

SUB-TITLE 2 : FORESTS

[1.8.1932]

THE CENTRAL FOREST ORDINANCE.

An ordinance to provide for the creation and management of central forest reserves.

PART I: PRELIMINARY.

1. This ordinance may be cited as the Central Forest Ordinance and shall come into force on the first day of August, 1932. Title and commencement.

2. The Woods and Forests Ordinance 1901 and Forest Ordinances 1908 and 1917 and all rules, orders, proclamations and notices made thereunder are hereby repealed but this repeal shall not affect the validity of any act done by virtue of such ordinances or any of them before the coming into force of this ordinance. Repeals.

3. In this ordinance and in all rules and regulations made hereunder unless there is anything repugnant in the context:— Definitions.

(1) "Cattle" includes bulls, cows, oxen, horses, mules, asses, camels, pigs, sheep, goats and the young thereof.

(2) "Reserve" means an area or any part thereof declared to be a central forest reserve under the provisions of Part II of this ordinance whether the same be covered with trees or not.

(3) "Forest offence" means an offence punishable under the provisions of this ordinance or of any rule or regulation made hereunder.

(4) "Forest Officer" includes any person appointed by name or otherwise by or under the order of the Governor-General to be a Conservator, a Deputy or Assistant Conservator, Superintendent, Forest Ranger, Forest Overseer or Forest Guard.

(5) "Forest produce" includes:—

(a) timber, charcoal, bark, gum, gutta-percha and tanning fruits;

(b) trees and leaves, flowers and fruits and other parts or produce not hereinbefore mentioned of trees;

(c) honey and wax, silk and cocoons.

(6) "Governor" means the Governor of the Province in which the land which is the subject of any proceedings hereunder

lies or where the land lies in more than one Province, the Governor of such one of these Provinces as the Governor-General directs.

(7) "Timber" includes any trees or any part of any tree which has fallen or has been felled and all wood whether cut up or fashioned or not.

(8) "Tree" includes trees, palms, bamboos, shrubs, brushwood, creepers, and climbers at all stages of their growth.

PART II: CENTRAL FOREST RESERVES.

Effect of area being declared reserve.

4. Where an area is declared under this ordinance to be a central forest reserve it shall be administered as such by the Chief Conservator of Forests and shall thenceforward be utilised solely for the production of forest produce or for purposes ancillary thereto provided that the Governor-General may by order in the Gazette direct that as from a date specified any reserve or part thereof shall cease to be a reserve and such order shall have effect accordingly but nothing therein shall be taken to revive any rights in such area which were extinguished on its becoming a reserve save in respect of the rights of the owners of an area declared a reserve under the provisions of section 5 sub-section (3) of this ordinance.

Creation of central forest reserves.

5. (1) As from the coming into force of this ordinance the areas at or near the localities specified in column 1 of the schedule hereto shall to the extent set out in column 2 of the schedule be deemed to be and the same are hereby declared to be central forest reserves.

(2) The Governor-General may by an order to be published in the Gazette declare to be a central forest reserve any area of land which is registered under the Land Settlement and Registration Ordinance as Government land and which is free from any of the incumbrances or liabilities set out in section 25 paragraph (a) and section 27 paragraphs (c), (d), (e), (g) and (h) of the Land Settlement and Registration Ordinance and such area shall as from the coming into force of the order be a reserve.

(3) Where the owner of an area of land, or if there be more than one owner thereof, the owners of shares therein amounting in the aggregate to not less than two-thirds of the land, represent to the Governor-General through the Governor their desire that such area should on such terms as to remuneration and duration as may be agreed upon, become a central forest reserve the Governor-General may after consideration of the views of persons interested who oppose such representation, by order to be published in the Gazette specify such area and declare the same to be a central forest reserve and such area as from the coming into force of the order shall be a reserve.

(4) Whenever it is sought to constitute any area other than an area within sub-sections (1), (2) or (3) of this section to be a reserve the Government shall first acquire the land in accordance with the provisions of the Land Acquisition Ordinance in full ownership and free of the incumbrances and liabilities referred to in sub-section (2) of this section and thereafter the Governor-General shall declare the same a central forest reserve by an order to be published in the Gazette and as from the coming into force of the order such area shall be a reserve.

(5) The creation of a central forest reserve shall be deemed to be a public purpose within the meaning of the Land Acquisition Ordinance.

6. (1) Where land is declared by order under this ordinance to be a central forest reserve the order shall in each case specify and declare—

Public roads, water courses and watering places to be specified in order declaring area a reserve.

