

THE PROVINCIAL FOREST ORDINANCE.

[1.8.1932]

An ordinance to provide for the creation and management of provincial forest reserves and for divers other purposes relating to forests.

PART I: PRELIMINARY.

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

Title and
commencement.

Definitions.

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

(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 provincial 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 being a Forest Officer within the meaning of the Central Forest Ordinance and also within a Province any person appointed by the Governor or by a Local Government Authority to be a Province Forest Ranger, Province Forest Overseer or Province Forest Guard or exercising corresponding powers in respect of land within such Province as are exercised by a Forest Officer under the Central Forest Ordinance.

(5) "Forest produce" includes—

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

(b) trees and leaves, flowers and fruits and all 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) "Land at the disposal of the Government" means—

(a) all Government land whether registered to Government under the Land Settlement and Registration Ordinance or not;

(b) all waste, forest or unoccupied land in respect of which no settlement of claims has been made under the Land Settlement and Registration Ordinance.

(8) "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.

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

PART II: PROVINCIAL FOREST RESERVES.

Effect of area
being declared
reserve.

3. Where an area is declared under this ordinance to be a provincial forest reserve it shall be administered as such by the Governor and shall, subject to unexpropriated rights recognised by such declaration, 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.

3A. (1) The Governor may delegate to a Local Government Authority within whose area any Provincial forest reserve is situated his powers of administering the same under section 3. together with all or any of the powers conferred on him by sections 6, 7, 8, 14 and 21, subject to such conditions as may be expressed in the instrument of delegation and may at any time revoke or vary such delegation.

Delegation of
Governor's
Powers.

(2) Where the Governor has delegated his power to a Local Government Authority under sub-section (1) all profits and fees resulting from the administration of the said reserve shall be credited to, and any loss incurred thereby shall be debited against its budget.

4. (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 provincial forest reserves subject to such unexpropriated rights as were subsisting therein prior to the coming into force of this ordinance.

Creation of
provincial
forest reserve.

(2) (a) Wherever it is decided by the Governor-General to constitute any area of land being land registered to Government under the Land Settlement and Registration Ordinance a provincial forest reserve, the Governor on being so informed shall appoint an expropriation officer to determine what rights if any exist over such land and thereafter in accordance with the procedure of the Land Acquisition Ordinance in that behalf to expropriate such rights save such as the Governor may indicate are not required to be expropriated by reason of their exercise not being prejudicial to the proposed reserve.

(b) Thereafter the Governor-General shall by an order to be published in the Gazette declare such area a provincial forest reserve and from the date of the coming into force of such order the area shall be a provincial forest reserve.

(c) The order declaring an area a provincial forest reserve under this sub-section shall set out the unexpropriated rights referred to in paragraph (a) of this sub-section and the name or names of the person or persons or village or tribe in whom such rights are vested and the area shall be a provincial forest reserve subject to such rights and no others.

(3) (a) Whenever it is sought to constitute any area other than an area within sub-sections (1) or (2) of this section to be a reserve, the Government shall first acquire the land in accordance

with the provisions of the Land Acquisition Ordinance subject to the modifications contained in paragraph (b) of this sub-section.

(b) In any proceeding under the foregoing paragraph in respect of any area the expropriation officer shall before proceeding under section 14 of the Land Acquisition Ordinance forward to the Governor a list of the rights claimed within the said area and the Governor shall notify to the expropriation officer which if any of such rights are not required to be expropriated by reason of their exercise not being prejudicial to the proposed reserve and thereupon the expropriation officer shall not proceed further with the expropriation of such rights but the land shall be acquired by the Government subject to such rights.

(c) Thereafter the Governor-General shall by an order to be published in the Gazette declare such area a provincial forest reserve and from the date of the coming into force of such order the area shall be a provincial forest reserve;

(d) The order declaring an area a provincial forest reserve under this sub-section shall set out the unexpropriated rights referred to in paragraph (b) of this sub-section and the name or names of the person or persons or village or tribe in whom such rights are vested and the area shall be a provincial forest reserve subject to such rights and no others.

