

FOREST (CHAPTER 46)

LAWS OF BRUNEI

CHAPTER 46

FOREST

7 of 1934

Cap. 46 of 1951

1984 Ed. Cap. 46

Amended by

6 of 1939

2 of 1949

S 99/59

6 of 1967

S 29/00

S 83/00

REVISED EDITION 2002

(15th March 2002)

Section

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

1. Citation.
2. Interpretation.
3. Appointment of Officers.

PART II

RESERVED FORESTS

4. Power to constitute reserved forests.

5. Notification of proposal to constitute reserved forest.
6. Proclamation by District Officer.
7. New buildings and cultivation prohibited after proclamation.
8. Inquiry by District Officer.
9. Order by Minister.
10. Regulation of privileges.
11. Acquisition of alienated land for inclusion in a reserved forest.
12. Abandonment of proposal to reserve.
13. Notification declaring reserved forest.
14. Publication of notification prior to operation thereof.
15. Rescission and modification of privileges and conditions.
16. Acquisition of special rights.
17. Prohibition of transfer of privileges.
18. Power to stop way or watercourse in a reserved forest.
19. Acts prohibited in a reserved forest.
20. Prohibition as to fire.
21. Act excepted from sections 16, 19, 20 and 26.
22. Power to declare forest no longer reserved.

PART III

PENALTIES AND PROCEDURE

23. Power to arrest without warrant.
24. Seizure of property the subject of or used in committing a forest offence.
25. Presumption that forest produce belongs to Government.
26. Offences in reserved forest.
27. Unlawful possession of forest produce.
28. Penalty for breach of rules.

29. Penalty for wrongful seizure.
30. Penalty for counterfeiting or defacing or possessing implements for counterfeiting marks on trees and timber and altering boundary marks.
- 30A. Fines under section 26 etc.
31. Double penalty in certain cases.
32. Power to compound forest offences.
33. Compensation for damage caused by commission of a forest offence.
34. Confiscation the subject of, or used of property in committing, a forest offence.
35. Disposal of produce the subject of offences.
36. Power to take possession of and dispose of property the subject of, or used in the commission of, a forest offence when the offender is unknown or cannot be found.
37. Sale of perishable property seized.
38. Appeal against act under section 36.
39. Vesting in the Government of property taken possession of.
40. Power to release property seized and to withdraw charges.
41. Recovery of money due to the Government.
42. Charges on forest produce for money due to Government.
43. Unclaimed timber.
44. Public notice of timber collected under section 43.
45. Procedure on claim to timber.
46. Disposal of unclaimed timber.
47. Payment to be made by claimant before delivery of timber.
48. Forest produce not removed by licensee to become the property of Government.
49. Forest officers not to trade.
50. No liability for loss or damage.
51. His Majesty in Council may invest forest officers with certain powers.

PART IV

RULES

52. His Majesty in Council may make rules.
53. Certain rules not to extend to act done within a reserved forest.
54. Special provisions in favour of natives.
55. Saving of acts done by permission.
56. Liability of directors etc.

FOREST ACT

An Act relating to forests and forest produce

Commencement: 30th October 1934

PART I

PRELIMINARY

Citation.

1. This Act may be cited as the Forest Act.

Interpretation.

2. (1) In this Act, unless the context otherwise requires—

“cattle” includes elephants, buffaloes, horses, ponies, mules, asses, pigs, sheep and goats;

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

“Director of Forestry” means the Director of Forestry appointed under section 3 and includes any other officer whom His Majesty the Sultan and Yang Di-Pertuan may by public notification declare to be vested with all or any of the powers conferred on the Director of Forestry by this Act;

[S 29/00]

“forest offence” means an offence punishable under this Act or under any rules made under section 52;

“forest officer” means any person appointed under section 3 to be Director of Forestry, Deputy Director of Forestry, Silviculturist, Senior Forestry Officer, Forestry Officer, Assistant Forestry Officer, Senior Forestry Assistant, Forestry Assistant, Forest Ranger or Junior Forestry Assistant, or to discharge any function of a forest officer under this Act;

[S 29/00; S 83/00]

