

資料 2. 森林法
Forest Law

THE UNION OF MYANMAR
THE STATE LAW AND ORDER RESTORATION COUNCIL

FOREST LAW

The State Law and Order Restoration Council
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The State Law and Order Restoration Council Law
No. 8/92

The 9th Waxing Day of Tazaungmon, 1354 ME
(3rd November, 1992)

The State Law and Order Restoration Council
hereby enacts the following Law:—

CHAPTER I

Title and Definition

1. This Law shall be called the Forest Law.
2. The following expressions contained in this Law shall have the meanings given hereunder :—

- (a) *Reserved Forest* means land constituted as a reserved forest under this Law ;
- (b) *Protected Public Forest* means land declared to be protected public forest under this Law ;
- (c) *Forest Land* means land including reserved forest and protected public forest ;

- (d) *Land at the disposal of the Government* means other land with the exception of land in which a Government department, organization or any person has acquired right of cultivation, right of possession, right of use and occupancy, beneficial enjoyment, heritable right or transferable right under any existing law ;
- (e) *Forest Produce* means trees, leaves, flowers and fruits grown on or found in forest land or land at the disposal of the Government and their by-products. This expression also includes wild animals and insects, their parts and their by-products ;
- (f) *Minor Forest Produce* means forest produce declared as a minor forest produce under this Law ;
- (g) *Tree* includes root, stump, stem, branch, bush, creeper, bamboo, cane, orchid and seedling ;
- (h) *Reserved Tree* means a teak tree and any tree declared as a reserved tree under this Law ;
- (i) *Timber* means a tree which has fallen or which has been felled and wood or log, whether cut up, fashioned or hollowed out ;

- (j) *Firewood* means a tree, part or piece of timber suitable only for use as fuel ;
- (k) *Domestic Animal* means animals raised by man including elephants ;
- (l) *Removal Pass* means a permit issued under this Law to move forest produce from one township to another within the country ;
- (m) *Permit* means an order permitting extraction of forest produce or an order permitting right of operation relating to forest produce. This expression also includes an agreement executed to permit extraction of forest produce ;
- (n) *Minister* means the Minister of the Ministry of Forestry ;
- (o) *Director-General* means the Director-General of the Forest Department ;
- (p) *Forest Officer* means the Head of the State/Divisional, District or Township Forest Department ;
- (q) *Forest Staff* means the forest administrative staff at different levels from a Forest Guard to the Director-General of the Forest Department.

CHAPTER II

Basic Principles

3. This Law shall be implemented in accordance with the following basic principles :—
- (a) to implement the forestry policy of the Government ;
 - (b) to implement the environmental conservation policy of the Government ;
 - (c) to promote the sector of public co-operation in implementing the forestry policy and the environmental conservation policy of the Government ;
 - (d) to develop the economy of the State, to contribute towards the food, clothing and shelter needs of the public and for perpetual enjoyment of benefits by conservation and protection of forest ;
 - (e) to carry out in accordance with international agreements relating to conservation of forests and conservation of environment ;
 - (f) to prevent the dangers of destruction of forest and bio-diversity, outbreak of fires, infestation of insects and occurrence of plant disease ;
 - (g) to carry out simultaneously conservation of natural forests and establishment of forest plantations ;
 - (h) to contribute towards the fuel requirement of the country.

CHAPTER III

Constitution of Reserved Forest and Declaration of Protected Public Forest

4. In order to conserve the environmental factors and to maintain a sustained yield of the forest produce, the Minister may, with the approval of the Government, constitute the following categories of reserved forest by demarcation on land at the disposal of the Government:—

- (a) commercial reserved forest ;
- (b) local supply reserved forest ;
- (c) watershed or catchment protection reserved forest;
- (d) environment and bio-diversity conservation reserved forest;
- (e) other categories of reserved forest.

5. The Minister may, with the approval of the Government, declare as protected public forest, specifying limits on land at the disposal of the Government, outside reserved forests for the following purposes:—

- (a) protection of water and soil ;
- (b) conservation of arid-zone forests ;
- (c) conservation of mangrove forests ;
- (d) conservation of environment and bio-diversity ;
- (e) conservation for sustainable production.

