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An Act to Control and Regulate Forests and Forest Produce

[20TH NOVEMBER, 1942]

2 of 1942
8 of 1951
5 of 1952
1 of 1963
37 of 1963
37 of 1967
G.N.22/1963
50/1963
1/1965
137/1966
234/1967

PART I

PRELIMINARY

Short title 1. This Act may be cited as the Forest Act.

Interpretation

2. In this Act—

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

“forest officer” includes any officer of the Department of Forestry and Game and any person upon whom the powers of a forest officer under this Act may be conferred by the Minister;

“forest produce” includes trees, timber, firewood, branchwood, poles, bamboos, slabs, chips, sawdust, plants, grass, reeds, rushes, peat, thatch, bedding, creepers, fibres, leaves, moss, fruits, seeds, galls, roots, bark, rubber, gum, resin, sap, charcoal, honey, wax, earth, and such other things as the Minister may, by notice published in the *Gazette*, declare to be forest produce;

“forest reserve” means any demarcated forest or proclaimed forest reserve but shall not include a village forest area;

“river” includes all natural watercourses in which water ordinarily flows or remains either throughout the year or at particular seasons;

“timber” means any tree which has fallen or has been felled and any part of a tree which has been cut or has fallen, and all wood whether sawn, split, hewn or otherwise fashioned;

“trees” includes palms, shrubs, bushes, climbers, seedlings, saplings, and re-shoots of all ages and of all kinds, and any part thereof;

PART II

FOREST RESERVES AND FOREST PRODUCE GENERALLY

3. The Minister may, by order and in accordance with the Land Act, declare any public or customary land to be a forest reserve: Power to declare a forest reserve
Cap. 57:01

Provided that in the case of customary land the following provisions shall apply—

(a) any chief within whose jurisdiction such land or part thereof lies shall be consulted prior to any such proclamation;

(b) any person disturbed who satisfies the Minister that any right or privilege lawfully enjoyed by him will be adversely affected by such proclamation shall be compensated by the payment of such sum of money or in lieu thereof by the grant of a like right or privilege on other land in the vicinity as a public officer appointed by the Minister in that behalf shall deem to be just and equitable.

4.—(1) The Minister may make Rules for the protection, control and management of forest produce and for fostering and encouraging the growth thereof.

(2) Such Rules may apply generally to public land, or customary land or may be confined to a particular area or areas thereof and may provide for any matter which the Minister may deem necessary or expedient for any of the purposes mentioned in subsection (1).

(3) The Minister may, on the application of the registered owner or lessee of any land, apply all or any of the Forest Rules, or any Rules substituted therefor, to such land. For the purpose of this section “owner” does not include a mortgagee and “lessee” does not include a sublessee.

(4) In particular and without prejudice to the generality of the foregoing power such Rules may—

(a) prohibit or regulate the felling, cutting, taking, working, burning, injuring or removing of any forest produce;

(b) prohibit or regulate squatting, residing, camping, building huts or cattle enclosures in a forest reserve, or within any prescribed distance of the upper edge of a bank of a river;

(c) prohibit or regulate the grazing or depasturing of cattle;

(d) prohibit or regulate the clearing, cultivating or breaking up of land for cultivation or other purposes in a forest reserve or within any prescribed distance of the upper edge of a bank of a river;

(e) prohibit or regulate the entering of any part of a forest reserve;

(f) prohibit or regulate within a forest reserve the pursuing, killing, taking or injuring of any animals, birds, insects, fish or reptiles or the eggs or spawns thereof;

(g) prohibit or regulate any such acts or omissions as are likely to endanger by fire or otherwise a forest reserve;

(h) prescribe the fees and royalties to be paid upon the felling of any tree or the collecting or removing of any forest produce and generally in respect of any matters dealt with under this Act;

(i) prescribe the manner in which the persons to whom and generally the conditions upon which licences and permits to take, sell, purchase or export forest produce are to be granted, terminated, revoked or forfeited;

(j) require the holders of licences and permits to render returns of forest produce received and to give proof of the accuracy of such returns if called upon to do so;

(k) provide for the establishment and maintenance of nurseries and for afforestation and authorize the payment of grants or bonuses out of the public revenue for the encouragement of forestry;

(l) provide for the survey and demarcation of forest reserves;

(m) prescribe the persons who shall be entrusted with carrying this Act into effect;

(n) provide for the appointment and control of forest guards.

5. Such Rules may provide penalties for their breach or non-observance not exceeding imprisonment for a term of twelve months or a fine of ~~£50~~ ^{K150} or both.

6.—(1) Notwithstanding anything to the contrary in this Act or in any Rules made thereunder, the Minister may authorize the Director of Forestry and Game, subject to such general or special directions as the Minister may think fit, to issue licences in respect of forest produce on customary land or public land—

(a) granting the exclusive right to take such produce; or

(b) granting the exclusive right to purchase such produce from persons duly authorized to take the same; and

(c) granting the right to take or purchase such produce free of any fee or royalty or at a reduced fee or royalty,

on such conditions as the Conservator of Forests, subject to the said general or special directions, may think fit.

