

The Forests (Amendment) Ordinance, 1954.



GOLD COAST.

No. 45 OF 1954.

Assented to in Her Majesty's Name and on Her Majesty's behalf this 24th day of November, 1954.

C. N. ARDEN-CLARKE
Governor.

AN Ordinance further to amend the Forests Ordinance.

[27th November, 1954.] Date of commencement.

BE IT ENACTED by the Legislature of the Gold Coast, as follows:—

1. This Ordinance may be cited as the Forests (Amendment) Ordinance, 1954, and shall be read as one with the Forests Ordinance, hereinafter referred to as the principal Ordinance. Short title.
Cap. 122.
2. In section 2 of the principal Ordinance the following amendment shall be made:—
 - (a) for the definition of "Native Court", there shall be substituted the following new definition—

" 'Native Court' means a court constituted as a Native Court under the provisions of any Ordinance, but, notwithstanding the provisions of any Ordinance to the contrary, shall not include such Native Court, when sitting as a Native Appeal Court; "
 - (b) there shall be inserted, immediately after the definition of "Native Court", the following new definition—

" 'Native Appeal Court' means a court constituted as a Native Appeal Court under the provisions of any Ordinance, and sitting as such; "Amendment of section 2 of the principal Ordinance.
3. (1) For subsections (2), (3), (4) and (5) of section 9 of the principal Ordinance there shall be substituted the following new subsections—
 - " (2) If in the course of any enquiry made under subsection (1) of this section a dispute arises as to the ownership of any land which lies within the proposed Forest Reserve,Amendment of section 9 of the principal Ordinance.

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the Reserve Settlement Commissioner shall try and determine such dispute, either in the course of such enquiry or at a separate enquiry, and shall incorporate his finding in his judgment given under the provisions of section 14 of this Ordinance.

(3) Notwithstanding the provisions of subsection (2) of this section, where such a dispute is determinable by a Native Court, the Reserve Settlement Commissioner may, in his discretion, refer the dispute to the appropriate Native Court, and upon such reference it shall be deemed for all purposes to be a civil suit brought before such Native Court, and, subject to the provisions of subsection (4) of this section, shall be tried and determined accordingly.

(4) Where a dispute has been referred to a Native Court for determination in accordance with the provisions of subsection (3) of this section, the Reserve Settlement Commissioner shall accept and adopt the judgment of that Native Court or, in a case where there has been an appeal to a Native Appeal Court in accordance with the provisions of subsection (5) of this section, the judgment of that Native Appeal Court, and he shall incorporate the same in his judgment given under the provisions of section 14 of this Ordinance:

Provided that where the Native Court does not give judgment within three months after the date of the reference thereto or in the case of an appeal from the Native Court the Native Appeal Court does not give judgment within three months after the date of the determination by the Native Court of such dispute, the Reserve Settlement Commissioner, after giving the Native Court or the Native Appeal Court, as the case may be, notice in writing of his intention so to do, may where the Native Court has not given judgment, proceed in accordance with the provisions of subsection (2) of this section as though there had been no such reference thereto, or where the Native Appeal Court has not given judgment, accept and adopt the judgment of the Native Court in accordance with the provisions of this subsection as though there had been no such appeal and the proceedings in the Native Court or the Native Appeal Court, as the case may be, shall cease and determine from the date of such notice.

(5) Notwithstanding the provisions of any Ordinance under which a Native Court or Native Appeal Court is constituted, there shall be no appeal from the judgment of a Native Court given under the provisions of subsection (3) of this section, other than—

(a) to a Native Appeal Court, where the Ordinance constituting the Native Court provides in such a case for an appeal to a Native Appeal Court and an appropriate Native Appeal Court has been duly constituted under such Ordinance; or

(b) in accordance with the provisions of section 15 of this Ordinance.

(6) Where there has been an appeal to a Native Appeal Court in accordance with the provisions of subsection (b) there shall be no appeal from the judgment of that Court, save in accordance with the provisions of section 15 of this Ordinance."

(2) Subsection (6) of section 9 of the principal Ordinance shall be omitted.

4. Immediately after section 9 of the principal Ordinance, there shall be inserted the following new section:—

" Survey of land in dispute.

9A. Where there is any dispute as to the ownership of any land which lies within any proposed Forest Reserve—

Insertion of new section 9A in the principal Ordinance.

(a) the expenses of any survey which is necessary for the determination of the dispute shall be borne by the Government of the Gold Coast;

(b) the Reserve Settlement Commissioner may direct the competent Forest Authority to survey the boundaries of any such land and to do such other acts as may be reasonably necessary for the survey and demarcation of such land."

5. Section 15 of the principal Ordinance shall be amended by the substitution of a comma for the full stop at the end thereof and by the addition immediately after that comma of the following words—

Amendment of section 15 of the principal Ordinance.

" and such appeal may relate to such part of the judgment as was incorporated therein under the provisions of subsections (2) or (4) of section 9 of this Ordinance."

6. (1) The provisions of sections 3 and 5 of this Ordinance shall not apply to a dispute as to the ownership of land lying within a proposed Forest Reserve, where at the date of the commencement of this Ordinance, a court, not being a Native Court or a Native Appeal Court is duly seized of the dispute in accordance with the provisions of any Ordinance:

Transitional provisions.

Provided that where any such dispute has on the application of the Reserve Settlement Commissioner been referred, by an order of a Judge of the Supreme Court, to the appropriate Division of the Supreme Court for trial and determination, and the dispute has not been tried and determined at the date of the commencement of this Ordinance, the Reserve Settlement Commissioner shall try and determine the dispute as if no such order had been made, unless a Judge of the Supreme Court on the application of any party to the dispute is of opinion that such course is inconvenient by reason of the stage reached in the trial of the dispute by the Court and within one month after the commencement of this Ordinance makes an order to the contrary.

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(2) Where at the date of the commencement of this Ordinance a Native Court or a Native Appeal Court is duly seized of a dispute as to the ownership of land lying within a proposed Forest Reserve, the dispute shall for the purposes of section 9 of the principal Ordinance, be deemed to have been referred to a Native Court for determination in accordance with the provisions of subsection (3) of that section on the date on which the proceedings were commenced in the Native Court.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Assembly, and found by me to be a true and correctly printed copy of the said Bill.

K. B. AYENSU

Acting Clerk to the Legislative Assembly.