(a) which roads, tracks and waterways through or over such land shall be open to public traffic, and

(b) which watering places in such lands shall be open to public user, and

(c) subject to what conditions, if any, such use by the public of such roads, tracks, waterways and watering places will be allowed, and save to the extent and on the conditions so specified and declared no road, track, waterway or watering place shall be open to public user whether hitherto so used or not.

(2) In respect of the areas set out in the schedule hereto the roads, tracks, waterways and watering places through, over and in such areas specified in column 3 of the schedule and no others shall be open to public user to the extent and on the conditions set forth in column 4 of the schedule.

7. (1) The Chief Conservator of Forests shall on the publication of an order declaring an area to be a reserve—

When area declared a reserve, notice to be published locally and map to be deposited.

(a) cause notice of the terms thereof to be published at the office of the Governor ;

(b) cause a map indicating the area declared a reserve and all roads, tracks, waterways and watering places through, over or in the area declared to be open to public user to be deposited in the Central Land Registry and in the District Office of the district in which the land is situated ;

(c) cause the area to be demarcated by boundary posts of stone, concrete or iron or such other material or in such manner as he may direct and shall cause the position of such boundary to be marked on the maps deposited in accordance with the provisions of this section ;

(d) cause firelines of not less than two metres in width to be drawn on such area round the whole circumference.

(2) In respect of areas referred to in the schedule hereto the Chief Conservator of Forests shall do the acts provided for in subsection (1) paragraphs (a), (c) and (d) of this section on the coming into force of this ordinance.

Power to close public road, waterway or watering place.

8. The Chief Conservator of Forests may with the approval of the Governor close any road, track, waterway or watering place open to public user in a reserve provided that a reasonably convenient alternative therefor exists or is provided.

Acts prohibited in a reserve.

9. Save in so far as a licence or permit permitting such act to be done has been first had and obtained from the Chief Conservator of Forests or other Forest Officer empowered by him to grant such licence or permit no person shall do or cause to be done any of the following acts namely:—

(a) entering upon or remaining in, pasturing cattle or permitting or causing cattle to enter upon or remain in a reserve, or

(b) cutting, collecting, taking, destroying, injuring, consuming, converting, utilising or otherwise interfering with any forest produce of a reserve, or

(c) kindling, keeping, carrying or causing a fire in a reserve, or

(d) removing, defacing, overthrowing, altering or damaging or interfering with a boundary mark or blazed tree or fence of a reserve.

PART III: PENALTIES AND PROCEDURE.

Public to give information of fire or forest offence.

10. Any person knowing of the occurrence of a fire in or near a reserve or of the commission of or of the intention to commit a forest offence shall be bound with all reasonable despatch to inform the nearest Forest Officer, policeman or magistrate.

Public to assist in extinguishing fire.

11. In case of fire, accident or other emergency involving danger to a reserve or to any property in a reserve every person being in or near the reserve shall be bound to assist any magistrate, Forest Officer, policeman, nazir, omda or sheikh or other agent of the Government who reasonably demands his aid to extinguish such fire or avert such danger or secure such property from danger or loss, and, in the absence of any agent of the Government shall be bound to take such measures as may reasonably be within his power for the purposes aforesaid.

Powers to arrest without warrant.

12. (1) Any Forest Officer, policeman, nazir, omda or sheikh may without a warrant arrest any person reasonably suspected of having been concerned in a forest offence if such person refuses to give his name and address or gives a name or address which there is reason to believe is false or if there is reason to believe he will abscond.

(2) Any person making an arrest under sub-section (1) of this section shall forthwith take or send the person arrested before a magistrate or before the officer in charge of the nearest police station.

13. (1) When there is reason to believe that a forest offence has been committed in respect of any forest produce, such produce together with all tools, boats, carts or transport animals used or suspected to have been used in the commission of such offence may be seized by any Forest Officer or policeman.

Confiscation of property used in commission of forest offence.

(2) Any person seizing any property under sub-section (1) of this section shall place on such property or on the receptacle, if any, in which it is contained a mark indicating that the same has been so seized and shall forthwith make a report of such seizure to a magistrate or to the officer in charge of the nearest police station.

(3) Where property has been seized under the foregoing provisions of this section the Court on conviction of the offender may in addition to any other penalty order confiscation of the property seized as aforesaid.

14. When in any proceedings taken under this ordinance or in consequence of anything done under this ordinance a question arises as to whether any forest produce is the property of the Government such produce shall be presumed to be the property of the Government until the contrary is proved.

