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| Title : | The Forestry Act Ch |
| Date : | 2004.01.20 |
| Legislative : | <p>1.The Forestry Act is comprised of 77 articles and was first proposed and duly passed for implementation by the government of the Republic of China, effective 15 September 1932.</p> <p>2.On 13 February 1937, Articles 9 and 18 were amended and promulgated by the Government.</p> <p>3.On 6 February 1945, 57 provisions to the Act were amended and promulgated by the Government.</p> <p>4.On 27 May 1972, Article 49 was amended and promulgated by order of the President.</p> <p>5.On 13 December 1985, 58 provisions to the Act were amended and promulgated by order of the President per ROC President (I) Definition Order No. 6227.</p> <p>6.On 27 May 1998, 58 provisions to the Act were amended and promulgated by order of the President per ROC President (I) Definition Order No. 8700104490.</p> <p>7.On 15 November 2000, Articles 2, 12, 26, 29 and 48 were amended and promulgated by order of the President per ROC President 2000 (I) Definition Order No. 8900275050.</p> <p>8.On 20 January 2004, Articles 17-1 and 38-1 were added, and Articles 6, 7, 15, 25, 34, 48, 56-2 and 56-3 were amended and promulgated by order of the President per ROC President 2000 (I) Definition Order No. 8900275050.</p> |
| Content : | <p>Chapter I General Provisions</p> <p>Article 1 This Act is established to preserve forest resources, the natural functions of forests and their economic viability.</p> <p>Article 2 The term ‘government agency’ as used in this Act means the Council of Agriculture, Executive Yuan of the central government; the relevant direct municipal government at the municipal level; the county (city) government at the county (city) level.</p> <p>Article 3 The term ‘forest(s)’ means the land(s) and its collateral trees and bamboo, collectively. According to the delineation of ownership, forest(s) shall be distinguished as national forest(s), public forest(s), and private forest(s); forests principally belong to the nation.</p> <p>Article 4 Whereas whoever owns bamboo or trees on the land of others, constituting a claim of land-surface rights, lease rights or for other applications, or revenues, shall be deemed forest owner where this Act applies.</p> |

Chapter II Forestry Administration

Article 5

The administrative management of the forestry industry shall be predicated on the primary goal of preserving the long-term integrity of national lands.

Article 6

Whereof undeveloped mountains and lands suitable for forestry, the central government agency shall request that the central land administrative authority classify them as forestland, and promulgate accordingly.

Whereas land designated as forestland cannot be changed to other designations. However, forestland can be redesignated if approval is obtained from the direct municipal and county (city) governments, and this is then reported to the central government and central land management agency. If the land belongs to aboriginal people, it is also necessary to obtain approval from the aboriginal peoples' central government.

Forestland designated as such by other acts cannot be redesignated, except as provided in the preceding paragraph.

Article 7

Should a public or private forest have any of the following, the central government agency may appropriate it to national ownership, and shall compensate the owner accordingly:

1. It is needed for reasons of national security or operation of national forest;
2. It includes a river, lake or other water source that provides important resources
to the public.

Any and all acts relevant to land appropriation may be applied when appropriating land to national ownership. The procedure for appropriating public forest may follow the relevant rules of public property management.

Article 8

Should a national or public forest have any of the following, it may be leased, transferred or appropriated:

1. It is required for establishing a school, hospital, park or other public facilities;
2. It is required for national defense, transportation or water conservation
3. It is required for establishing public works;
4. It is required for establishing a duly approved national park, designated scenic
area or forest recreation park.

Should the applications stipulated above be violated, or not used for the said purposes during the assigned period, the leased, sublet or appropriated forestland shall be seized.

Article 9

To carry out any of the following actions in a forest, an application shall be filed with the government agency who shall, together with the relevant

local agency, examine the specified area for its suitability for the proposed action. After the application is approved, the action may be undertaken within the designated boundaries.

1. To build or repair a reservoir, roadway, power transmission system or to develop

a source of electricity;

2. To mine or quarry;

3. To build or repair other engineering works.

These undertakings are limited to those not impairing geological stability, national security and forestry.

