

CHAPTER 24. No. 1.

FORESTS.

Ordinances
 Cap. 141—
 1925.
 No. 5—1933.
 „ 37—1933.
 Commencement.

AN ORDINANCE RELATING TO FORESTS AND FOREST PRODUCE.

[15th May, 1916.]

Short title.

1. This Ordinance may be cited as the Forests Ordinance.

Interpreta-
tion.

2. In this Ordinance—

Ord. 5—1933,
 s. 2.
 „ 37—1933,
 s. 2.

“cattle” includes horses, mules, asses, goats and swine;

“classification mark” means a mark placed on timber that already bears a property mark to denote its origin or the agency by which it has been handled;

“Crown land” includes—

(a) the waste or vacant land of the Crown within the Colony; and

(b) all lands vested in the Crown, whether by forfeiture, escheat, purchase, or exchange, and not dedicated to the public;

“forest offence” means any offence punishable under this Ordinance or under any rule made thereunder;

“Forest Officer” includes any person appointed to discharge any function of a Forest Officer under this Ordinance or any rule made thereunder;

“forest produce” includes the following when found in or brought from Crown land—

(a) trees and all parts or produce of such trees;

(b) plants not being trees, and all parts of produce of such plants;

“Forest Reserve” means and includes a forest and every part of a forest declared to be a Forest Reserve under the Land Regulations for the time being in force;

“ private land ” means land other than Crown land;

“ prohibited area ” means a specified area, being part of a Forest Reserve or Crown lands declared by the Governor in Council by proclamation to be a prohibited area;

“ property mark ” means a mark placed on timber to denote that after all purchase money or royalties due to the Government shall have been paid, the owner has or will have a right of property in the timber;

“ public road ” has the meaning given to it by section 2 of the Roads Ordinance;

“ timber ” includes trees when they have fallen or been felled, and all wood whether cut up or fashioned for any purpose or not;

“ tree ” includes palms, bamboos, stumps, brushwood, and canes;

“ Warden ” includes an Assistant Warden;

“ Ward Officer ” includes an Assistant Ward Officer.

Establishment.

3. The Governor may appoint such and so many persons to be Forest Officers as may be necessary to carry out the provisions of this Ordinance, and may, by writing under his hand, confer upon any such Officer or upon any Warden power or authority, either generally or in a specific case, to do any act or grant any permission for which power or authority is required under the provisions of this Ordinance.

Appointment
of officers.

Balata gum.

4. (1) No person shall extract gum from, or cut for the purpose of extracting gum, any Balata trees growing on Crown lands.

Balata gum
from Crown
lands.

(2) No person shall extract gum from, or cut for the purpose of extracting gum, any Balata tree growing on private land, without the licence in writing of the Warden of the district in which such land is situated. Such licence shall be in such form and subject to such conditions as the Governor in Council may from time to time determine.

Balata gum
from private
lands.

(3) Any person who contravenes the provisions of this section or of any condition contained in or endorsed on any

licence issued to him by a Warden shall be liable to a fine of two hundred and forty dollars.

Permit for
removal of
gum.
1st Schedule.]

5. (1) No person shall convey or remove Balata gum except under a written permit from the Warden of the district. Every such permit shall be in the form in the First Schedule hereto, shall only be granted on the Warden being satisfied that the Balata gum in respect of which the permit is applied for has been obtained from trees growing on private land with the consent of the owner of such land, and shall only hold good for the period therein mentioned.

Removing
gum without
permit.

(2) Any person who contravenes the provisions of this section shall be liable to a fine of two hundred and forty dollars.

Export of
Balata gum.

6. (1) No person shall export from the Colony any Balata gum unless, in the case of local produce, the shipping bill presented to the Comptroller of Customs and Excise is accompanied by a Warden's permit under the last preceding section, or, in the case of imported gum, by a certificate of its landing signed by an officer of Customs.

Unlawfully
exporting
Balata gum.