“forest produce” includes —

(a) the following when found in or brought from a reserved forest, that is to say, guano, peat, rock, sea-sand, river-sand, sea-shells, shell-sand and surface soil;

(b) the following when found in or brought from a reserved forest or State land, that is to say, trees and all parts or produce not hereinafter mentioned of trees; plants including climbers, creepers and grasses, and all parts or produce of such plants; silk, cocoons, honey and wax and edible birds' nests; and

(c) the following whether found in or brought from a reserved forest, State land, land reserved under the Land Code (Chapter 40) or any previous land Enactment or alienated land, that is to say, timber, firewood, charcoal, getah, getah taban leaves, wood oil, bark, extracts of bark, damar and atap;

“guano” includes the excrement of birds and of bats;

“property mark” means a mark placed on timber to denote that, after all purchase money or royalties due to the Government have been paid, the person in whose name such mark is registered has or will have a right of property in the timber;

“reserved forest” means every part of a forest declared to be a reserved forest under the provisions of section 13, or declared to be a reserved forest under the provisions of any other Act relating to forests, which shall not at the time being have ceased to be a reserved forest under section 22 or under the provisions of any such Act;

“river” includes stream, canal, creek and other channel, natural or artificial;

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

“tree” includes root, stump, stem, branch, brushwood, palm, cane, rattan and creeper.

(2) All words and expressions used in this Act which are defined in the Land Code (Chapter 40) shall be deemed to have the meanings attributed to them by that Code.

Appointment of Officers.

3. (1) His Majesty may appoint a Director of Forestry who shall be directly responsible to His Majesty for the administration of the forests of Brunei Darussalam and shall have the general superintendence of all matters within the provisions of this Act, and such and so many Assistant Director of Forestry, district forest officers, assistant district forest officers, forest rangers, foresters and forest guards as may be necessary for carrying out the purposes of this Act.

[S 29/00]

(2) Notwithstanding anything contained in this section His Majesty may delegate to the Director of Forestry the power to appoint forest rangers, foresters or forest guards.

[S 29/00]

(3) All officers appointed under this section shall be deemed to be public servants within the meaning of the Penal Code (Chapter 22).

PART II

RESERVED FORESTS

Power to constitute re-served forests.

4. His Majesty in Council may constitute any land a reserved forest in the manner hereinbefore provided.

Notification of proposal to constitute reserved forest.

5. Whenever it is proposed to constitute any land a reserved forest, the Minister shall publish a public notification —

(a) specifying as nearly as possible the situation and extent of such land; and

(b) declaring that it is proposed to constitute such land a reserved forest.

Proclamation by District Officer.

6. When a notification has been published under section 5, the District Officer of the area concerned shall publish in convenient places in the vicinity to the said land, and elsewhere as he may deem expedient, a proclamation in the Malay language and in such other languages as the Minister may in any particular case direct —

(a) specifying as nearly as possible the situation and extent of the forest proposed for reservation;

(b) setting forth the provisions in substance of the next following section;

(c) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest; and

(d) fixing a period of not less than 3 months from the date of the publication of such proclamation, and requiring every person who has any objection to the reservation of such forest or who applies to exercise any privilege which is being or has been exercised in or over any part of the said forest, to present to such District Officer of the area concerned within such period as aforesaid a written notice specifying, or to appear before him within such period and state, the nature of such objection or privilege.

New buildings and cultivation prohibited after proclamation.

7. During the interval between the publication of such proclamation and the date fixed by the notification declaring the forest to be reserved as hereinafter provided, no new house shall be built or plantation formed and no fresh clearing for cultivation or for any other purpose shall be made on or in any State land mentioned in such proclamation:

Provided that nothing in this section shall be deemed to prohibit any act done with the permission in writing of the District Officer of the area concerned or in conformity with the terms of a licence or permit issued by a forest officer in whom the power to issue such licence or permit was vested before the proclamation was published.

Inquiry by District Officer.

8. (1) The District Officer of the area concerned shall —

(a) take down in writing all statements made in response to his requirement under section 6 (d) ;

(b) inquire into all objections raised and applications made in response to his said requirement and into the propriety of conceding in and over the forest any privilege which is being or has been exercised but in respect of which no application is made;

(c) consider and record any opinion which Director of Forestry may express as to any objections that have been raised to the proposed reservation or as to the privileges to be conceded in or over the forest proposed to be reserved.

