

No. 1 of 1892.

An Ordinance to amend "The Forest Ordinance, 1885."

(See No. 10 of 1885.)

Preamble.

WHEREAS it is expedient to amend "The Forest Ordinance, 1885," hereinafter referred to as "the principal Ordinance:" Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows :

**Amendment
of Ordinance
No. 10 of 1885.**

1 (1) For the definition of "forest officer" in section 3 of the principal Ordinance the following shall be substituted, namely :

Forest officer.

"Forest officer" means all persons appointed by name or as holding an office by or under the orders of the Governor to be conservators, deputy conservators, assistant conservators, foresters, forest rangers, forest guards, or forest watchers, or to discharge any function of a forest officer under this Ordinance or any regulation or rule made hereunder.

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(2) For the definition of "forest plantation" in the same section the following shall be substituted, namely :

Forest
plantation.

"Forest plantation" means any plantation made in any forest.

2 To section 4 of the principal Ordinance the following words shall be added, namely :

Section 4, as
to questions
of title.

And in the event of judgment being entered in any suit or proceeding instituted against the Crown decreeing the title to any land reserved under section 19 to be vested in the person instituting such suit or proceeding, such land shall cease to be reserved from the date of such decree.

3 In section 6 of the principal Ordinance the word "such" shall be inserted in the first line after the word "any" and before the word "land."

Section 6, as
to notice in
Gazette.

4 For section 11 of the principal Ordinance the following section shall be substituted, namely :

Section 11, as to
powers of forest
settlement
officer.

For the purposes of such inquiry the forest settlement officer may exercise the powers conferred on commissioners appointed under the provisions of Ordinance No. 9 of 1872 for compelling the attendance of witnesses and the production of documents, and for administering oaths to all persons who shall be examined before them, provided that the requirements of the proviso to section 2 of such Ordinance shall not be necessary for the purposes of this Ordinance.

5 To section 13 of the principal Ordinance the following words shall be added, namely :

Section 13, forest
settlement
officer to have
power to try
questions of
title.

If in any inquiry by a forest settlement officer any question shall arise as to whether the land proposed to be constituted a reserved forest is land at the disposal of the Crown, the forest settlement officer shall have jurisdiction to try and determine any such question of title for the purposes of this Ordinance.

6 In sub-section (b) of section 19 of the principal Ordinance the words "the appellate officer or" shall be omitted.

Section 19, as to
declaring forest
reserved.

7 For section 20 of the principal Ordinance the following section shall be substituted, namely :

Section 20, as to
extinction of
rights not
claimed.

Rights in respect of which no claim has been preferred under section 7, and of the existence of which no knowledge has been acquired by inquiry under section 9, shall thereupon be extinguished, unless before the publication of such Proclamation 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 7.

Provided, however, that the right of any person in respect of whom no such claim has been made, and of the existence of which such knowledge has not been acquired, may be inquired into at any time during three years succeeding the institution of such inquiry; and if such

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person was absent from the island when the inquiry of the forest settlement officer was held, the rights of such person may be inquired into at any time during ten years succeeding the institution of such inquiry: provided further that this reservation of the rights of claimants shall not in any way stay the publication of the Proclamation aforesaid.

8 In the fifth line of section 28 of the principal Ordinance the word "twelve" shall be substituted for "eleven."

9 For section 33 of the principal Ordinance the following section shall be substituted, namely:

(a) Any party to the proceedings who is dissatisfied with the decision or order of a forest settlement officer in respect of any claim made under section 13 or section 14 may appeal to the Supreme Court against such order or decision, by lodging within three weeks from the date of such order or decision being made, with the said forest settlement officer, a petition of appeal addressed to the Supreme Court, provided such party file with the said appeal an affidavit setting out the value of the right or of the land with regard to which the order or decision has been given against him.

(b) The forest settlement officer on receiving such affidavit and appeal petition shall transmit the same, together with all proceedings taken by him, to the Registrar of the Supreme Court, and the said court shall make such order as the justice of the case may require, and such order shall be duly carried into effect.

(c) Stamp duty shall be charged upon every such petition of appeal and upon every such affidavit, at the rates specified in part II. of the schedule B to "The Stamp Ordinance, 1890," for similar instruments in the district courts, and upon subsequent proceedings at the rates specified in the said schedule for appeals from the district courts; and every such appeal shall be dealt with and disposed of in the same manner and subject to the same rules as appeals from district courts are dealt with and disposed of.

10 After chapter II. of the principal Ordinance the following chapter shall be inserted and numbered II. (a). namely:

CHAPTER II. (a).

Forests leased by the Government.

It shall be lawful for the Governor, with the advice of the Executive Council, by Proclamation in the *Government Gazette*, at any time or from time to time, to declare any of the provisions of this Ordinance, and of any regulations or rules made thereunder, to be applicable to forests leased to the Crown, and to bring such forests within the operation of such provisions, regulations, or rules, and any such Proclamation, with like advice, to revoke, alter, or amend.

Section 28, as to acts excepted from prohibitions contained in sections 26 and 27.

Section 33, as to appeals to Supreme Court.

Forests leased by the Government.

