

PARLIAMENT OF CEYLON

1st Session 1965-66



Forest (Amendment) Act, No. 13 of 1966

Date of Assent : May 10, 1966

Printed on the Orders of Government

Printed at the GOVERNMENT PRESS, CEYLON. To be purchased at the GOVERNMENT PUBLICATIONS BUREAU, COLOMBO
Annual Subscription (including Bills) Rs. 30 (Local), Rs. 40 (Foreign), payable to the SUPERINTENDENT, GOVERNMENT PUBLICATIONS BUREAU, P. O. Box 500, COLOMBO 1, before 20th December each year in respect of the year following. Late subscriptions will be accepted on the condition that Bills issued before the date of payment will not be supplied.

Price : 55 cents.

Postage : 10 cents

Forest (Amendment) Act, No. 13 of 1966

L. D.—O. 6/63.

AN ACT TO AMEND THE FOREST ORDINANCE.

Chapter 451,
Vol. XII,
page 696.

[Date of Assent: May 10, 1966]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Forest (Amendment) Act, No. 13 of 1966.

Short title.

2. Section 6 of the Forest Ordinance (hereinafter referred to as the "principal enactment") is hereby amended as follows:—

Amendment
of section 6 of
Chapter 451.

(1) by the substitution, in paragraph (c) of that section, for the words "otherwise damages," of the words "girdles, lops, taps, burns or otherwise damages,";

(2) by the substitution, in paragraph (d) of that section, for the words "poisons water; and", of the words "poisons water;";

(3) by the relettering of paragraph (e) of that section as paragraph (f) thereof;

(4) by the insertion, immediately after paragraph (d) of that section, of the following new paragraph:—

"(e) quarries stone, burns lime or charcoal, or collects, or subjects to any manufacturing process, any forest produce; or"; and

(5) by the substitution, for the words "on conviction to a fine which may extend to fifty rupees," of the following:—

"on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding five hundred rupees,".

3. Section 7 of the principal enactment is hereby amended as follows:—

Amendment
of section 7 of
the principal
enactment.

(1) by the renumbering of that section as sub-section (1) of that section;

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(2) in sub-section (1) of that section as so renumbered—

(a) by the substitution, for paragraph (d), of the following new paragraph:—

“ (d) fells, cuts, saws, converts or removes any trees or timber or removes any forest produce; ”;

(b) by the substitution, for paragraph (e), of the following new paragraph:—

“ (e) erects a scaffolding or constructs a saw pit; ”;

(c) in paragraph (f), by the substitution, for the words “ other purpose; ”, of the words “ other purpose or cultivates any land already cleared; ”;

(d) by the substitution, for all the words from “ on conviction ” to “ five hundred rupees ”, of the following:—

“ on conviction, in the case of an offence under paragraph (d) of this sub-section, to imprisonment for a term which may extend to five years, and in the case of an offence under any other paragraph of this sub-section, to imprisonment which may extend to one year or to a fine which may extend to one thousand rupees, ”; and

(e) by the substitution, for the words “ the amount of fine which such court has power to impose. ”, of the words “ one thousand rupees. ”; and

(3) by the insertion, immediately after sub-section (1) of that section, of the following new sub-section:—

“ (2) Any person who abets the commission of any offence specified in sub-section (1) of this section shall also be guilty of an offence and shall be liable on conviction to the same punishment as provided in that sub-section. ”.

4. Section 20 of the principal enactment is hereby amended as follows:—

Amendment of section 20 of the principal enactment.

(1) in sub-section (1) of that section—

(a) by the substitution, in paragraph (a), for the word “chenas,”, of the word “forest,”; and

(b) by the substitution, in paragraph (d), for the words “houses or huts”, of the words “houses or huts, the occupation of such houses or huts,”;

(2) by the renumbering of sub-section (2) of that section as sub-section (3) thereof; and

(3) by the insertion, immediately after sub-section (1) of that section, of the following new sub-section:—

“(2) Any person who abets the commission of any offence specified in this Chapter shall also be guilty of an offence and shall on conviction be liable to the same punishment provided for such offence.”.

5. Section 21 of the principal enactment is hereby amended as follows:—

Amendment of section 21 of the principal enactment.

(1) by the substitution, for the words “punishable by a fine not exceeding one hundred rupees,”, of the following:—

“punishable except as hereinafter provided by a fine not exceeding one thousand rupees,”; and

(2) by the substitution, for the words “six months.”, of the following:—

“six months:

Provided that any person who, in contravention of any rules made under section 20 (1) fells, cuts, saws, converts or removes any trees or timber from any forest shall be guilty of an offence punishable by imprisonment for a term which may extend to two years.”.

Amendment
of section 24 of
the principal
enactment.