6. The Minister shall:—

- (a) before constituting a reserved forest or declaring a protected public forest, declare in the manner prescribed that it is proposed to constitute any land a reserved forest or to prescribe any land a protected public forest;
- (b) in respect of constituting a reserved forest appoint a Forest Settlement Officer to inquire into and determine in the manner prescribed the affected rights of the public on the relevant land and to carry out demarcation of the reserved forest;
- (c) in respect of specifying a protected public forest delegate the Director-General to inquire into and determine in the manner prescribed the affected rights of the public which may arise under the prohibitions contained in the declaration;
- (d) publish a notification constituting a reserved forest after consideration of the report submitted through the Director-General by the Forest Settlement Officer after carrying out in accordance with sub-section(b);

- (e) publish a notification determining a protected public forest after consideration of the report submitted by the Director-General after carrying out in accordance with sub-section (c).

7. The Minister may, with the approval of the Government:—

- (a) alter the category of the whole or a portion of the reserved forest; cancel the category of being a reserved forest; convert into a protected public forest;
 - (b) cause the whole or a portion of the protected public forest which no longer requires conservation to cease to be a protected public forest.
8. (a) A standing teak tree wherever situated in the State is owned by the State;
- (b) The Minister may declare, alter or cancel according to the locality the species of reserved trees which are to be conserved by the Forest Department.

CHAPTER IV

Management of Forest Land

9. The functions and responsibilities of the Forest Department are as follows:—

- (a) implementation of the forestry policy of the Government;
- (b) implementation of the plans relating to conservation of water, soil, bio-diversity and environment, sustained yield of forest produce and protection of forest covered land;
- (c) management of forest land in accordance with the provisions of this Law;
- (d) submitting proposals to the Minister for the determination, alteration or cancellation of reserved forest, protected public forest and species of reserved trees;
- (e) establishing and managing schools and training courses relating to forestry and sending trainees abroad;
- (f) administering Forestry Institute;
- (g) inventorying forest resources;
- (h) carrying out forest research.

10. In order to carry out the forest and environment conservation work successfully, in accordance with the basis principles contained in this Law, the Director-General shall draw up the following plans and submit to the Minister:—

- (a) plan relating to the forest sector, to be used as a guideline in the Government departments, organizations and private enterprises ;
- (b) plan relating to forest administration.

11. The Director-General shall, in respect of the plans contained in section 10:—

- (a) report the work progress annually to the Minister ;
- (b) review from time to time and if requirements warrant alteration submit a proposal to the Minister ;
- (c) collect and collate necessary forest resources data in the prescribed manner every ten years.

12. Whoever, within a forest land and forest covered land at the disposal of the Government:—

- (a) is desirous of carrying out any development work or economic scheme shall obtain the prior approval of the Forestry Ministry ;

- (b) is desirous of carrying out educational or research work or conducting a training course or a study tour shall obtain the prior sanction of the Director-General or the Forest Officer empowered by him.

CHAPTER V

Establishment of Forest Plantation

13. The Director-General may, with the approval of the Minister, establish the following plantations on a forest land or land at the disposal of the Government :—

- (a) commercial plantation ;
- (b) industrial plantation ;
- (c) environmental conservation plantation ;
- (d) local supply plantation ;
- (e) village firewood plantation ;
- (f) other plantation.

14. If permission is obtained from the Government:—

- (a) the Government and any person or any organization have the right to carry out in joint-venture ;
- (b) any person or any organization has the right to carry out in accordance with the stipulation, cultivation and maintenance of forest plantations with the exception of village-owned firewood plantations cultivated by the villagers for their use.

15. The Director-General may grant permission to establish with stipulation the following village-owned firewood plantations in a reserved forest or protected public forest or on land at the disposal of the Government in the vicinity of the village:—

- (a) firewood plantation established by the Forest Department for a certain period and then transferred to be maintained and used as village-owned ;
- (b) village-owned firewood plantation established, maintained and used by the villages by collective labour.

16. A person having obtained the right to extract forest produce on a commercial scale who has the responsibility of establishing forest plantations or carrying out natural regeneration under a permit for the State shall carry out the same at his own expense and in accordance with stipulation.

CHAPTER VI

Permission for Extraction of Forest Produce

17. Forest produce may only be extracted after obtaining a permit. However, if it is for domestic or agricultural or piscatorial use not on a commercial scale, forest produce may be extracted in an amount not exceeding the stipulated quantity, without obtaining a permit.

18. In permitting the extraction of forest produce the Forest Department shall use the competitive bidding system if the extraction is on a commercial scale. However, extraction for the following purposes may be permitted without using the competitive bidding system :-

- (a) where extraction of forest produce and sales in and outside the country are carried out as a State-owned enterprise ;
- (b) where the Minister is empowered by the Government in respect of the extraction of forest produce ;
- (c) where minor forest produce is permitted to be extracted on a commercial scale ;
- (d) where forest produce to be used in the following works not on a commercial scale is permitted to be extracted :—
 - (i) research and educational work ;
 - (ii) work beneficial to the public or religious work.