Forest produce presumed to belong to Government.

15. (1) Cattle trespassing in a reserve may be seized and impounded by any Forest Officer or policeman.

Power to impound cattle trespassing.

(2) The Governor shall make rules for each pound providing for the levying of a fine not exceeding twenty piastres for each head of cattle impounded and for pound fees and for the sale of the cattle in default of payment of fines and fees.

16. The commission of any act prohibited by section 9 paragraphs (b), (c) or (d) shall be punishable by imprisonment for a period not exceeding two years for each offence or by a fine not exceeding £E. 50 for each offence or by both.

Punishment of certain prohibited acts.

17. Whoever without the authority of a Forest Officer affixes to any tree or timber any mark used by a Forest Officer or alters, defaces, obliterates or adds to any such mark lawfully placed on any tree or timber, shall be punishable by imprisonment for a period not exceeding two years or by a fine not exceeding £E. 50 or by both.

Penalty for counterfeiting marks.

18. Whoever commits a breach of any provision of this ordinance to which no specific penalty is attached or any rule or regulation made under this ordinance to which no lesser penalty is attached shall be punishable by imprisonment for a period not exceeding six months or by a fine not exceeding £E. 10 or by both.

Penalty for other offences.

Power to order payment of compensation for damage caused.

19. When any person is convicted of doing or of causing another to do any of the following acts namely; felling, or lopping any tree or injuring any tree by fire or otherwise in contravention of this ordinance the Court or magistrate convicting may in addition to any punishment which may be awarded order the person convicted to pay to the Government compensation not exceeding £E. 1 for each tree in respect of which the offence was committed.

Lien on forest produce for money due to Government.

20. (1) The Government shall have a first charge on forest produce for the amount of all sums payable to the Government in respect of such produce and such produce may be seized by the Chief Conservator of Forests or by a Forest Officer empowered by him in that behalf and may be retained until any such amount due and payable has been paid.

(2) If the amount is not paid within one month of the due date of payment the produce may be sold by auction and the proceeds of sale shall be applied first in defraying the cost of such sale and secondly towards payment of the amount due.

(3) The surplus, if any, if not claimed by the person entitled thereto within two months of the date of sale shall be forfeited to Government.

PART IV: SUPPLEMENTAL.

Forest Officers to be public servants.

21. Every Forest Officer shall be a public servant within the meaning of the Penal Code.

Power to make rules.

22. (1) The Chief Conservator of Forests may make rules in accordance with and for the carrying out of the objects and purposes of this ordinance but such rules shall not come into force until after publication in the Gazette and shall be laid upon the table of each House of Parliament: provided that if such rules are of merely local application they may be made by the Chief Conservator of Forests with the consent of the Governor and come into force after local publication only.

(2) Any rules made under this section may provide for the punishment of any breach thereof by imprisonment for a period not exceeding six months or by fine not exceeding £E. 10 or by both.

Indemnity for acts done in good faith.

23. No suit or criminal prosecution shall lie against a public servant for anything done under this ordinance or in good faith intended or purporting to be done under this ordinance.

Government not responsible for losses.

24. The Government shall not be responsible for any loss or damage which may occur to any property while detained under a provision of this ordinance and no Forest Officer, policeman, nazir, omda or sheikh shall be responsible for any such loss or damage unless he shall have caused the same negligently, maliciously or fraudulently.

THE SCHEDULE.

CENTRAL FOREST RESERVE.

COLUMN 1.	COLUMN 2.	COLUMN 3.	COLUMN 4.
Blue Nile Province, En Nabra.	Area specified in Schedule to a proclamation there- anent published in Sudan Government Gazette No. 516 dated 27.4.1929. (p. 91.)	Nil	—
Khartoum Province, Mogren.	Area specified in Schedule to a proclamation there- anent published in Sudan Government Gazette No. 520 dated 31.8.1929. (p. 211.)	Nil.	—
Gezira Province, Aba Island.	Area specified in paragraph (a) of Schedule to a proclamation there- anent published in Sudan Government Gazette No. 524 dated 15.12.1929. (p. 301.)	Nil.	—

NOTE.—THE ORDERS MADE UNDER SECTION 5 OF THE CENTRAL FOREST ORDINANCE CREATING CENTRAL FOREST RESERVES ADDITIONAL TO THOSE INCLUDED IN THE ABOVE SCHEDULE, BEING OF LOCAL APPLICATION, WILL BE FOUND UNDER THE APPROPRIATE PROVINCE HEADING IN THE SUPPLEMENTARY VOLUME.