[S 29/00]

(2) For the purposes of any inquiry under this section the District Officer of the area concerned may exercise —

(a) the powers of a Land Officer under the Land Code (Chapter 40); and

(b) the powers conferred on a civil court by any written law or rule of civil procedure for compelling the attendance of witnesses and the production of documents.

Order by Minister.

9. The District Officer of the area concerned shall then with all convenient speed forward to the Minister a statement of particulars of all objections, privileges and opinion recorded by him under section 8; and the Minister after reference to the Director of Forestry and after such further inquiry as he may think necessary shall make an order admitting or rejecting such objections and conceding, modifying or disallowing the exercise of such privileges, either wholly or in part, as shall seem to him right.

[S 29/00]

Regulation of privileges.

10. Every order made under section 9 conceding a privilege in respect of forest produce within a forest proposed for reservation shall prescribe, so far as possible, the quantity and nature of forest produce which may be taken or received in exercise of such privilege, and the exercise of such privilege shall be subject to the control of the Director of Forestry and to such orders as he may make with the approval of the Minister to regulate the local limits within which and the mode in which such forest produce may be taken or received within the reserved forest.

[S 29/00]

Acquisition of alienated land for inclusion in a reserved forest.

11. If His Majesty in Council shall consider it expedient to include in a reserved forest any land leased or granted to, or otherwise lawfully occupied by, any person, may cause such land to be acquired as for a public purpose under the provisions of the Land Code (Chapter 40) and thereafter include such land within the limits of the reserved forest.

Abandonment of proposal to reserve.

12. (1) His Majesty in Council may, at any time before the publication of a notification under section 13, withdraw from a proposal to constitute any land a reserved forest.

(2) When such withdrawal is determined on, a proclamation shall be published by the District Officer of the area concerned, in the same places and in the same manner in which the proclamation under section 6 was published, announcing that the proposed reservation has been abandoned.

(3) On the publication of such proclamation the provisions of section 7 shall cease to apply to such land.

Notification declaring reserved forest.

13. (1) When the period fixed under section 6 (d) has elapsed and all objections and applications, if any, made within such period have been disposed of by the Minister and all lands, if any, to be included in the forest proposed for reservation which His Majesty in Council has, under section 11, elected to acquire under the Land Code, have under that Act vested in His Majesty, the Minister may, with the approval of His Majesty in Council, publish a notification specifying the land which it is intended to reserve, declaring the same to be reserved from a date fixed by such notification, mentioning the privileges conceded in respect of such land and stating the special conditions, if any, governing the reservation thereof.

(2) From the date so fixed such land shall be a reserved forest and shall, together with all the produce thereof and things found therein be deemed to be the property of the Government, to be maintained and controlled by the Director of Forestry, subject only to the privileges and conditions mentioned in such notification.

[S 29/00]

Publication of notification prior to operation thereof.

14. The District Officer of the area in which such land to be reserved is situated shall, before the date fixed by the notification under section 13, cause the said notification to be published in the manner prescribed for the proclamation under section 6.

Rescission and modification of privileges and conditions.

15. (1) The Minister after such enquiry as he may deem necessary and with the approval of His Majesty in Council, may at any time, by public notification, rescind, modify or add to any privilege conceded or any condition governing the reservation of a forest.

(2) No person shall be entitled to compensation in respect of anything done under the provisions of this section.

Acquisition of special rights.

16. No right of any description in or over a reserved forest or any part thereof shall be acquired except under a grant or contract in writing made by the Minister after reference to the Director of Forestry and with the approval of His Majesty in Council.

[S 29/00]

Prohibition of transfer of privileges.

17. Notwithstanding anything hereinbefore contained, no privilege conceded by notification under section 13 shall be transferred by way of grant, sale, lease, charge or otherwise, except with the authority of the Minister.

Power to stop way or water-course in a reserved forest.