6. Section 24 of the principal enactment is hereby amended, in sub-section (1) of that section, as follows:—

(1) by the substitution, in paragraph (a) for the word "removed", of the word "transported";

(2) by the substitution, for paragraph (b), of the following new paragraph:—

"(b) prohibit the transport of timber within, into, or out of any specified local area without a permit from any forest officer duly authorized to issue the same or otherwise than in accordance with the conditions of such permit;";

(3) by the substitution, in paragraph (c) for the word "passes," of the word "permits,";

(4) by the substitution, for paragraph (d), of the following new paragraph:—

"(d) fix the fees payable for permits in respect of forest produce collected or timber cut on land belonging to the Crown;";

(5) by the substitution, for paragraph (f), of the following new paragraph:—

"(f) provide for the stoppage, and examination of vehicles, boats and rafts or any timber in transit;";

(6) by the substitution, for paragraph (g), of the following new paragraph:—

"(g) establish or authorize any forest officer to establish checking stations at which any vehicle, boat or raft may be required to stop to enable the officer in charge of such station to examine such vehicle, boat or raft for the purpose of ascertaining whether any timber or forest produce is being transported therein, and if so, to deal with such timber or forest produce according to law;"; and

- (7) by the insertion, immediately after paragraph (g), of the following new paragraph:—

“(gg) authorize any forest officer to establish stations to which timber or forest produce seized in transit may be brought, and provide for the issue of permits by the officer in charge of any such station or any checking station for the transport of timber;”.

7. Section 25 of the principal enactment is hereby amended as follows:—

Amendment of section 25 of the principal enactment.

- (1) by the renumbering of that section as sub-section (1) of that section;

(2) in the renumbered sub-section (1)—

(a) by the substitution, for the words “hereinafter provided, by a fine not exceeding one hundred rupees,” of the words “hereinafter provided, by a fine not exceeding one thousand rupees,”; and

(b) by the substitution, in the second proviso to that sub-section, for the words “two hundred rupees,” of the words “two thousand rupees,”; and

- (3) by the insertion, immediately after sub-section (1) of that section, of the following new sub-sections:—

“(2) Notwithstanding anything in the preceding provisions of this section, any person who transports timber, within, into or out of any specified local area in contravention of any regulation made under section 24 (1) shall be liable on conviction to imprisonment for a period which may extend to five years:

Provided that where the person so convicted proves to the satisfaction of the court that the timber in respect of which the offence was committed is private property, he shall be liable to a fine not exceeding one thousand rupees or to imprisonment which may extend to six months.

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(3) Any person who abets the commission of an offence specified in this Chapter shall also be guilty of an offence and shall, on conviction, be liable to the same punishment provided for such offence."

Amendment of section 27 of the principal enactment.

8. Section 27 of the principal enactment is hereby amended by the substitution, for the words "forest officer", of the words "forest officer or police officer".

Replacement of section 28 of the principal enactment.

9. Section 28 of the principal enactment is hereby repealed and the following new section substituted therefor:—

"Inspection of private timber depots and timber yards.

28. (1) Any forest officer not below the rank of range forest officer or any police officer not below the rank of sub-inspector shall have power to enter any private timber depot or timber yard and to remove any unstamped or unmarked timber found therein other than timber converted in such premises from logs brought thereto on permits and to deal with such timber in the manner provided in Chapter VI.

(2) Any person who obstructs or in any way interferes with any forest officer or police officer in the exercise of his powers under this section shall be guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding one year or to a fine not exceeding one thousand rupees or to both.

(3) The Minister may make regulations applicable either to the whole Island or to any specified area providing for the registration and inspection of private timber depots and timber yards, the registration of property marks, the maintenance of registers relating to such timber depots and timber yards and the examination of such registers and property marks by duly authorized officers."

Replacement of section 38 of the principal enactment.

10. Section 38 of the principal enactment is hereby repealed and the following new section substituted therefor:—

"Procedure on seizure.

38. Every officer seizing any property under section 37 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 the circumstances to the divisional forest officer of the area in which such property has been seized."

11. Section 39 of the principal enactment is hereby repealed.

Repeal of section 39 of the principal enactment.

12. Section 40 of the principal enactment is hereby amended by the substitution, for all the words from "shall be liable," to the end of that section, of the following:—

Amendment of section 40 of the principal enactment.

"shall, in addition to any other punishment prescribed for such offence, be confiscated by order of the convicting Magistrate:

Provided that in any case where the owner of such tools, boats, carts, cattle or motor vehicles is a third party, no order of confiscation shall be made if such owner proves to the satisfaction of the court that he had used all precautions to prevent the use of such tools, boats, carts, cattle or motor vehicles, as the case may be, for the commission of the offence."

13. Section 41 of the principal enactment is hereby repealed and the following new section substituted therefor:—

Replacement of section 41 of the principal enactment.

" Disposal, on conclusion of trial for any forest offence, of timber or forest produce which was the subject-matter of the trial.

41. When the trial in respect of any forest offence is concluded, any timber or forest produce which was the subject-matter of the trial, shall, if such timber or forest produce is the property of the Crown or has been confiscated, be delivered by the court to any forest officer empowered in that behalf; and in any other case may be disposed of in such manner as the court may order."

14. Section 42 of the principal enactment is hereby amended as follows:—

Amendment of section 42 of the principal enactment.

(a) by the substitution, for the expression "The Government Agent", where it occurs in the first place in that section, of the words "Any forest officer empowered in that behalf"; and

(b) by the substitution, for the expression " the Government Agent ", where it occurs in the second and third places in that section, of the words " such forest officer ".