For number 1, above, if there are concerns the forest will be damaged, the government agency shall oversee that the party in question shall perform due water conservation measures or other necessary measures, and the party may not refuse.

Article 10

Should a forest have any of the following, the government agency shall bar logging:

1. The land is so steep or the soil so shallow that re-forestation is difficult;

2. After logging, the soil is likely to be eroded or affect public benefits;

3. The land is located in a water reservoir collection area, headwaters of a river,

on an eroded riverbank, windward coastal area or sand dune area;

4. The forest is in other areas where logging prohibition is essential.

Article 11

The government agency may, according to where a forest is located, limit or prohibit the harvest or excavation of grass cover, tree roots and grass roots to a specific location and time period.

Chapter III Forestry Management and Utilization

Article 12

Whereas national forests shall be classified and managed by the central government agency; public forests shall be managed by the owner authority or consigned to some other legal entity; private forests shall be managed by private individuals.

The central government agency may, according to the state of the forestry industry, regulate and implement the forest management plan.

Article 13

To reinforce the water retaining ability of the forest, forest management shall comply with the protection and management regulations for water collection areas; these regulations shall be mandated by the Executive Yuan.

Article 14

National forest management plans shall be regulated by the relevant administrative agency, and shall be submitted to the central government

agency for approval.

Article 15

The annual plan for the yields of national forest products shall be based on the management plan for the relevant business area.

Harvesting of national forest yields shall be carried out according to the annual logging plan and national forest yields management code.

The category and handling of, and criteria pertaining to, national forest yields, and the harvest, transport, transfer, fee payment and other issues relevant to forest yields shall be regulated by the central government agency.

If the forest is located in the traditional territory of aboriginal people, the aboriginal people may take forest products for their traditional living needs. The harvesting area, variety, time, paid/unpaid, and other rules should be decided by the central government agency along with the central government of the aboriginal people.

After a natural disaster, the local government has one month to finish the cleanup and tally up all bamboo or trees carried outside the boundary of the National Forest by natural forces. After one month, local people may collect freely the remaining displaced wood and bamboo.

Article 16

Should a national park or scenic area be designated in a forest area, the responsible party shall meet with the government agency to conduct a field survey. The forest area within the demarcated boundaries shall be managed by the government agency according to this Act in conjunction with the relevant national park or scenic area development plan.

The regulations for the above shall be mandated by the Executive Yuan.

Article 17

Wherein a forest region, subject to approval of a relevant environment impact assessment, may be designated a forest recreation area; the establishment and regulation of this area shall be mandated by the central government agency.

A forest recreation area may collect fees for environmental improvement, and maintenance and cleaning; amusement facilities may collect a usage fee; such fees shall be regulated by the central government agency.

Article 17-1

To maintain forest ecology and preserve biodiversity, a Nature Reserve may be designated within a forest area. The number of people and the amount of traffic allowed into a Nature Reserve shall be regulated in accordance with the unique characteristics of the resources within the Reserve. The central government agency shall set the criteria for establishing and abolishing a Nature Reserve, its management plan, and relevant regulatory rules.

Article 18

Whereas public and private forests with a commercial forest area of more than five hundred (500) hectares shall have a licensed forestry technician. Forest planters and loggers shall be assisted by forestry technicians or

forestry technical staff.

Article 19

Should business collaboration among forestry practitioners become necessary, the said practitioners may organize a forestry cooperative association in accordance with the Cooperative Association Act; the association shall be counseled by the local government agency.

Article 20

Should a forest owner need to use another's land to transport forest equipment and products, or use, alter or remove implements in a water course, which must be done without endangering the water supply or peoples' lives, the owner shall negotiate with the landowner or other interest-holders. Where negotiation is discordant or impossible, the parties shall file with the government agency and the relevant local government agency for mediation; where mediation fails, the government agency shall resolve the issue.

Article 21

On the following forestlands the government agency may order the forest owner or stakeholder to undertake and complete reforestation and necessary water and soil conservation measures within an assigned period:

1. Eroded gorge, steep exposed land, collapsed land, landslide area, fragmented belt, severely eroded land and scattered sand dune;
2. Water source area, reservoir collection area, coastal area and riverbanks;
3. Old fire site, flood eroded land;
4. Logged site;
5. Other areas where conservation is essential.