18. The Director of Forestry may from time to time, with the previous sanction of the Minister, stop any public or private way or water-course in a reserved forest:

[S 29/00]

Provided that for the way or water-course so stopped another way or water-course which, in the opinion of the Minister is equally convenient already exists or has been provided or constructed by the Director of Forestry.

[S 29/00]

Acts prohibited in a reserved forest.

19. Subject to the provisions of section 21 no person shall in a reserved forest —

(a) graze cattle or permit cattle to graze; or

(b) fell, cut, ring, mark, lop or tap any tree or injure by fire or otherwise or remove any tree or timber; or

(c) cause any damage by negligence in felling any tree or cutting or dragging any timber; or

(d) search for, collect, subject to any manufacturing process or remove any forest produce or minerals; or

(e) clear or break up any land for cultivation or any other purpose; or

(f) poison or dynamite water or hunt, shoot, fish or set traps or snares; or

(g) trespass in any manner not in this section hereinbefore prohibited.

Prohibition as to fire.

20. Subject to the provisions of section 21, no person shall kindle, keep or carry any fire, or leave any fire burning, whether within or without a reserved forest, in such a manner as to endanger such reserved land.

Act excepted from sections 16, 19, 20 and 26.

21. Nothing in section 16, 19, 20 or 26 shall be deemed to prohibit or render punishable —

(a) the exercise in accordance with the orders, if any, made under section 10, of any privilege conceded by notification under section 13, to take forest produce in a reserved forest; or

(b) the exercise of any right created by grant or contract in the manner described in section 16; or

(c) any act done with the permission in writing of a forest officer empowered under section 51 to grant such permission.

Power to declare forest no longer reserved.

22. (1) The Minister, after reference to the Director of Forestry and with the approval of the Council of Ministers may, by public notification, direct that from a date to be fixed by such notification any reserved forest, or any portion thereof, shall cease to be reserved.

[S 29/00]

(2) From the date so fixed such forest or portion thereof shall cease to be reserved.

PART III

PENALTIES AND PROCEDURE

Power to arrest without warrant.

23. (1) Any forest officer or police officer may without a warrant arrest any person reasonably suspected of having been concerned in a forest offence punishable with imprisonment for one month or upwards, if such person refuses to give his name and residence or give a name and residence which there is reason to believe is false or if there is reason to believe that he will abscond.

(2) Every officer making an arrest under this section shall, without unnecessary delay, take or send the person arrested to the officer in charge of the nearest police station or, if the offence is compoundable under section 32, before an officer empowered under that section to accept compensation:

Provided that in the latter case, if the arrested person refuses to compound the alleged offence, such officer empowered under section 32 shall forthwith send such arrested person to the officer in charge of the nearest police station.

Seizure of property the subject of or used in committing a forest offence.

24. (1) Where there is reason to believe that a forest offence has been committed in respect of any forest produce, such produce, together with all tools, machinery, equipment, boats, conveyances and cattle used in the commission of such offence, may be seized by any forest officer or police officer.

[S 29/00]

(2) Every officer seizing any property under 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, so soon as may be, make a report of such seizure to the magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Provided that, in any case, where such property has been seized in connection with an offence dealt with by a forest officer in the exercise of his powers under section 32 or committed by some person unknown or who cannot be found, it shall not be necessary to report to a magistrate the seizure thereof.

Presumption that forest produce belongs to Government.

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

Offences in reserved forest.

26. Subject to the provisions of section 21 —

(i) whoever commits an offence against the provisions of paragraphs (b), (d) or (e) of section 19 or against the provisions of section 7 and whoever kindles, keeps or carries any fire burning in contravention of section 20 or of any instructions to ensure the safety of reserved forests which the Director of Forestry may from time to time notify in the manner prescribed by rule under section 52(2)(v), shall be guilty of an offence: Penalty, a fine and imprisonment for 5 years;

[S 29/00]

(ii) whoever commits an offence against the provisions of paragraphs (a) or (c) of section 19 shall be guilty of an offence: Penalty, a fine and imprisonment for one year;

[S 29/00]

(iii) whoever commits an offence against the provisions of paragraph (f) of section 19 shall be guilty of an offence: Penalty, a fine and imprisonment for one year;

[S 29/00]

(iv) whoever commits an offence against the provisions of paragraph (g) of section 19 shall be guilty of an offence: Penalty, a fine and imprisonment for one year.