Amendment of section 47 of the principal enactment.

15. Section 47 of the principal enactment is hereby amended as follows:—

- (a) by the omission of paragraph (a) of that section; and
- (b) by the relettering of paragraphs (b), (c), and (d), as paragraphs (a), (b), and (c), respectively.

Insertion of new section 48A in the principal enactment.

16. The following new section is hereby inserted immediately after section 48, and shall have effect as section 48A, of the principal enactment:—

Penalty for being in possession or use of forged documents or counterfeit or unauthorized marking hammers and presumptions as to commission of offences.

48A. (1) Whoever—

(a) tenders or has in his possession in support of any claim any forged document purporting to be a permit issued under this Ordinance or any regulation made thereunder, or

(b) has in his possession or uses a counterfeit or unauthorized stamping or marking hammer,

shall be guilty of an offence, and shall on conviction be liable to imprisonment for a term not exceeding five years or to a fine not exceeding five thousand rupees or to both.

(2) If, in any prosecution under this section against any person, there is produced a certificate from the Government Analyst to the effect that the stamping or marking hammer or the document for the possession or use of which such person is being charged, is a counterfeit or unauthorized stamping or marking hammer, or a certificate from the Government Analyst to the effect that the document for the possession or use of which such person is being charged is a forged document, as the case may be, then it shall be presumed, until the contrary is proved, that the document in

question is a forged document or that the stamping or marking hammer in question is a counterfeit or unauthorized stamping or marking hammer, as the case may be.

(3) In sub-section (2) "Government Analyst" means the person for the time being holding the office of Government Analyst, and includes any person for the time being holding the office of Deputy Government Analyst or Assistant Government Analyst.

17. Section 51 of the principal enactment is hereby repealed and the following section substituted therefor:—

Replacement
of section 51
of the
principal
enactment.

"Compounding
of offences.

51. (1) Any forest officer empowered by the Minister in that behalf may accept from any person reasonably suspected of having committed any forest offence other than an offence under sections 46, 47 or 48A, a sum of money by way of compensation for the offence which may have been committed.

(2) In any case where compensation is accepted under sub-section (1)—

(a) if any property has been seized and such property does not belong to the Crown, such property shall be released to the offender;

(b) if any property which belongs to the Crown has been seized, the officer compounding the offence may accept a further sum of money as being the estimated value of the property so seized and release the property to the offender; and

(c) if the offender is in custody, he shall forthwith be discharged and no further proceedings shall be taken against such person or property."

Replacement
of section
53 of the
principal
enactment.

18. Section 53 of the principal enactment is hereby repealed and the following new section is substituted therefor:—

“ Offences
to be
triable
summarily.

53. Any forest offence under this Ordinance shall be triable by a Magistrate's Court, and the Magistrate shall have power to inflict the full penalty prescribed for the offence, notwithstanding any limitation of his ordinary jurisdiction contained in the Criminal Procedure Code:

Provided that a Magistrate may, in any case in which he thinks such a course is expedient, order that the proceedings shall be non-summary, and in any such case he shall proceed under Chapter XVI of the Criminal Procedure Code, and the District Judge shall have jurisdiction to try the offence, and shall have power to inflict the full penalty prescribed for the offence, notwithstanding any limitation of his ordinary jurisdiction, contained in the Criminal Procedure Code.”

Insertion of
new section
53A in the
principal
enactment.

19. The following new section is hereby inserted immediately after section 53, and shall have effect as section 53A, of the principal enactment:—

“ Ejectment
from Crown
land.

53A. Any person convicted of an offence under section 7 or section 14 or section 20 of this Ordinance shall, if such person is in unlawful or unauthorized possession or occupation of any Crown land in respect of which such offence has been committed, be liable to ejectment from such land; and the provisions of Chapter IX of the Land Development Ordinance shall apply *mutatis mutandis* in the case of every such ejectment, and every reference in that Chapter to the Government Agent shall be construed as a reference to the divisional forest officer of the area in which such land is situated.”

20. Section 71 of the principal enactment is hereby repealed and the following new section substituted therefor:—

Replacement
of section 71
of the
principal
enactment.

“ Disposal of
property
seized.

71. Without prejudice to the provisions of section 51, where any forest produce or property has been seized under the provisions of this Ordinance, such forest produce or property may be disposed of in accordance with such regulations as may be made in that behalf by the Minister.”.

21. Section 78 of the principal enactment is hereby amended as follows:—

Amendment
of section 78
of the
principal
enactment.

(a) by the substitution, in the definition of “ forest officer ”, for the words “ forest rangers,” of the following:—

“ forest rangers, forest overseers, forest depot keepers, forest depot overseers,”; and

(b) by the insertion, immediately after the definition of “ timber ”, of the following new definition:—

“ “ timber depot ” or “ timber yard ” means a place where timber in quantity exceeding one hundred and fifty cubic feet, is stored—

- (a) for the purpose of sale; or
- (b) for the purpose of transport; or
- (c) for the purpose of being sawn by machinery or otherwise; or
- (d) for the purpose of being subjected to any process of manufacture.”.