19. (a) In respect of permission for extraction of forest produce on a commercial scale:—

- (i) the Minister may grant permission for a period of 5 years and above;
- (ii) the Director-General may grant permission for a term extending from over 2 years to 4 years;
- (iii) the State/Divisional Forest Officer may grant permission for a term which may extend to 1 year.

- (b) The person granting permission for extraction of forest produce under sub-section (a) may, for sufficient reason, extend the term of the permit for not more than 6 months at a time and not more than twice.

20. The Director-General may, with the approval of the Minister, determine the following in respect of the permission for extraction of forest produce:—

- (a) variety of minor forest produce;
- (b) rate of royalty and other fees;
- (c) the quantity of each forest produce, the extraction of which is allowed by the Forest Officers, without a permit for domestic or agricultural or piscatorial use not on a commercial scale;
- (d) penalty to be imposed for breach of condition contained in the permit;
- (e) terms and conditions.

21. A person who has obtained permission for extraction of forest produce shall:—

- (a) abide by the conditions contained in the permit;
- (b) abide by the orders, directives, prohibitions and restrictions issued by the Forest Department in accordance with this Law;
- (c) pay the royalties, security deposits and advances due;
- (d) affix the mark after measuring in the manner prescribed or affix the property-mark which has been registered.

22. The Forest Officer may permit the construction of charcoal kiln and burning of royalty-paid firewood into charcoal extracted from forest land and land at the disposal of the Government subject to prescribed conditions.

CHAPTER VII

Removal of Forest Produce

23. (a) Whoever is desirous of moving any forest produce from one township to another within the country shall apply for a removal pass from the Forest Officer empowered by the Director-General for this purpose.

(b) The provision of sub-section (a) shall not apply to the following cases:—

- (i) moving forest produce within the area permitted for extraction thereof;
- (ii) moving minor forest produce not exceeding the prescribed quantity and not on a commercial scale;
- (iii) moving from one township to another in a City Development area.

24. The Forest Department may establish the required revenue-stations to examine forest produce in transit and to collect the royalties due.

25. A person moving forest produce shall:—
- (a) carry the removal pass together with him;
 - (b) submit to the examination and assessment of royalty at the relevant revenue-station.
26. (a) The Director-General shall determine the rafting stations where timber is to be rafted and floated;
- (b) A person moving forest produce shall float timber below the rafting station only in rafts under control.

CHAPTER VIII

Disposal of Drift, Stranded and Waif Timber

27. Raft or timber floated below a rafting station without control is deemed to be "adrift."
28. (a) The following timber shall be deemed to be waif timber unless and until any person establishes his right thereto within the prescribed period:—
- (i) timber found adrift, stranded or sunk;
 - (ii) timber to which a registered property-mark has not been affixed;
 - (iii) timber on which a registered property mark has been obliterated.

- (b) The forest staff has the right to collect timber mentioned in sub-section (a) and bring to the revenue stations or timber depots.

29. The Forest Officer shall dispose of the drift and waif timber in the manner prescribed.

CHAPTER IX

Establishment of Wood-based Industry

30. A private entrepreneur who is desirous of establishing a sawpit, sawmill, tongue-and-groove mill, plywood mill, veneer mill or a wood-based industry with the exception of wood-based cottage industries and furniture industries has the right to establish the same only after obtaining a permit from the Forest Officer empowered for this purpose.

31. The Director-General may, with the approval of the Minister, determine the rates of royalties, and terms and conditions of the permit for the purpose of section 30.

CHAPTER X

Search, Arrest and Administrative Action

32. Powers relating to search, arrest, seizure and disposal of exhibits, which forest staff are authorized to exercise under this Law shall be prescribed by rules.

33. (a) A Forest Officer may pass any order relating to the following administrative action in respect of forest produce seized:—

- (i) in case of seizure of teak timber not exceeding 1 ton or timber from reserved tree not exceeding 3 tons, causing payment to be made of a penalty not exceeding kyats 10,000 and confiscating the timber;
 - (ii) in case of seizure of timber other than timber from teak or reserved tree not exceeding 3 tons, causing payment to be made of a penalty not exceeding kyats 10,000 and double the local value of the timber and releasing the timber;
 - (iii) in case of seizure of other forest produce the local value of which does not exceed kyats 5,000 other than timber, causing payment to be made of penalty not exceeding kyats 10,000 and double the local value of such forest produce and releasing the same;
 - (iv) in case of seizure of immovable forest produce, causing payment to be made of a penalty not exceeding kyats 10,000 and double the local value of such produce and releasing the same.
- (b) No legal proceeding shall be instituted under this Law against a person who abides by the order passed under sub-section (a). Legal proceeding shall only be instituted under this Law against a person who fails to abide by the same.