Chapter IV Conservation Forestry

Article 22

Whereas forests held by the state, or a public or private entity, which meet any of the following requirements shall be classified as conservation forests by the central government agency:

1. Essential for preventing damage from floods, wind, tides, salt, and smoke;
2. Essential for the conservation of a water source or protection of a reservoir;
3. Essential for preventing damage from sand, soil erosion and blowing sand, falling rock, ice, or avalanches;
4. Essential to national defense;
5. Essential to public health;
6. Essential for navigation;
7. Essential for the fishing industry;
8. Essential to the preservation of landmarks, historic relics, and scenery;
9. Essential to nature conservation.

Article 23

Whereas hills or other lands conforming to any of the criteria in Article 22, Sections 1-5, shall be classified as conservation forest by the central government agency, and the conservation thereof shall be augmented.

Article 24

The management of conservation forests shall be predicated, regardless of ownership, on serving the public interest. All conservation forests shall be reasonably managed, cultivated, renewed and logged according to their individual characteristics.

Conservation forest management standards shall be decreed by the central government agency in conjunction with the local government agency.

Article 25

Should the subsistence of a conservation forest become unnecessary, subject to approval from the central government agency, it may be partially or wholly declassified.

The review standard for declassifying conservation forest will be decided by the central government agency.

Article 26

The classification or declassification of a conservation forest may be effected by submitting an application to the direct municipality or county (city) government agency by a legal entity or organization located in the vicinity of the forest or other parties having direct interests. The application then must be presented to the central government agency for approval. If the forest falls under the jurisdiction of the central government agency, the application shall be sent directly to the central government agency.

Article 27

In accepting the aforesaid application for classifying or declassifying a conservation forest, the government agency shall notify the relevant forest owner, landowner and parties holding other land rights, and promulgate accordingly.

Starting from the day of the said promulgation until the day of promulgation stipulated in Article 29, Section 2, forests classified as conservation forests may not be developed or logged, except with the approval of the government agency.

Article 28

Should any party with direct interests object to the specific classification or declassification of a forest, the party may present a statement of opinion to the local government agency within thirty (30) days of the day of promulgation stipulated in the first paragraph of the preceding article.

Article 29

The relevant direct municipality or county (city) government agency shall present all documents related to the classification or declassification of

a conservation forest to the central government agency for approval. Where there are objections filed according to the preceding article, the statement of opinion shall be enclosed. The classification or declassification of a conservation forest, after approval by the central government agency, shall be promulgated by the relevant direct municipal or county (city) government agency, and the forest owner shall be duly notified.

The classification or declassification of a conservation forest, upon approval by the central government agency, shall be promulgated by the central, direct municipal or county (city) government agency, and the forest owner shall be duly notified.

Article 30

No logging, damage to wood or bamboo, development or livestock grazing, harvesting or excavating of earth, rocks, grass cover or tree roots may be carried out in a conservation forest, except with the approval or consent of the government agency.

In addition to the limitation clause herein, the government agency may limit or prohibit the use of revenues therefrom by the conservation forest owner, or dictate the method of operation and protection.

The government agency may order reforestation or other essential restoration procedures if these limitations are violated.

Article 31

Whereof conservation forests are protected against logging, the landowner or crop owner may file for compensation limited to the extent of direct damage.

For the owner of a conservation forest who undertakes reforestation, as stipulated in paragraph three of the preceding article, and thus incurs reforestation expenditures, the said expenditure shall be deemed damages, as defined above.

For the damages specified herein, the landowner shall be compensated by the central government, which may order the legal entity, organization or private individual that benefits from the conservation forest classification to bear part or all of the compensation.

Chapter V Forest Protection

Article 32

To protect the forest, forest police may be instituted; where forest police are not instituted, the local police shall assume the duties of forest police.

The administrations and district heads of villages (towns, cities) are responsible for assisting in forest protection.

Article 33

The forest periphery may be designated a forest protection area. The area shall be delineated by the government agency, presented to the central government agency for approval, and promulgated by the local government agency.