(2) Whoever exports or attempts to export from the Colony any Balata gum in contravention of the provisions of this section shall be liable to a fine of two hundred and forty dollars.

Removal of timber.

Permit to
move timber.

7. (1) It shall not be lawful for any person within a proclaimed district to convey or move any timber, the produce of the Colony, along any public road, or by railway or water, except under a written permit from an officer authorised to issue the same, and any person who contravenes the provisions of this section shall be liable to a fine of ninety-six dollars.

(2) "Timber" in this section and in section 11, means timber cut from trees mentioned in the Second Schedule hereto. The Governor in Council may from time to time, by proclamation, add to the list of trees specified in such Schedule, and may remove from such Schedule the name of any tree included therein.

(3) A "proclaimed district" means any part of the Colony as to which the Governor in Council may from time to

time, by proclamation, declare that the provisions of this Ordinance with regard to the removal of timber shall apply. Any such proclamation may be altered or revoked by the Governor in Council.

Offences and procedure.

8. If any person shall do any of the following acts,—

- (a) pasture cattle or permit cattle to trespass, or
- (b) fell, cut, girdle, mark, lop, tap, or bleed any tree or injure by fire or otherwise any tree or timber, or
- (c) cause any damage by negligence in felling any tree, or cutting or dragging any timber, or
- (d) kindle, keep, or carry any fire except at such seasons and in such manner as the Governor may from time to time notify, or
- (e) subject to any manufacturing process or convey or remove any forest produce, or
- (f) enter a prohibited area,

Forest offences.
Ord. 37-1933,
s. 3.

he shall be liable to a fine of two hundred and forty dollars if the act was committed in a Forest Reserve, and to a fine of ninety-six dollars if the act was committed on Crown land not included in a Forest Reserve: Provided that nothing in this section contained shall subject any person to any penalty thereunder for any act done in accordance with the rules made by the Governor or with permission in writing given by a Forest Officer or Warden empowered or authorised to grant such permission.

9. Any Forest Officer, Warden, or any person authorised by either of them, and any Ward Officer, rural constable, or member of the Police Force, may seize any cattle found trespassing on a Forest Reserve and deal with the same under the provisions of the Pounds Ordinance in the same way in all respects as poundable animals may be dealt with under the provisions of that Ordinance.

Cattle trespassing.

10. Whosoever—

- (a) knowingly counterfeits upon any tree or timber, or has in his possession any implement for counterfeiting,

Offences with intent to cause damage or wrongful gain.

a mark used by Forest Officers to indicate that such tree or timber is the property of the Government, or of some person, or that it may lawfully be felled or removed by some person, or

(b) unlawfully or fraudulently affixes to any tree or timber a mark used by Forest Officers, or

(c) alters, defaces, or obliterates any such mark placed on any tree or timber by or under the authority of a Forest Officer,

shall be liable to a fine of two hundred and forty dollars, or to imprisonment for three months.

Power to demand production of permit for Balata gum or timber.

11. It shall be lawful for any Forest Officer, Warden, or any person authorised by either of them, or for any Ward Officer, rural constable, or member of the Police Force, in any public road or place to stop any person conveying or removing, or whom he may have cause to suspect is conveying or removing, Balata gum or timber, the produce of the Colony, and to demand the production of the permit for such removal or conveying, and if such person is conveying or removing such Balata gum or timber and fails to produce such permit or to account satisfactorily for its absence, such Forest Officer, Warden, authorised person, Ward Officer, rural constable, or member of the Police Force may arrest such person and take him and such gum or timber before a Magistrate or Justice or the officer or non-commissioned officer in charge of the nearest Police Station to be dealt with according to law: Provided that in the case of timber, the powers conferred by this section shall only be exercised in respect of timber as defined in section 7 and within a proclaimed district as also therein defined.

Power of arrest.