(2) Every licence issued under subsection (1) shall specify the area of land and the type of forest produce to which it relates.

7. All fees and royalties derived from forest produce on customary land whether or not in a forest reserve or from the exercise of rights and privileges on such land shall be applied—

(a) in payment of such monetary compensation if any as may be payable;

(b) in discharging such of the costs and expenses of administering this Act as in the opinion of the Minister are attributable to customary land and ought to be paid out of such fees and royalties; and

(c) in such manner for the use or common benefit, direct or indirect, of the Africans within any area of Malawi as the Minister may direct.

8. The Minister may, by proclamation, declare that as from a date therein specified the whole or part of a forest reserve shall cease to be a forest reserve or part of such reserve and thereupon as from such date such forest reserve or part thereof shall cease to be a forest reserve or part thereof.

PART III

CUSTOMARY LAND ADMINISTRATION AREAS

9. The Minister may, by order published in the *Gazette*, declare that as from a date to be specified in the order the protection, control and management of the forest produce in a particular area of public or customary land (and whether or not such area is or includes a forest reserve) shall to the extent and with the reservations specified in the order be undertaken by the District Council having jurisdiction in the area affected and by the order modify, amend or revoke any previous order.

10. As soon as an order under section 9 has been made, the District Council may, with the approval of the Minister, make rules in relation to such area for any of the purposes provided for by section 4 (4) (a), (b), (c) and (d) imposing penalties for the breach thereof not exceeding a fine of £50 or imprisonment for a term not exceeding six months or both such fine and imprisonment.

Power of Minister to make a grant to District Council a administering area of public land

11. Where any order under section 9 deals with an area of public land it shall be lawful for the Minister in his discretion to make a grant to the District Council out of public funds or to authorize the District Council to collect and retain the whole or part of the fees and royalties payable in respect of forest produce in such area.

PART IV

VILLAGE FOREST AREAS

Power of headman to demarcate

12. Notwithstanding anything contained in this Act, any Village Headman may, with the approval of the Minister, demarcate in customary land a village forest area which shall be registered in the prescribed manner.

Rules for village forest reserve

13. Village forest areas shall be governed by such rules concerning the protection, control and management of forest produce as the Minister may prescribe.

PART V

GENERAL PROVISIONS

Powers of forest officers, administrative officers and police officers

14. A forest officer, administrative officer or police officer is hereby empowered—

- (a) to interrogate any person found in possession of forest produce within a forest reserve or in its vicinity;
- (b) to call upon any person committing or reasonably suspected by the officer of having committed an act for which a licence, permit or pass is required by this Act to produce such licence, permit or pass;
- (c) wherever he reasonably suspects any person of having committed an offence against this Act or of being in possession of forest produce in respect of which an offence against this Act has been committed to search the person and property of such person or any property in such person's possession or control;

Provided that where it is necessary to cause a woman to be searched the search shall be made by another woman with due regard to decency;

(d) to seize and detain any forest produce which he reasonably suspects has been obtained or removed in contravention of this Act;

(e) to seize and detain any property which he reasonably suspects has been used in committing an offence against this Act;

(f) to arrest any person reasonably suspected by him of being concerned in a contravention of this Act who refuses to give his name and address or gives a name and address believed by the officer to be false or who is in the officer's opinion liable to abscond.

15. All grants, fees and royalties or other payment made or paid to a District Council under this Act shall be paid into the treasury of such Council.

Fees and royalties paid to a District Council to be paid into Council's treasury Particular offences and penalties

16.—(1) Any person who without authority—

(a) makes upon or affixes to any forest produce a mark used in connexion with forest produce by the Department of Forestry and Game or District Council;

(b) removes, injures, alters, obliterates, defaces or tampers with in any way whatsoever any stamp, mark or sign placed upon forest produce by the Department of Forestry and Game or District Council or any notice relating to forest produce affixed by the Department of Forestry and Game or District Council;

(c) counterfeits or alters any licence, permit or pass issued by the Department of Forestry and Game or District Council;

(d) knowingly receives or is in possession of any forest produce in respect of which an offence against this Act has been committed;

(e) obstructs or impedes in the execution of his duties under this Act any person authorized to enter upon any land for the purposes of this Act,

shall be liable to a fine of £50 and to imprisonment for one year.

(2) Where a person is charged with knowingly receiving or being in possession of any forest produce in respect of which an offence against this Act has been committed upon proof that he received or is in possession of forest produce he shall be deemed to have committed the offence with which he is charged unless he can show to the satisfaction of the court that he was at all material times unaware that any offence against his Act has been committed.

