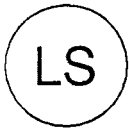


STATE OF SABAH

I assent,



TUN DATUK SERI PANGLIMA HAJI MOHD. SAID BIN KERUAK,
Yang di-Pertua Negeri.

5TH DECEMBER, 1994.

No. 14 of 1994

An Enactment to amend the Forest Enactment 1968.

ENACTED by the Legislature of the State of Sabah as follows:

1. This Enactment may be cited as the Forest (Amendment) Enactment 1994 and shall come into force on such date as the Minister may, by notification in the *Gazette*, appoint.

Short title
and
commence-
ment.

Amendment
of section 2.
Enactment
No.2 of
1968.

2. Section 2 of the Forest Enactment 1968, which in this Enactment is referred to as the "principal Enactment", is amended by inserting after the definition of "livestock" the following new definition:

"member of the armed forces" means any member of the armed forces not below the rank of Lance Corporal;"

Amendment
of section
3(1).

3. Section 3 of the principal Enactment is amended in paragraph (b) of subsection (1) by substituting for the words "Regional Forestry Officers, District Forestry Officers, Assistant District Forestry Officers" the words "Senior Forestry Officers".

Amendment
of section 4.

4. Section 4 of the principal Enactment is amended by inserting after subsection (3) the following new subsection (3A):

"(3A) The Minister may, by notice published in the *Gazette*, invest, subject to such conditions and restrictions as may be prescribed in the notice, the exercise and performance of any power or duty conferred or imposed on any forest officer or police officer under subsection (1) of section 36 of this Enactment on any member of the armed forces generally or in any particular case:

Provided that the Minister may in like manner revoke or withdraw such investment of power or duty."

Amendment
of section
19(1).

5. Subsection (1) of section 19 of the principal Enactment is amended by substituting for the words "and to a fine" the words "or to a fine not exceeding one hundred thousand ringgit or to both such imprisonment and fine".

Amendment
of section
20.

6. Section 20 of the principal Enactment is amended -

(a) in paragraph (c) of subsection (1), by substituting for the words "fine of five hundred dollars" the words "fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both such fine and imprisonment";

(b) in subsection (2), by substituting for the words "imprisonment for a term of not less than thirty days which may extend to seven years and with fine" the words "a fine not

exceeding five hundred thousand ringgit and to imprisonment for a term which shall not be less than one year but shall not exceed twenty years"; and

- (c) by inserting after subsection (2) the following new subsection (3):

"(3) Any person convicted of an offence under this section may, in addition to any penalty imposed on the conviction, be ordered to pay, in respect of any forest produce unlawfully taken, to the Government -

- (a) a sum not exceeding ten times the royalty, fee and other sum due;
- (b) a sum not exceeding ten times the value of such forest produce; and
- (c) any other charges payable,

and any sum ordered to be so paid shall be recoverable as if it were a fine so imposed."

7. Section 23 of the principal Enactment is amended -

Amendment
of section 23.

- (a) in subsection (1), by substituting for the words "imprisonment for three years and a fine of five thousand dollars" the words "a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both such fine and imprisonment";
- (b) in subsection (2), by substituting for the words "imprisonment for a term of not less than thirty days which may extend to five years and with fine" the words "a fine not exceeding five hundred thousand ringgit and to imprisonment for a term which shall not be less than one year but shall not exceed twenty years."; and
- (c) by inserting after subsection (2) the following new subsection (3):

"(3) Any person convicted of an offence under this

section may, in addition to any penalty imposed on the conviction, be ordered to pay, in respect of any forest produce unlawfully taken, to the Government -

- (a) a sum not exceeding ten times the royalty, fee and other sum due;
- (b) a sum not exceeding ten times the value of such forest produce; and
- (c) any other charges payable,

and such sum ordered to be so paid shall be recoverable as if it were a fine so imposed."

Amendment
of section
24D(2).

8. Subsection (2) of section 24D of the principal Enactment is amended by substituting for the words "five" and "three years or both" the words "fifty" and "five years or to both such fine and imprisonment" respectively.

Amendment
of section
30.

9. Section 30 of the principal Enactment is amended -

- (a) by renumbering the existing section as subsection (1);
- (b) by deleting the words "and liable to imprisonment for two years and a fine of five thousand dollars"; and
- (c) by inserting the following new subsection (2):

"(2) Any person guilty of an offence under subsection (1) shall on conviction be liable -

- (a) if the offence is under paragraph (a), (b), (c), (d), (e) or (f) of subsection (1), to a fine not exceeding five hundred thousand ringgit and to imprisonment for a term which shall not be less than one year but shall not exceed twenty years;
- (b) if the offence is under paragraph (g) of subsection (1), to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; and

(c) if the offence is under paragraph (h) of subsection (1), to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding three years or to both such fine and imprisonment."

10. Subsection (2) of section 30A of the principal Enactment is amended by substituting for the word "double" the words "five times".