12. (1) Any Forest Officer, Warden, Ward Officer, rural constable, or member of the Police Force may, without a warrant, arrest any person reasonably suspected of having been concerned in any forest offence if such person refuses to give his name or residence, or gives a name or residence which there is reason to believe to be false, or if there is reason to believe that he will abscond.

(2) Every person making an arrest under this section shall, without unnecessary delay, take or send the person arrested before a Magistrate or Justice or the officer or non-

commissioned officer in charge of the nearest Police Station to be dealt with according to law.

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, ropes, chains, boats, crafts, carriages, carts, and cattle used in the commission of such offence, may be seized by any Forest Officer, Warden, or person authorised by either of them, or by any Ward Officer, rural constable, or member of the Police Force.

Power to
seize produce,
carts, etc.,
and condemn.

(2) Every person seizing any property under this section shall, as soon as may be, make a report of such seizure to a Magistrate: Provided that when the forest produce with respect to which such offence is believed to have been committed is the property of the Government, and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

(3) All such property shall be forfeited to the Crown, and shall be taken to be condemned, and may be sold by the Forest Officer or Warden of the district in which the seizure took place, unless the person from whom the same shall have been seized or the owner thereof or some person authorised by him shall, within fourteen days of seizing the same, claim the same, and shall, within the said term of fourteen days, or such further term as a Magistrate may allow, prove to the satisfaction of such Magistrate that such forest produce was not obtained from Crown land, or that such person had some sufficient licence or authority in that behalf.

(4) In lieu of the forfeiture of any of the things other than forest produce mentioned in this section, the Magistrate may order the owner thereof to pay such penalty, not exceeding ninety-six dollars, as the Magistrate may think fit, and on payment of such penalty such things shall be returned to the owner.

(5) Whoever seizes any forest produce or any property under this section shall place on such forest produce or property, or the receptacle, if any, in which it is contained, a mark indicating that the same has been seized.

(6) Notwithstanding anything in this section contained a Forest Officer may direct at any time the immediate release

of any property seized under the provisions of this section which is not the property of the Crown, and the withdrawal of any charge made in respect of such property.

Compensation
in addition to
penalty.

14. (1) When any person is convicted of felling, cutting, removing, girdling, marking, lopping, tapping, or bleeding trees or timber, or of injuring them by fire or otherwise, in contravention of this Ordinance, the convicting Magistrate may, in addition to any other punishment which he may award, order that person to pay to the Government such compensation, not exceeding \$4.80, for each tree or log of timber with respect to which the offence was committed, as he deems just.

(2) If the person convicted of the offence committed is the agent or servant of another person, the convicting Magistrate may, unless, after hearing that other person, he is satisfied that the commission of the offence was not a consequence of such person's instigation or of any neglect or default on his part, order him, instead of the person who committed the offence, to pay the compensation referred to in this section.

Produce,
carts, etc.
liable to
forfeiture.

15. (1) When any person is convicted of a forest offence, all forest produce in respect of which such offence has been committed, and all tools, ropes, chains, boats, crafts, carts, carriages, and cattle used in the commission of such offence, shall be liable by order of the convicting Magistrate to be forfeited to the Crown or to be otherwise dealt with as to the Magistrate, in the particular circumstances of the case, seems just. Such forfeiture may be in addition to any other penalty or compensation prescribed for such offence.

Disposal of
produce after
trial.

(2) Any thing or any cattle mentioned in this section shall, if forfeited to the Crown, be taken possession of by a Forest Officer or Warden empowered in this behalf, and in any other case may be disposed of in such manner as the Magistrate may order.

Sale of
perishable
goods.

16. The Magistrate may, notwithstanding anything in this Ordinance contained, direct the sale of any property seized under this Ordinance and subject to speedy or natural decay, and may deal with the proceeds as he might have dealt with such property, if it had not been sold.

17. (1) Any offence under this Ordinance may be prosecuted and any penalty incurred may be imposed or recovered, in the manner provided by the Summary Courts Ordinance, on the complaint of a Forest Officer, Warden, Ward Officer, or member of the Police Force.