17. In any case in which a person is charged with an offence against this Act the court may in addition to the imposition of any lawful penalty—

(a) assess the value of any damage or injury unlawfully committed to any forest produce by such person and order payment by him accordingly;

(b) order the restitution of any forest produce unlawfully removed by such person or alternatively order payment of the value of any such forest produce;

(c) make such order as to forfeiture or disposal of any forest produce or any property or thing in respect of which the offence has been committed or used in committing the offence as the court thinks fit;

(d) award a sum not exceeding one-fourth of any fine lawfully imposed by the court to the person, not being in the service of the Government, who may have supplied information leading to the conviction of the person charged;

(e) cancel or suspend any licence, permit or pass relating to forest produce held by such person;

(f) make such order with regard to the demolition and removal of any building, enclosure, hut, kraal, structure or thing erected, standing or being in any area in contravention of this Act as to the court shall seem fit;

(g) make such order with regard to the destruction, uprooting or removal of any crops standing or being in any area in contravention of this Act as to the court shall seem fit:

Provided that where the offence has been committed in respect of forest produce on customary land any moneys paid by order of the court under paragraphs (a) and (b) shall be applied for the common benefit direct or indirect of the Africans of Malawi.

18. In any sale, grant, lease or other disposition upon which there is reserved to the Government a right to any trees or forest produce, free access to such trees or forest produce by the most direct or convenient route shall be afforded to all authorized persons engaged in inspecting, obtaining, or removing such trees or forest produce, with or without animals or vehicles.

19. No proceeding or conviction under this Act shall affect any civil right or remedy to which the Government or any person aggrieved by the offence may be entitled.

Penalties
under other
laws to re-
main
unaffected

20. Nothing in this Act shall prevent a prosecution under any other law but so that a person shall not be punished twice for the same offence.

21.—(1) The Minister may make rules for carrying this Act into effect. Power of Minister to make rules

(2) In particular and without prejudice to the generality of the foregoing power such Rules may provide—

(a) for the method in which any arrest carried out under this Act is to be effected;

(b) for bringing any arrested person before a court of competent jurisdiction; and

(c) for the disposal of any arrested person pending trial.

[Subsidiary] Forest Reserves

SUBSIDIARY LEGISLATION

FOREST RESERVES

G.N.
154/1948
17/1949
139/1951
210/1952
167/1953
85/1953
under s. 3

SCHEDULE OF FOREST RESERVES WITH DESCRIPTION OF BOUNDARIES

G.N.

SOUTHERN REGION

190/1954

Nsanje

Masejiere Forest Reserve
Matandwe Forest Reserve

G.N.

Tiyolo District

Chigumula Forest Reserve
Tiyolo Mountain Forest Reserve
Cholomwani Forest Reserve
Kalulu Hills Forest Reserve

G.N.

Mulanje District

Fort Lister Forest Reserve
Liebenya Forest Reserve
Mchese Forest Reserve
Mulanje Mountain Forest Reserve
Sambani Forest Reserve
Thuchila Forest ReserveG.N.
169/1970

Blantyre District

Michiru Forest Reserve
Mlrali Forest Reserve
Thambani Forest Reserve
Tsanba Forest Reserve
Kanjedza Forest Reserve
Mtsiku Forest Reserve
Mudi Forest Reserve
Ndirande Forest Reserve
Soche Forest Reserve
Chiradzulu Mountain Forest Reserve
Malavi Forest Reserve
Zomba Mountain Forest Reserve

Zomba District

Zomba and Kasupe Districts

Malosa Forest Reserve

Kasupe District

Liwonde Forest Reserve

Mangochi District

Mangochi Forest Reserve
Namizimu Forest Reserve
Phitlongwe Forest Reserve
South Nyasa Islands Forest Reserve

CENTRAL REGION

Ncheu District

Bangwe Forest Reserve
Dzunje Forest Reserve
Mwai Forest Reserve

Forest Reserves

[Subsidiary]

Dedza District

Chongoni Forest Reserve
Dedza Mountain Forest Reserve
Dzenza Forest Reserve
Maleri Forest Reserve
Mwa Forest Reserve
Mwa-Livulezi Forest Reserve

Dedza and Lilongwe Districts

Dzalanyama Forest Reserve

Lilongwe District

Bunda Forest Reserve
Lingadzi Forest Reserve
Nalikule Forest Reserve
Naniombwa Forest Reserve
Tuma Forest Reserve

Moching District

Moching Forest Reserve

Mlhotakota District

Mndiansadzu Forest Reserve
Nichisi Forest Reserve

Dowa District

Kongwe Forest Reserve
Ngara Forest Reserve
Senga Hill Forest Reserve

Kasungu District

Fort Alston Forest Reserve

Kasungu and Mzimba Districts

Chimaliro Forest Reserve

Salima District

Namalenje Island Forest Reserve

Kasungu and Mzimba Districts

Chimaliro Forest Reserve

Mzimba District

Petekezi Forest Reserve
Mlangalanga Forest Reserve
Lunyangwa Forest Reserve
South Vipya Forest Reserve

Mkhatla Bay District

Chisasira Forest Reserve
Kalwe Forest Reserve
Kaning'ina Forest Reserve
Kuwirwi Forest Reserve
Nkwadzi Hill Forest Reserve
Ruvo Forest Reserve

Rumphi District

Juniper Forest Reserve
Mzumara Forest Reserve

Kronga District

Matipa Forest Reserve
Mugese Forest Reserve
Musi Forest Reserve
Vintukutu Forest Reserve
Wilindi Forest Reserve