Article 34

Prescribed burns shall not be started in forest areas and forest protection areas. Parties that have a burning permit from a relevant fire prevention institution, and which report to the relevant government agency, are not bound by this limitation. The permitted party must notify the owner or manager of adjacent forests prior to conducting a sanctioned burn.

In carrying out a sanctioned burn, the permitted party must have fire-extinguishing equipment on hand.

Article 35

The government agency shall institute a forest fire squad based on forest conditions and organize a volunteer forest fire squad as needed.

Article 36

Where a railway passes through a forest area or forest protection area, fire and smoke prevention equipment shall be implemented; the same is required of a factory situated near a forest protection area.

Where electrical wires pass through a forest area or forest protection area, equipment that prevents electrical shorts shall be implemented.

Article 37

Where there are biological hazards or disturbances in the forest, the forest owner shall be responsible for their elimination or prevention.

Where hazards or disturbances are present, the forest owner, when necessary and subject to permission by the government agency, may enter another's land to eliminate or prevent hazards to forest biology. In the event of damages, the forest owner shall be liable for compensation.

Article 38

Should a forest be threatened or afflicted by biological organisms and their spread or protraction, the government agency may order the forest owner and other parties with interests in the forest to perform actions required for the elimination or prevention of said organisms.

The cost of said elimination or prevention will be based on the area and value of the land, and shall be borne by the forest owner. However, if a prior agreement has been made among those sharing such costs, the terms of the agreement shall preside.

Article 38-1

The central government agency shall determine the methods used to protect and manage forests, prevent disasters and carry out rescues; the equipment used in forest protection; all aspects of forest propagation; and the rewards for forest fire prevention. For National Forest located within the traditional territory of aboriginal peoples, the central government agency shall make it a priority to advise aboriginal peoples community development associations, legal entities or individuals with reforestation and forest protection.

Chapter VI Supervision and Incentives

Article 39

To register with the government agency, a forest owner shall provide the geographic name, area, tree and bamboo species and volume, a map of where the forest is located and the forest plan.

The rules governing forest registration shall be decreed by the central government agency.

Article 40

Should there be an incident of forest neglect, over-development for agriculture or over-logging, the local government agency may assign specific management practices to the owner.

Should there be a breach of the said practices or wanton logging, the government agency may order the termination of logging and order reforestation.

Article 41

Should reforestation be ordered, as stipulated above, but not undertaken accordingly, the government agency may execute the order, but the cost of reforestation shall be borne by the obligated party.

Article 42

Whereas publicly and privately held undeveloped mountains and lands shall be classified as forestry lands, the government agency may order the owner to reforest within an assigned time period.

If reforestation is not completed within the specified time period, the government agency may execute the order, but the cost of reforestation shall be borne by the obligated party.

Article 43

In forest areas, unauthorized disposal of wastes or pollutants is prohibited.

Article 44

A harvester of state or public forests shall keep an account book documenting the yield of each species, the volume, origins and distribution channels.

The said harvester shall choose a mark or seal to identify his forest products. The mark or seal shall be filed with the local government agency, and it shall be used before the forest products are moved out of the forest.

The harvester, as defined in paragraph one herein, may not use a mark or seal that is similar or identical the previously filed mark or seal of other harvesters.

Article 45

All forest products are subject to permitting and inspection by the government agency prior to transport for distribution. The terms of logging and harvesting permits, application procedures, and due compliance requirements and inspection regulations shall be decreed by the central government agency.

The government agency shall set up checkpoints to inspect the harvest at

crucial locations along the roadways used to transport forest products. The said government agency or public official invested with the authority of criminal investigation may, at their discretion, inspect the harvester's permit, account book, equipment and materials.

Article 46

By act, taxation of forestry land and forest products is discounted or they are exempted.

Article 47

A forestry business that meets one of the following criteria may receive an award.

1. Special achievement in reforestation or forestry management;
2. A special forestry business whose forest products have significance to national defense or the nation's economic development;
3. Large scale cultivation of forests as a commodity to supply industry, national defense, ship building, road engineering or other important applications;
4. Nurseries that propagate seedlings in large numbers for local reforestation;
5. Those who invent or improve tree species, or bamboo and wood applications and crafts;
6. Significant contributions to extinguishing forest fires, or mitigating the damage by pests or pathogen and disasters caused by man;
7. Significant contributions to the research improvement of forestry science;
8. Significant contributions to the security of the nation's territory, conservation of water sources.