Amendment
of section
30A(2).

11. Subsection (1) of section 33 of the principal Enactment is amended by substituting for the words "imprisonment for twelve months and a fine of two thousand dollars" the words "a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both such fine and imprisonment".

Amendment
of section
33(1).

12. The principal Enactment is amended by substituting for section 35 the following new section 35:

Substitution
of section 35.

"35.(1) Subject to subsection (2), the Director may, with the general or special approval of the Minister, compound any offence under this Enactment by making a written offer to such person to compound the offence upon payment to the Director of such amount not exceeding the maximum fine for that offence within such time as may be specified in the offer.

Compound-
ing of
offences.

(2) The offence which may be compounded under subsection (1) shall only be in respect of an offence committed for the first time.

(3) Where the offence committed involves the taking of forest produce under section 20 or 23, the Director may, if he thinks fit, in addition to the amount payable under subsection (1), require such person to pay to the Government -

- (a) a sum not exceeding ten times the royalty, fee and other charges of such forest produce;
- (b) a sum not exceeding ten times the value of such forest produce;

- (c) the costs of repairing any damage in respect of the offence committed; and
- (d) any other charges payable to the Government.

(4) In compounding any offence under subsection (1), any thing seized under this Enactment shall be forfeited and disposed of in accordance with the direction of the Director.

(5) An offer under subsection (1) may be made at any time after the offence has been committed, but before any prosecution for it has been instituted, and where the amount specified in the offer is not paid within the time specified in the offer or within such extended period as the Director may grant, prosecution for the offence may be instituted at any time thereafter against the person to whom the offer was made.

(6) Where an offence has been compounded under subsection (1), no prosecution shall thereafter be instituted in respect of such offence against the person to whom the offer to compound was made."

Amendment
of section
36.

13. Section 36 of the principal Enactment is amended -

- (a) by substituting for subsection (2) the following new subsection (2):

"(2) Any person arrested under subsection (1) shall, without unnecessary delay, be taken or sent to the officer in charge of the nearest police station or be produced before a Magistrate to be dealt with as provided by the Criminal Procedure Code.";

F.M.S.
Cap.6.

- (b) in subsection (2A), by substituting for the words "Assistant District Forestry Officer" the words "Forest Ranger"; and
- (c) in subsection (3), by substituting for the words "fine of five hundred dollars" the words "fine not exceeding fifty

thousand ringgit or to imprisonment for a term not exceeding five years or to both such fine and imprisonment".

14. Section 38 of the principal Enactment is amended by inserting after subsection (8) the following new subsection (9):

Amendment
of section 38.

"(9) Where in a prosecution for a forest offence, in so far as it may be necessary to establish the offence charged, it shall be presumed until the contrary is proved -

(a) that any map, plan or chart purporting to be made by the authority of the Director is so made and accurate;

(b) that any mark placed on any tree, timber or any boundary mark of an area under a licence within a Forest Reserve or State Land placed by or under the authority of a forest officer has been so placed and is accurate;

(c) that any person found within a Forest Reserve or State Land in possession of any forest produce has taken or removed such forest produce without a licence issued under this Enactment; and

(d) that any person found within a Forest Reserve or State Land in possession of any machine, equipment or conveyance as specified in the Schedule intends to take or remove any forest produce."

15. Section 40 of the principal Enactment is amended -

Amendment
of section 40.

(a) in the marginal note, by substituting for the words "and officers" the words "officers and members of the armed forces"; and

(b) by substituting for the word "and" in line 1 a comma and

inserting after the words "police officers" the words "and members of the armed forces".

Amendment
of section
40A(2).

16. Subsection (2) of section 40A of the principal Enactment is amended by substituting for the words "District Forestry Officer" the words "Assistant Director of Forestry".

New
sections
41A, 41B
and 41C.

17. The principal Enactment is amended by inserting after section 41 the following new sections 41A, 41B and 41C:

"Rewards. **41A.** The Director may order such rewards as he may deem fit to be paid to any forest officer or other person for services rendered in connection with any offence or seizure made under this Enactment.

Protection of
informers. **41B.** (1) Except as hereinafter provided, no witness in any civil or criminal proceedings shall be obliged or permitted to disclose the name or address of an informer or the substance and nature of the information received from him or to state any matter which might lead to his discovery.

(2) If any books, documents or papers which are in evidence or are liable to inspection in any civil or criminal proceedings contain any entry in which any informer is named or described or which might lead to his discovery, the court shall cause all such passages to be concealed from view or to be obliterated so far only as may be necessary to protect the informer from discovery.

(3) If on trial for any offence against this Enactment the court after full inquiry into the case believes that the informer wilfully made in his complaint a material statement which he knew or believed to be false or did not believe to be true, or if in any other proceedings the court is of opinion that justice cannot be fully done between the parties thereto without the discovery of the informer, it

(Uncomplete text)