[S 29/00]

Unlawful possession of forest produce.

27. (1) Any person found in possession of any forest produce upon which the royalty or other payment to the Government due in respect of such forest produce has not been paid or made shall be guilty of an offence: Penalty, a fine and imprisonment for 5 years.

[S 29/00]

(2) In any prosecution under this section the onus of proving that the royalty or other payment in respect of such forest produce has been paid or made shall be upon the person found in possession of such forest produce.

Penalty for breach of rules.

28. Subject to the provisions of sections 54 and 55 whoever commits a breach of any rule made under section 52, for the breach of which no penalty is expressly provided by rule made under section 52, shall be guilty of an offence: Penalty, a fine and imprisonment for 5 years.

[S 29/00]

Penalty for wrongful seizure.

29. (1) Whoever, being a forest officer or police officer, vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act shall be guilty of an offence: Penalty, a fine of \$5,000 and imprisonment for one year.

(2) Any fine imposed under the provisions of this section or any portion thereof shall, if the convicting court so directs, be given as compensation to the person aggrieved by such seizure.

Penalty for counterfeiting or defacing or possessing implements for counterfeiting marks on trees and timber and altering boundary marks.

30. Whoever, with intent to cause wilful damage or injury to the public or to any person or to cause wrongful gain as defined by the Penal Code (Chapter 22) —

(a) knowingly counterfeits upon any tree or timber, or has in his possession any implement for counterfeiting, 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 registered in the name of another person; or

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

(d) alters, removes, destroys or defaces any boundary mark of a reserved forest or of any land proposed to be included in a reserved forest,

shall be guilty of an offence: Penalty, a fine and imprisonment for 5 years.

[S 29/00]

Fines under section 26 etc. [S 29/00]

30A. In determining any fine to be imposed under section 26, 27, 28 or 30 or under any rules made under section 52, the court shall take into consideration any loss, injury or damage, or whatsoever nature, caused to or sustained by the Government, the public generally or any section of the public, or any person, whether or not such loss, injury or damages is of a nature to be able to be quantified or fully expressed in terms of money.

Double penalty in certain cases.

31. If a breach of any of the provisions of this Act or of any rule made thereunder is committed —

(a) after sunset and before sunrise; or

(b) after preparation for resistance to the execution of any law or any legal process; or

(c) after a previous conviction for a like offence,

the convicting court may inflict double the penalty prescribed for such offence.

Power to compound forest offences.

32. (1) The Director of Forestry and any forest officer empowered thereunto by name or office by the Minister by public notification—

[S 29/00]

(a) may accept from any person against whom a reasonable suspicion exists that he has committed any forest offence, other than an offence specified in section 29 or 30, a sum of money not exceeding \$500 by way of compensation for the offence which such person is suspected of having committed; and

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

and all sums so received shall be credited to revenue.

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

(3) Any power vested in a forest officer by notification under this section may at any time be withdrawn by the Minister by public notification.

Compensation for damage caused by commission of a forest offence.

33. (1) When any person is convicted of removing, felling, cutting, ringing, marking, lopping or tapping any tree or timber or of injuring them by fire or otherwise, in contravention of this Act, the convicting court may, in addition to any other penalty which it may award, order such person to pay to Government such compensation for such tree or timber, in respect whereof the offence was committed, as it deems just.

(2) If the person convicted of the offence committed is as the agent or servant of another person, the convicting court may, unless after hearing such other person it is satisfied that the commission of the offence was not a consequence of his 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 subsection (1).

Confiscation the subject of, or used of property in committing, a forest offence.

34. (1) When any person is convicted of a forest offence, all forest produce which is not the property of the Government and in respect of which such offence has been committed, and all tools, boats, conveyances and cattle used in the commission of such offence shall be liable, by order of the convicting court, to confiscation.

(2) Such confiscation may be in addition to any other penalty prescribed for such offence.

(3) Any order made under this section shall be subject to the provisions of Chapter XXXVII of the Criminal Procedure Code (Chapter 7) so far as such provisions are applicable.