The award may be a cash prize, plaque, trophy or commendation certificate. The qualifications, procedures and complete incentive measures for such issuance shall be decreed by the central government agency.

Article 48

To encourage reforestation by private individuals, aboriginal people and/or organizations, the government agency may, depending upon actual needs, provide free seedlings, rewards, long-term low interest loans, or other assistance and rewards. The methods will be decided by the central government agency and the aboriginal peoples' central government agency.

Article 48-1

To encourage long-term reforestation by private individuals and/or organizations, the Government shall establish a reforestation fund. The sources of funding shall be as follows:

1. Allocations from water-rights fees;
2. A reciprocation fund provided by those who undertake development of

- hillsides;
3. Penalty fines for violation of this Act;
 4. Allocations from the engineering budget for water resource development projects;
 5. Allocations from government budgeting procedures;
 6. Donations;
 7. Other sources of income.

The water-right fee in Section 1 and the proportion of the allocation from the engineering budget for water resource development projects in Section 4 herein shall be regulated by the central water conservation government agency in conjunction with the central government agency. At the time a permit is issued for hill development, the reciprocation fund fee in Section 2 shall be served. The obligated party, calculation format, payment schedule, time period, procedures, and regulations, shall be decreed by the central government agency, and submitted to the Executive Yuan for approval.

Article 49

Undeveloped mountains and lands owned by the state shall be classified for forestry. Lands not reserved for state forestry operation may be designated and classified by the central government agency for reforestation leased to nationals of the Republic of China.

Chapter VII Penalty Provisions

Article 50

Those who steal primary forest products or forest by-products, or accept, transport, hoard or buy these stolen properties, and those who abet these actions, shall be held liable.

Article 51

For unauthorized development or occupation of forest or forestland, the offender shall be liable to from six months to five years of imprisonment. This may be commuted to a penalty fine of up to six hundred thousand New Taiwan Dollars (NT\$600,000).

When the offenses listed above lead to disaster, the punitive term shall be increased by one half. Those who commit offenses that result in death shall be liable to imprisonment for at least five years but not more than twelve years, commutable to a penalty fine of up to one million New Taiwan Dollars (NT\$1,000,000). Perpetrators of offenses that result in serious injuries shall be liable to at least three years but not more than ten years of imprisonment, commutable to a penalty fine of up to eight hundred thousand New Taiwan Dollars (NT\$800,000).

For offenses of paragraph one involving a conservation forest, the penalty may be increased by one half.

Should the offenses in paragraph one result from negligence, and lead to disaster, the responsible party shall be liable to no more than one year of imprisonment, commutable to a penalty fine of no more than six hundred thousand New Taiwan Dollars (NT\$600,000).

Those who attempt to commit offenses stipulated in paragraph one shall be liable to penalty by act.

For offenses stipulated herein, the cultivated plants, tools and supplies, construction materials and the machinery used shall be seized.

Article 52

The penalty for burglary of primary forest products or forest by-products shall be at least six months but no more than five years of imprisonment, and from two- to five-fold the value of the stolen property. Burglary offenses include:

1. Offenses committed in a conservation forest.
2. Offenses committed by an individual obligated to protect the forest according to a
consignment to an organization or other contract agreement.
3. Offenses committed while exercising the right to harvest forest products.
4. Offenses by more than two conspirators or the employment of other individuals
therefor.
5. Using stolen goods as raw materials for producing charcoal, turpentine or other
products, or for cultivating mushrooms.
6. Those who use equipment, livestock, vessels, vehicles or other equipment for
transporting stolen forest products.
7. Those who excavate, destroy, incinerate or hide roots to cover up traces of
crime.
8. Those who use stolen forest yields as fuel for mining, refining lime, or for
manufacturing bricks, tiles and/or other articles.

Those who attempt any of the above shall be subject to penalty.

Goods produced under Sections 1 through 5 shall be deemed stolen properties, and seized accordingly.

Article 53

Anyone who sets fire to another' s forest shall be liable to from three years to ten years of imprisonment.