34. If a person who has obtained permission to extract forest produce or his agent or his labourer violates any condition of the permit, the person granting permission to extract forest produce may pass any of the following orders:—

- (a) causing the suspension of the whole or any portion of the work carried out under the permit;
- (b) causing payment of the prescribed penalty to be made and permitting the work to be carried on;
- (c) cancelling the permit;
- (d) cancelling the permit and confiscating the security deposit and advances; if it is considered necessary causing payment of the prescribed penalty.

35. The Forest Officer may cause payment of penalty not exceeding kyats 5,000 to be made by a person who moves without a removal pass forest produce lawfully owned under this Law and allow the forest produce to be moved. If there is failure to pay the penalty, the forest produce shall be confiscated.

36. (a) The forest staff may, in respect of any forest produce, keep in custody such forest produce until and unless the royalties and penalties payable to the Forest Department have been recovered;
- (b) In case of failure to pay the royalties and penalties within the prescribed period, the Forest Officer shall dispose of the forest produce kept in custody under sub-section (a) in the manner prescribed.

CHAPTER XI

Appeal

37. (a) A person dissatisfied with an order or decision made by the Township Forest Officer under this Law may file an appeal to the relevant District Forest Officer or State/Divisional Forest Officer as may be prescribed, within 30 days from the date of such order or decision;
- (b) The District Forest Officer or the State/Divisional Forest Officer may confirm, alter or set aside the order or decision made by the Township Forest Officer.
38. (a) A person dissatisfied with an order or decision made by the District Forest Officer or the State/Divisional Forest Officer may file an appeal to the Director-General within 60 days from the date of such order or decision;
- (b) The Director-General may confirm, alter or set aside the order or decision made by the District Forest Officer or the State/Divisional Forest Officer.
39. (a) A person dissatisfied with an order or decision made by a Forest Settlement Officer or the Director-General may file an appeal to the Minister within 60 days from the date of such order or decision ;

- (b) the Minister may confirm, alter or set aside the order or decision made by the Forest Settlement Officer or the Director-General;
- (c) The decision of the Minister shall be final and conclusive.

CHAPTER XII

Offences and Penalties

40. Whoever commits any of the following acts shall, on conviction, be punished with fine which may extend to kyats 5,000 or with imprisonment for a term which may extend to 6 months or with both :—

- (a) trespassing and encroaching in a reserved forest ;
- (b) pasturing domestic animals or permitting domestic animals to trespass in a reserved forest ;
- (c) breaking up any land, clearing, digging or causing damage to the original condition of the land without a permit in a reserved forest ;
- (d) causing damage to a water-course, poisoning the water, using chemicals or explosives in the water in a reserved forest ;
- (e) catching animals, hunting or fishing in a reserved forest ;
- (f) kindling, keeping and carrying any fire or leaving any fire burning which may set fire to the forests in a reserved forest ;

- (g) moving forest produce without submitting to examination at the revenue station ;
- (h) violating any provision of the rule, procedure, order, directive or notification issued under this Law.

41. Whoever commits any of the following acts shall, on conviction, be punished with fine which may extend to kyats 10,000 or with imprisonment which may extend to 1 year or with both :—

- (a) extracting, moving, keeping in possession unlawfully any forest produce, with the exception of timber from teak and reserved tree, without a permit ;
- (b) selling or utilizing in other works, forest produce extracted under section 18 sub-section (d), without the prior permission of the person authorized to grant permission for extraction.

42. Whoever commits any of the following acts shall, on conviction, be punished with fine which may extend to kyats 20,000 or with imprisonment for a term which may extend to 2 years or with both :—

- (a) felling, cutting, girdling, marking, lopping, tapping or injuring by fire or otherwise any tree in a reserved forest ;

- (b) extracting, moving or keeping in possession unlawfully timber from reserved tree other than teak without a permit ;

- (c) establishing and operating a saw pit, saw-mill, tongue-and-groove mill, plywood mill, veneer mill or a wood-based industry with the exception of wood-based cottage industries and furniture industries without a permit ;

- (d) constructing a charcoal kiln or burning charcoal without a permit.