Disposal of produce the subject of offences.

35. When the trial of any forest offence is concluded any forest produce in respect of which such offence has been committed, shall, if it is the property of the Government or has been confiscated be delivered to such forest officer as the court may order, and, in any other case, may be disposed of in such manner as the court may order.

Power to take possession of and dispose of property the subject of, or used in the commission of, a forest offence when the offender is unknown or cannot be found.

36. (1) When there is reason to believe that a forest offence has been committed by a person who is unknown or cannot be found, all property seized in respect thereof under section 24 shall, unless it has

been disposed of under section 35, be taken possession of, and may be disposed of, by a forest officer expressly empowered in that behalf under section 51; but no such property shall be sold or otherwise disposed of until the expiration of one month from the date of seizure of such property or without hearing the person, if any, claiming any right thereto and the evidence, if any, which he may produce in support of his claim.

(2) When possession is taken of any property under this section, the forest officer so taking possession shall either cause a notice thereof to be served upon any person whom he has reason to suspect to be interested in the property or publish such notice in any way he thinks fit.

Sale of perishable property seized.

37. A magistrate or a forest officer specially empowered in that behalf under section 51 may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section 24 and subject to speedy and natural decay and may deal with the proceeds as he might have dealt with such property had it not been sold.

Appeal against act under section 36.

38. (1) Any person claiming to be interested in any property seized under section 24 may within one month from the service or publication of a notice in respect of such property by a forest officer under section 36 prefer an appeal against the taking possession of such property to His Majesty in Council.

(2) The order of His Majesty in Council made on such appeal shall be final.

Vesting in the Government of property taken possession of.

39. When possession has been taken of any property under section 36, and —

(a) the period limited by section 38 for preferring an appeal against such taking possession has elapsed and no such appeal has been preferred; or

(b) on an appeal against such taking possession His Majesty in Council has confirmed such taking possession in respect of the whole or a portion of such property,

such property or portion, as the case may be, shall vest in the Government free from all encumbrances.

Power to release property seized and to withdraw charges.

40. Notwithstanding anything hereinbefore contained, any forest officer empowered under section 32 to compound forest offences may at any time direct the release of any property seized under section 24 which is not the property of the Government and the withdrawal of any charge made in respect of such property.

Recovery of money due to the Government.

41. (1) All money other than fines, payable to the Government under this Act or on account of the price of any produce or of expenses incurred in the execution of this Act in respect of any forest produce may, if not paid when due, be recovered in the manner provided by law for the recovery of fines.

(2) When any money becomes recoverable under the provisions of subsection (1) the Director of Forestry or other forest officer authorised by him in writing may, if the amount does not exceed \$10,000, apply *ex parte* in a summary way to the Court of a Magistrate, and in any other case, to the

High Court, for the levy of the amount due, and such Court shall thereupon proceed to levy such amount, as if it were a fine.

[S 29/00]

(3) If any person whose property has been seized under the authority of subsection (2) disputes the propriety of such seizure, he may apply to the Court which ordered such seizure for an order to stay the proceedings, and the Court after making such inquiry as may be necessary shall make such order in the premises as may seem just.

Charges on forest produce for money due to Government.

42. (1) When any such money as is referred to in section 41(1) is payable for or in respect of any forest produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by the Director of Forestry or by any forest officer authorised, either specially or generally, by the Director of Forestry in writing in that behalf and may be retained by him until such amount has been paid.

[S 29/00]

(2) If such amount is not paid when due, such forest officer may sell the said produce by public auction and the proceeds of sale shall be applied in the first instance in payment of the amount due.

(3) The surplus, if any, if not claimed within 2 months by the person entitled thereto, shall be forfeited to the Government.

Unclaimed timber.

43. (1) Timber found adrift, beached, stranded or sunk, or which is not in the possession or under the control of any person, shall be deemed to be the property of the Government unless or until any person establishes his right thereto as hereinbefore provided.

(2) Such timber may be collected by any forest officer or other person duly authorised under this Act and may be brought to any convenient place pending action under section 44.

Public notice of timber collected under section 43.

