2002.

BE IT ENACTED by Parliament as follows:

Section 1 and 2 N.R.C.D 243 amended

The Forest Protection Decree, 1974 (NRCD 243) is amended as follows:

(a) By the substitution for subsection (1) of section 1 of the following new subsection

- "Forest Offences
1. (1) Any person who in a Forest Reserve without the written consent of the competent forest authority
- (a) fells, uproots, lops, girdles, taps damages by fire or otherwise damages any tree or timber;
 - (b) makes or cultivates any farm or erects any building;
 - (c) causes any damage by negligence in felling any tree or cutting or removing any timber;
 - (d) sets fire to any grass or herbage, or kindles a fire without taking due precaution to prevent its spread;
 - (e) makes or lights a fire contrary to any order of the Forestry Commission;
 - (f) in any way obstructs the channel of any river, stream, canal or creek;
 - (g) hunts, shoots, fishes, poisons water or sets traps or snares;
 - (h) subjects any forest produce to any manufacturing process or collects, conveys or removes any forest produce; or
 - (i) pastures cattle or permits any cattle to trespass, commits an offence and is liable on summary conviction to a fine not exceeding 500 penalty units or to imprisonment not exceeding 2 years or to both, except that for a second or subsequent offence under this section the offender shall be liable on summary conviction to a fine of not less than 250 penalty units or to imprisonment not exceeding 3 years or to both;

(b) by the substitution for section 2 of the following new section:

Offences relating to marks.

2. Any person who

(a) knowingly counterfeits or fraudulently uses upon timber or standing tree a mark or indicates that the timber or tree is the property of any person; or
(b) without the written consent of a Forest Officer alters, defaces or obliterates a mark placed on any timber or tree; or

(c) alters, moves, destroys or defaces any boundary mark of any Forest Reserve:

commits an offence and is on summary conviction liable to a fine not exceeding 500 penalty units or to imprisonment not exceeding 2 years or to both, except that for a second or subsequent offence under this section the offender shall be liable on summary conviction to a fine of not less than 250 penalty units or to imprisonment not exceeding 3 years or to both": and

(c) by the insertion after the definition of "cattle" in section 10 of the following:

"competent forest authority" means a forest officer with the rank not below Assistant District 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".

Repeal

2. The Forest Protection (Amendment) Law 1896 (PNDC L. 142) is repealed.