Recovery of penalties.

(2) All such complaints may be made at any time within two years from the time when such matter of complaint arose.

(3) Where any Forest Officer makes a complaint against any person, any other Forest Officer may appear before the Magistrate who is trying or enquiring into the matter of the said complaint, and shall have the same privileges as to addressing the said Magistrate and as to examining the witnesses adduced in the said matter as the Forest Officer who made the complaint would have had.

Right of Forest Officer to conduct case.
Ord. 5—1933,
s. 3.

18. (1) Every Forest Officer, Warden, Ward Officer, rural constable, and member of the Police Force is hereby authorised to prevent the commission of any forest offence.

Prevention of offences.

(2) Every person who assaults, obstructs or resists any Forest Officer, Warden, or any person authorised by either of them, or Ward Officer, in the execution of his duty, or aids or incites any other person so to assault, obstruct or resist any Forest Officer, Warden, or any person authorised by either of them, or Ward Officer, or any person aiding or assisting such Forest Officer, Warden, or any person authorised by either of them, or Ward Officer, in the execution of his duty, shall be liable to a fine of one hundred and twenty dollars, or to imprisonment for six months.

Penalty for assaulting or obstructing Forest Officer.
Ord. 5—1933,
s. 3.

19. In any action brought against any person for anything done or *bonâ fide* intended to be done in the exercise or supposed exercise of the powers given by this Ordinance or by any rules made thereunder, it shall be expressly alleged that the defendant acted maliciously and without reasonable and probable cause, and if at the trial the plaintiff fails to prove such allegation, judgment shall be given for the defendant.

Protection of persons acting under Ordinance.

20. 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

Presumption as to ownership of produce.

Government, such produce shall be presumed to be the property of the Government until the contrary is proved.

Compounding
of forest
offences.

21. (1) The Governor may, by writing under his hand, empower a Forest Officer—

(a) to accept from any person against whom a reasonable suspicion exists that he has committed any forest offence, other than an offence specified in section 10, a sum of money not exceeding forty-eight dollars by way of compensation for the offence which such person is suspected to have committed; and

(b) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.

(2) On payment of such sum of money or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property in respect of such suspected offence.

(3) All moneys received under this section shall be paid into the Treasury.

Rewards.

22. The Governor may order such rewards as he thinks fit to be paid in respect of any seizure made under this Ordinance to the person making such seizure or through whose information or means such seizure was made.

Rules.

23. (1) The Governor may make rules—

(a) prescribing the form of permits and providing for their issue, production, and return;

(b) regulating the issue of property marks and classification marks for timber and the registration of such marks, and declaring the circumstances in which the registration of any property mark or classification mark may be refused or cancelled; prescribing the time for which such registration shall hold good; limiting the number of such marks that may be registered by any one person, and providing for the levy of fees for such registration;

(c) providing for the preservation of trees remarkable for size, rarity, or beauty, whether generally or in individual cases, and for obtaining permission to lop or fell the same.

(2) Subject to the provisions of this Ordinance, rules made hereunder shall have no force or effect until they have been approved by the Legislative Council.

Approval of rules.
Cap. 141—
1925, s. 24 (1).

SCHEDULES.

FIRST SCHEDULE.

(Section 5.)

THE FORESTS ORDINANCE.

WARDEN'S OFFICE.

Permission is hereby granted to _____ to remove from _____ to _____
piece of Balata Gum weighing _____

This permit shall hold good for the period of _____ days from the date thereof.

Warden.

SECOND SCHEDULE.

(Section 7.)

Local Name.	Botanical Name.
Cedar	Cedrela odorata, L.
Poui	Tecoma serratifolia, Don.
Balata	Mimusops globosa, Gaertn.
Locust	Hymenoea courbaril, L.
Cyp	Cordia gerascanthus, Jacq.
Balsam	Copaifera officinalis, L.