44. (1) Public notice of timber collected under section 43 shall, from time to time, as occasion may require, be given by a forest officer expressly empowered under section 51.

(2) Such notice shall contain a description of the timber and shall require any person claiming the same to make his claim to the Director of Forestry within a period not less than one month from the date on which such notice is given.

[S 29/00]

Procedure on claim to timber.

45. (1) When any such claim is made as aforesaid the Director of Forestry may, after making such inquiry as he thinks fit, either reject the claim after recording his reasons for so doing or deliver the timber to the claimant.

[S 29/00]

(2) If such timber is claimed by more than one person, the Director of Forestry may either deliver the same to any of such persons as he deems to be entitled thereto or may refer the claimants to the civil court pending thereupon an order from such court for its disposal.

[S 29/00]

Disposal of unclaimed timber.

46. When no claim is made within the period prescribed by section 44, or when such claim has been made and rejected, the ownership of such timber shall vest in the Government free from all encumbrances or, when such timber has been delivered to another person under section 45, in such other person free from all encumbrances not created by him.

Payment to be made by claimant before delivery of timber.

47. (1) No person shall be entitled to recover possession of any timber collected as aforesaid until the amount of any reasonable expenses incurred in collecting, moving, storing and disposing of the timber has been paid to the forest officer or other person entitled to receive the same.

(2) If any dispute arises as to the amount of expenses payable under this section, the matter shall be referred to the Minister, whose decision thereon shall be final.

Forest produce not removed by licensee to become the property of

Government.

48. Forest produce cut or collected under licence or permit in accordance with the provisions of this Act or of any rules made thereunder shall, unless removed from the area to which the licence or permit applies within a period of one month from the expiry of such licence or permit or within such further period as the Director of Forestry may in any particular case allow, become the property of the Government free from all encumbrances.

[S 29/00]

Forest officers not to trade.

49. No forest officer shall, as principal or agent, trade in forest produce or be or become interested in any lease of or charge on any forest or forest produce or in any contract for working any forest.

No liability for loss or damage.

50. The Government shall not be responsible for any loss or damage which may occur in respect of any forest produce while at a checking station or while detained elsewhere for the purposes of or under the provisions of this Act in respect of any timber collected under section 43.

His Majesty in Council may invest forest officers with certain powers.

51. (1) His Majesty in Council may invest any forest officer either specially or generally with all or any of the following powers—

(a) power to issue such search warrants as may be issued by Courts under the Criminal Procedure Code (Chapter 7);

- (b) power to grant permission such as is referred to in sections 21 and 55;
- (c) power to take possession and dispose of property under section 36;
- (d) power to direct the sale of perishable property under section 37;
- (e) power to give public notice under section 44 of timber collected under section 43.

(2) All or any of the powers specified in paragraphs (a) to (e) inclusive of subsection (1) may be exercised by the Director of Forestry.

[S 29/00]

PART IV

RULES

His Majesty in Council may make rules.

52. (1) His Majesty in Council may make rules to carry out the objects and purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may —

(a) regulate or prohibit the kindling of fires on State land and prescribe the precautions to be taken to prevent the spreading of fires;

(b) regulate, by licensing or otherwise, or prohibit the felling, cutting, ringing, marking, lopping, tapping or injuring by fire or otherwise, of any trees or timber, the sawing, conversion or removal of timber, and the collection and removal of other forest produce: Provided that in the case of land which now is or may hereafter be alienated no licence shall be issued except to the owner of such land or with his consent;

(c) regulate or prohibit the manufacture of bark or the burning of charcoal;

(d) regulate the free grant or the grant at reduced rates of forest produce;

(e) regulate by licensing or otherwise the sale, purchase or storage of forest produce;

(f) prohibit any dealings in specified kinds of forest produce and make it an offence to be found in possession thereof;

(g) prescribe the routes by which alone forest produce may be imported into, exported from or moved within Brunei Darussalam;

(h) regulate or prohibit, either absolutely or conditionally, the export from or the import into Brunei Darussalam of any forest produce or class or description of forest produce;

(i) prohibit the collection or removing of forest produce without a pass from an officer authorised to issue the same or otherwise than in accordance with the conditions of such pass and provide for the issue, production and return of such passes;