43. (a) Whoever fells, cuts, girdles, marks, lops, taps, injures by fire or otherwise any teak tree in a forest land or land at the disposal of the Government or extracts, moves or keeps in possession unlawfully any teak timber without a permit shall be punished with fine which may extend to kyats 50,000 or with imprisonment for a term which may extend to 7 years or with both;

- (b) If the commission of offence under sub-section(a) is in respect of teak timber or teak tree growing or standing upon land other than forest land and land at the disposal of the Government, such person shall be punished with fine which may extend to kyats 5,000 or with imprisonment for a term which may extend to 6 months or with both.

44. Whoever commits any of the following acts shall, on conviction, be punished with fine which may extend to kyats 30,000 or with imprisonment for a term which may extend to 3 years or with both:—

- (a) having in his possession or counterfeiting a marking hammer used by forest staff; having in his possession a counterfeit marking hammer or affixing a mark on the forest produce with counterfeit marking hammer;
- (b) unlawfully affixing a mark on the forest produce with a marking hammer used by forest staff or with a property marking hammer;
- (c) altering, defacing or obliterating any mark affixed on the forest produce by the forest staff or by a person delegated by him;
- (d) altering, moving, destroying or defacing any boundary-mark of a forest land without permission.

45. Any forest staff who, by misusing the power conferred on him under this Law, vexatiously seizes any forest produce without valid reason shall be punished with fine which may extend to kyats 10,000 or with imprisonment for a term which may extend to 1 year or with both.

46. Any forest staff who, by reason of his power, accepts from any person cash or kind in a corrupt manner or in contravention of the Law and participates and conspires in extracting, moving or unlawfully having in possession forest produce in a wrongful manner shall be punished with imprisonment which may extend from a minimum of 1 year to a maximum of 7 years.

47. The convicting Court shall, in respect of any legal proceeding instituted under this Law, award punishment for the relevant offence and in addition:—

- (a) shall pass order for confiscation of all forest produce in respect of which the offence has been committed;
- (b) may pass order for the confiscation of vehicles/ vessels, animals and other machinery, tools and implements used in the commission of the offence;
- (c) may pass order for the value of the loss and damage to the Forest Department as a result of the commission of the offence, to be paid by way of compensation to the Forest Department.

48. The Court:—

- (a) shall hand-over the confiscated forest produce to the Forest Department;

- (b) may pay as damages to the person whose property has been wrongfully seized, the whole or any portion of the fine imposed under section 45.

CHAPTER XIII

Miscellaneous

49. (a) The Minister may reduce, waive or exempt from payment of any royalty due, in respect of forest produce permitted to be extracted under this Law;
- (b) The Director-General may reduce, waive or exempt from payment of any royalty due, in respect of forest produce permitted to be extracted under section 18 sub-section (d).
50. The Director-General may delegate the powers conferred on him under this Law to the Forest Officers.
51. All money payable to the Forest Department under this Law shall be recovered as if it were an arrear of land revenue. A Forest Officer who has been assigned responsibility by the Ministry of Forestry for this purpose shall exercise the powers of a Collector under the existing laws.
52. When a request is made by the Forest staff for assistance in the performance of their duties, the People's Police Force shall render necessary assistance.
53. If an exhibit relating to any legal proceeding instituted under this Law is not easily produceable before the Court, such exhibit need not be produced before the Court. However, a report or other relevant documentary evidence as to the manner of custody the same may be submitted. Such submission shall be deemed as if it were a submission of the exhibit before the Court and the relevant Court may dispose of the same in accordance with law.
54. In a case where administrative action is taken or, in a case where a legal proceeding is instituted under this Law, the burden of proving lawful ownership or lawful right of possession in respect of the forest produce shall lie on the person against whom action is taken.
55. The reserved forests existing under the Forest Act, 1902 shall be deemed to be reserved forests constituted under this Law.
56. Before the issuance of rules, procedures, notifications and directives under this Law, rules, notifications, directives and circulars issued under the Forest Act, 1902 may continue to be applicable in so far as they are not inconsistent with this Law.

57. For the purpose of carrying out the provisions of this Law:—

- (a) the Ministry of Forestry may issue rules and procedures as may be necessary with the approval of the Government ;
- (b) the Ministry of Forestry and the Forest Department may issue orders, directives and notifications as may be necessary.

58. The Forest Act, 1902 is hereby repealed.

(Sd) Than Shwe

General

Chairman

The State Law and Order Restoration Council