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

5. The Governor shall on the publication of an order declaring an area to be a reserve—

(a) cause a map indicating the area declared a reserve to be deposited in the Central Land Registry and in the District Office of the district in which the land is situated;

(b) cause the area to be demarcated by boundary posts of stone, concrete or iron or such other material or in such other 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;

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

When area declared a reserve map to be deposited and area demarcated.

Acts prohibited in a reserve.

6. Save in so far as a licence or permit permitting such act to be done has been first had and obtained from the Governor or an official empowered by him to grant such licence or permit or save in so far as the same is done in exercise of an unexpropriated right recognised under the provisions of section 4 of this ordinance and done in accordance with any rules regulating the exercise of such right, 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 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: GENERAL PROTECTION OF FORESTS AND FOREST PRODUCE OUTSIDE RESERVES.

7. (1) When it appears necessary for any of the following purposes namely:—

Governor empowered to protect trees for special purposes.

(a) for the protection of any species of tree;

(b) to ensure that felling shall be carried out only in forest reserves or other areas of assured regeneration;

(c) for the protection of the soil, water, grazing or other natural resources of a district;

(d) for the protection of highways, canals, river banks or other lines of communication;

the Governor may in respect of any land at the disposal of the Government make rules to be published locally regulating, prohibiting or prescribing any of the following things, namely:—

(i) the cutting of trees generally or of a particular species of tree or of any age-class of any species of tree;

(ii) the kindling of fires in or near forest areas;

(iii) the production, collection or removal of forest produce:

Provided that when any rule has been made under the provisions of paragraph (a) of this section such rule shall not be amended or cancelled by the Governor without the consent of the Governor-General.

(2) A copy of all rules made under sub-section (1) of this section shall on coming into force be sent by the Governor to the Chief Conservator of Forests.

8. No person shall cut or take for a trade purpose any tree growing on land at the disposal of the Government other than a forest reserve or shall utilise or consume for a trade purpose such tree when cut save in so far as a licence or permit permitting such act to be done has been first had and obtained from the Governor or an official empowered by him to grant such licence or permit.

Licence where trees cut or consumed for trade purpose.

PART IV: PENALTIES AND PROCEDURE.

9. 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 give information of fire or forest offence.

Public to assist in extinguishing fire.

10. 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.

Power to arrest without warrant.

11. (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 without unnecessary delay take or send the person arrested before a magistrate or before the officer in charge of the nearest police station.

Confiscation of property used in commission of forest offence.

12. (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.

(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.

Forest produce presumed to belong to Government.

13. 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.

Power to impound cattle trespassing.

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

(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 fine and fees.

15. The commission of any act prohibited by section 6 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.

16. 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 with imprisonment for a period not exceeding two years or with a fine not exceeding £E. 50 or with both.

Penalty for counterfeiting marks.

17. Whoever commits a breach of any provision of this ordinance to which no specific penalty is attached or of 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.

18. 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.

Power to order payment of compensation for damage caused.

19. (1) The Government shall have a first charge on all 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 Governor 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.

Lien on forest produce for money due to Government.

(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 costs 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 the sale shall be forfeited to Government.

PART V: SUPPLEMENTAL.

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

Forest Officers to be public servants.

21. (1) In addition to any other power to make rules herein-before conferred, the Governor may make rules to be published locally in accordance with and for the carrying out of the objects and purposes of this ordinance.

Power to make rules.

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

Indemnity for acts done in good faith.

22. No suit or criminal prosecution shall lie against any 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 loss.

23. 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.
PROVINCIAL FOREST RESERVES.**

COLUMN 1.	COLUMN 2.
Gezira Province Lakadawia	Area specified in the schedule to a Proclamation thereanent published in Sudan Government Gazette No. 476 dated 15.6.1926. (p. 176.)
Salati.	Area specified in paragraph (b) of the schedule to a proclamation thereanent published in Sudan Government Gazette No. 524 dated 15.12.1929. (p. 301.)

NOTE.—THE ORDERS MADE UNDER SECTION 4 OF THE PROVINCIAL FOREST ORDINANCE CREATING PROVINCIAL FOREST RESERVES ADDITIONAL TO THOSE INCLUDED IN THE ABOVE SCHEDULE BEING OF LOCAL APPLICATION WILL BE FOUND UNDER THE APPROPRIATE HEADING IN THE SUPPLEMENTARY VOLUME.