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11 For section 40 of the principal Ordinance the following section shall be substituted, namely :

No person shall, or shall cause any other person to, cut, mark, lop, girdle, tap, or injure, by fire or otherwise, any reserved tree in any forest, except as provided by rules made by the government agent on this behalf, or unless with the permission in writing of a forest officer empowered by the government agent to grant such permission.

Section 40, as to protection of reserved trees.

12 After section 41 of the principal Ordinance the following section shall be added and numbered 41A, namely :

The government agent may add to, amend, or repeal any rules prescribed by him under section 41, or prescribe new rules in lieu thereof. Provided that any addition, amendment, or repeal, and all new rules prescribed by the government agent under the provisions of this section, shall be subject to the approval of the Governor, with the advice of the Executive Council, and shall, if approved, be published as in section 81 provided.

Power to make new rules and repeal old rules.

13 After section 43 of the principal Ordinance the following section shall be added and numbered 43A, namely :

Nothing in this chapter shall apply to reserved forests.

Nothing in chapter IV. to apply to reserved forests.

14 (1) In section 44 of the principal Ordinance the terms "forest produce" and "timber" shall, unless the context otherwise requires, after the passing of this Ordinance, include timber cut in any land or property, whether the property of the Crown or any private individual.

(2) In sub-section (d) the words "passes for forest produce and timber when cut on land the property of the Crown" shall be substituted for the words "such passes."

(3) In sub-sections (f) and (g) of the same section there shall be substituted for the word "timber," wherever the same may occur, the words "forest produce."

(4) To the same section the following shall be added, namely :

The Governor in Executive Council may direct that any regulation made under this section shall not apply to any specified class of timber or other forest produce, or to any specified local area.

Section 44, as to rules made to regulate transit of timber.

15 To section 47 of the principal Ordinance the following words shall be added, namely :

unless the claimant shall give security to the satisfaction of the government agent equal to the value of such timber.

Section 47, as to marking boundaries.

16 For the first paragraph of section 51 of the principal Ordinance the following paragraph shall be substituted, namely :

All unclaimed timber found adrift, beached, stranded, or sunk.

Section 51, as to drift timber.

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Section 57, as to report to government agent.

17 For the second paragraph of section 57 of the principal Ordinance the following paragraph shall be substituted, namely :

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 the circumstances to the government agent or assistant government agent.

Section 58, as to the proceedings of the magistrate.

18 For section 58 of the principal Ordinance the following section shall be substituted, namely :

Upon the receipt of any such report the government agent or assistant government agent shall forthwith forward the same to the police magistrate having jurisdiction to try the offence, and such magistrate shall take such measures as may be necessary for the trial of the accused and the disposal of the property according to law.

Section 62, as to sale of perishable property seized.

19 In section 62 of the principal Ordinance the words "government agent or assistant government agent" shall be substituted for the word "magistrate," and the following proviso shall be added thereto, namely :

Provided that if the claimant shall give security to the satisfaction of the government agent or assistant government agent equal to the value of such property, the government agent or assistant government agent shall forthwith release the seizure and allow such property to be removed by the claimant.

Section 63, as to appeals from orders under sections 57, 59, or 60.

20 In section 63 of the principal Ordinance the word "thirty" shall be substituted for the word "fifteen," and the words "or section 60" shall be substituted for the words "section 60 or section 61."

Section 64, as to property vested in Government.

21 In section 64 of the principal Ordinance the word "fifty-nine" shall be substituted for the words "fifty-nine or sixty-one."

Section 73, as to cattle trespass.

22 For section 73 of the principal Ordinance the following section shall be substituted, namely :

Cattle trespassing on a forest plantation under the control and management of forest officers may be seized and impounded by any forest officer or police officer.

Section 76, as to appointment of Conservator of Forests.

23 Throughout section 76 of the principal Ordinance the words "Conservator of Forests" shall be substituted for "Chief Conservator of Forests."

Section 88, as to property of Crown debtors.

24 In section 88 of the principal Ordinance the words "section 83" shall be substituted for the words "sections 83 and 86."

Control of forests may be delegated to Conservator.

25 The Governor may by notification in the *Government Gazette* declare any reserved forest to be solely under the control of the Conservator of Forests, and may authorize such Conservator to exercise in respect of such reserved forest all or any of the powers and duties vested in and imposed on

the government agent under this and the principal Ordinance, subject to such restrictions as the Governor in Executive Council may from time to time think fit to impose.

26 To the first column of schedule B of the principal Ordinance the following word shall be added : " Pehimbiya ;" and to the third column of the same schedule the following words shall be added : " Filicium decipiens."

Schedule B
amended.

27 In the principal Ordinance the definition of " forest ranger " in section 3 and the words " forest ranger " in sections 50, 57, 66, 68, and 69, and the words " or forest ranger " in section 82, and the whole of sections 17, 18, 46, 58, 61, and 86, are hereby repealed.

Repealing clause.

28 This Ordinance may be cited as " The Forest Amendment Ordinance, 1892," and shall come into operation at such time as the Governor shall appoint by Proclamation* to be published in the *Government Gazette*, and this Ordinance and the principal Ordinance may be read together as one Ordinance, and may be cited collectively as " The Forest Ordinances, 1885 and 1892."

Short title and
commencement.

13th April, 1892. _____