(j) in the case of timber formed into a raft or fastened to the sea-shore or any river bank, prohibit the loosening or setting adrift of such timber by any person not the owner thereof or not acting on behalf of the owner or of the Government;

(k) provide for the stoppage, reporting, examination and marking of forest produce in transit;

(l) establish checking stations to which forest produce is to be brought by the person in charge of it for examination or for the realisation of money due to the Government in respect thereof or in order that a mark may be affixed thereto for the purposes of this Act, and prescribe the conditions under which forest produce is to be brought to, detained at, and removed from such checking stations;

(m) provide for the management and control of such checking stations;

(n) prohibit, absolutely or subject to conditions, either generally or within specified limits, the establishment of saw-mills and saw-pits, the converting, cutting, burning, concealing, or marking of timber, the altering or effacing of any property marks on the same, and the possession of marking hammers or other implements used for marking timber;

(o) regulate the use of marks for timber and the registration of such marks, authorise the refusal or cancellation of the registration of such marks, prescribe the time for which the registration of such marks is to hold good and limit the number of such marks which may be registered by any one person;

(p) provide for the issue of licences to be in possession of marking hammers;

(q) regulate the collection and disposal of timber mentioned in section 43;

(r) regulate the manner of publication of public notice under section 44;

(s) declare by what forest officer or class of forest officers the powers or duties conferred or imposed by or under this Act or any rules made under this section are to be exercised or performed;

(t) regulate the procedure of the District Officer in the area concerned under Part II of this Act;

(u) regulate the rewards to be paid to officers and informers from the proceeds of fines and confiscations under this Act or under any rules made under this section or from the Treasury;

(v) prescribe the manner of notifying instructions of the Director of Forestry under section 26 (i) ;

[S 29/00]

(w) prescribe the fees, royalties and payments for forest produce, and the manner in which such fees, royalties or other payments are to be levied, whether in transit or partly in transit or otherwise;

(x) prescribe fees for passes under paragraph (i) hereof, for registration of marks under paragraph (o) hereof and for licences issued under this Act or under any rule made under this section;

(y) generally prescribe fees payable under this Act or under any rule made under this section;

(z) prescribe forms to be used under rules made under this section;

(zz) prescribe the penalties with which the contravention of any rule made under this section shall be punishable, but so that such penalties shall not exceed those prescribed by section 28.

(3) In any rules made under this section His Majesty in Council may direct that any specified rule or rules shall not apply to any particular class of forest produce or to any particular part of Brunei Darussalam.

(4) All rules made under this section shall be published by public notification.

Certain rules not to extend to act done within a reserved forest.

53. No rule made under paragraphs (b), (c), (d), (e), (n), (w), (x) and (y) of section 52(2) shall, except as may be expressly provided therein, extend to prohibit, regulate or authorise any act done within the limits of any reserved forest.

Special provisions in favour of natives.

54. Subject to any general provision in any rules made under section 52 prohibiting or regulating the cutting and removal of any specified form of forest produce or prohibiting or regulating the cutting and removal of all or any forest produce in any specified locality, nothing in any rules made under section 52 shall be deemed to prohibit the cutting and removal from State land or, with the permission of the owner, from alienated land by any native of Brunei Darussalam or by any such other person or class of persons as the Minister may be declaration designate of any timber, or any other forest produce which may be necessary for the construction or repair of a dwelling house for the permanent abode of himself and his family, for the construction or repair of temporary huts on any land lawfully occupied by him, for the construction or repair of his boats, landing places and fishing stakes, for the fencing of his land, for firewood for his own domestic consumption, or for the construction, repair or upkeep of any work for the common benefit of the native and other inhabitants of the locality in which he lives to whom the provisions of this section apply.

Saving of acts done by permission.

55. Nothing in any rule made under section 52 shall be deemed to prohibit any act done with the permission in writing of a forest officer expressly empowered under section 51 to grant such permission.

Liability of directors etc. [S 29/00]

56. Where a body corporate is guilty of an offence against this Act, every director and other person concerned in the management of the body corporate shall be guilty of the like offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.