Anyone who sets fire to his or her own forest shall be liable to no more than two years of imprisonment or labor in confinement. This sentence may be commuted to a penalty fine of no more than three hundred thousand New Taiwan Dollars (NT\$300,000). Should the fire destroy another' s forest, the perpetrator shall be liable to from one year to five years of imprisonment. Anyone whose accidental fire destroys another' s forest shall be liable to no more than two years of imprisonment or labor in confinement. This sentence may be commuted to a penalty fine of no more than three hundred thousand New Taiwan Dollars (NT\$300,000).

Anyone whose accidental fire destroys his or her own forest and, as a consequence, destroys another' s forest, shall be liable to no more than one year of imprisonment or labor in confinement. This sentence may be commuted to a penalty fine of no more than one hundred and eighty thousand New Taiwan Dollars (NT\$180,000).

Anyone who attempts any of the above shall be subject to penalty.

Article 54

In case of destruction, or damage to a conservation forest sufficient to entail injury to the public or others, the offender shall be liable to no more than three years of imprisonment or labor in confinement. This sentence may be commuted to a penalty fine of no more than three hundred thousand New Taiwan Dollars (NT\$300,000),

Article 55

Anyone who undertakes unauthorized land development or occupation of another's forest or forestland shall be held liable to compensate damages sustained by the injured party.

Article 56

Anyone who violates Articles 9, 34, 36 or paragraph one of Article 45 shall be liable to a penalty fine of at least one hundred and twenty thousand New Taiwan Dollars (NT\$120,000) but no more than six hundred thousand New Taiwan Dollars (NT\$600,000).

Article 56-1

Anyone committing any of the following shall be liable to a penalty fine of from sixty thousand New Taiwan Dollars (NT\$60,000) to three hundred thousand New Taiwan Dollars (NT\$300,000).

1. Violation of Article 6, paragraph two; Article 18; Article 30, paragraph one;
Articles 40 and 43;
2. Failure of the forest owner or party of interest to comply with the government agency's order to complete reforestation and necessary conservation measures within the assigned period according to Article 21;
3. Failure of the forest owner to take actions necessary for elimination or prevention as stipulated by Article 38;
4. Refusal of a forest product harvester to accept supervision during the harvest period by an adviser assigned by the administrative authority;
5. Moving, destroying or damaging signs placed in the forest by another party.

Article 56-2

The following conduct in a forest recreation area or Nature Reserve, without permission from the government agency, is subject to a penalty fine of at least fifty thousand New Taiwan Dollars (NT\$50,000) and no more than two hundred thousand New Taiwan Dollars (NT\$200,000):

1. Putting up advertising, signs or other objects with this purpose;
2. Collecting specimens;
3. Incinerating grass or trees;
4. Filling up, diverting or expanding a waterway or water surface;
5. Operating transportation for passengers goods.

6. Driving vehicles that adversely affect the forest environment.

Article 56-3

For any of the following, the offender shall be liable to a penalty fine from one thousand New Taiwan Dollars (NT\$1,000) to sixty thousand New Taiwan Dollars (NT\$60,000):

1. Failure to register as stipulated in paragraph one, Article 39, and continued

failure to do so after notification;

2. Having committed any of the following in a forest recreation area or Nature

Reserve:

(1) Pick flowers or snap tree branches, or engrave text or graphics on trees, rocks,

signs, display plaques or other objects fixed on the land;

(2) Unauthorized peddling;

(3) Spit, or dispose of fruit, paper or other wastes indiscreetly;

(4) Pollute the ground surface, walls, pillars and beams, water body or air, or

produce loud or disturbing sounds.

3. Harass or destroy wildlife, nests or dens in a Nature Reserve.

4. Entering a Nature Reserve without permission.

Owing to their traditional living needs and activities, aboriginal people are not bound by the above regulations.

Article 56-4

The penalty fines regulated by this Act shall be exercised by the government agency. Any and all fines imposed according to this Act that are not paid within the assigned period shall be moved to court for forcible execution.

Chapter VIII Supplementary Provisions

Article 57

The enforcement rules of this Act shall be decreed by the central government agency.

Article 58

This Act shall take effect on the day it is promulgated.