



No. 9 OF 1977

Assented to by The President
this Twentyfifth day of February,
1977.

LS

D. K. JAWARA
President.

AN ACT to establish in The Gambia Designated Forest Areas and for
matters connected therewith and incidental thereto

[*By Order*]

Date of
commence-
ment.

ENACTED by the Parliament of The Gambia.

Enactment.

PART I

1. THIS ACT may be cited as the Forest Act and shall come into effect on the day or days prescribed in the Gazette: Short title.

Interpreta-
tion

2. In this Act unless the context otherwise requires—

“Assistant Conservator” means an Assistant Conservator of Forest in the Forestry Division;

“Cattle” includes sheep, goats, swine, horses, mules, donkeys and camels;

“Conservator” means the Conservator of Forests in the Forestry Division;

“Export” has the same meaning assigned to it in the Customs Tariff Act

“Forest” includes Government forest parks and protected forests;

“Forest Growth” includes anything growing or to be grown on land other than agricultural crops;

“Forest Officers” means any officer of the Forestry Division or any officer appointed under section 4 for the purpose of giving effect to the provisions of this Act;

“Forest Produce” includes—

(a) whether found in or brought from a forest or not; timber, firewood, charcoal, rubber, gutta percha, latex, wood oil, gum, resin, natural varnish, tanning extracts, tanning barks, fruits, fibres, bark and lac, and

(b) when found and brought from a forest,

(i) trees and all other parts or produce of trees not otherwise herein mentioned;

(ii) plants, including climbers and grasses, creepers and all parts or produce of plants;

(iii) wood ashes;

(iv) peat, surface oil and minerals other than minerals within the meaning of any Act, regulating the working of minerals.

(v) gravel, limestone, rock and laterite;

(vi) honey, beeswax, guano, silk-cocoons, humus and all produce from minerals;

“Forest Property” means any stock, stores or materials owned by the Government and used or intended to be used in any forest operations of any forestry work, and includes boundary marks and pillars, boundary or survey beacons or signs, name plates, machinery, scientific instruments, implements, tools, buildings, tents, fences, vehicles, roads, bridges and cattle;

The Forest Act, 1977.

"Forest Park" means any area constituted or deemed to have been forest park under this Act which shall not have ceased to be a forest park under any enactment;

"Gazette" means The Gambia Government Gazette;

"Girth" means the circumference of a tree measured either at a height of four feet six inches from the ground, or (if the tree is buttressed above that height) measured at one foot above where the highest buttress merges with the bole;

"Government" means the Government of The Gambia;

"Lands at the disposal of the Government" means any lands which the Government has acquired or may acquire by agreement or otherwise and includes lands leased to the Government;

"Minister" means the Minister for the time being charged with responsibility for administering this Act;

"Minor Forest Produce" means any produce other than timber

"Protected Forest" means any area declared by notice in the Gazette, in accordance with the provisions of sections 10 and 11 to be a protected forest;

"Protected tree" or Protected Minor Forest Produce" means any tree or any minor forest produce declared to be such in accordance with regulations made under this Act;

"Sawmill" includes all premises where round timber is converted mechanically into sawn timber;

"Timber" includes all trees whether standing, fallen or felled, stumps of trees and all wood, whether or not cut up or fashioned or hollowed out for any purpose;

"to take Minor Forest Produce" includes to cut, collect, gather or remove such produce;

"to take Timber" means to fell, lop or girdle trees or carry away timber from the lands upon which the tree have fallen or been felled, whether the trees have been felled, by cutting or by removing the soil from the roots or by any other method or combination of methods;

"tree" includes palms;

"working plan" means any plan of operations or work on any area whether in a forest or not so decided upon and described as such by a Conservator of Forests.

PART II

GENERAL PROVISIONS

Power to ex- 3. The Minister may by notice in the Gazette, and either for the
empt certain period mentioned in the notice, or without any period assigned withdraw
persons or from the operation of all or any of the provisions of this Act any class of
areas persons or any areas specified therein.

Appoint- 4. The Public Service Commission may appoint such officers as they
ment of Of- may consider necessary for giving effect to the provisions of this Act.
ficers

Power to en- 5. Any persons required so to do by the Conservator of Forests with
ter land necessary workmen may enter upon any land for the purpose of erecting
beacons or demarcating or cutting any boundary lines within and around
any land which it is proposed to constitute a forest park and around any
portions of land included as enclaves.

Improve- 6. Any Forestry Officer not below the rank of Assistant Conservator
ment of fo- of Forests may enter upon any land and may cut out and destroy any
rest generally, diseased, dead or dying tree or any tree likely to cause damage to any
forestry property or to life or property.

Prevention of 7. It shall be lawful for any Forestry Officer, Administrative Officer
offences or Police Officer to prevent the commission of any forestry offence.

Disposal of 8. All fees and royalties received under this Act shall be paid to the
fees and ro- Accountant General.
yalties

PART III

DESIGNATION OF FOREST PARKS AND DECLARATION OF
PROTECTED FORESTS

Minister may 9. (1) The Minister may designate as forest parks, any of the follow-
designate ing lands—
forest parks
and protect-
ed forests

(a) lands at the disposal of the Government;

(b) any lands in respect of which it appears to the Minister that
the forest growth on such lands should be protected or
reserved or forest grown be established.

(2) The Minister may, by notice in the Gazette, declare any such
lands to be a protected forest.

Preliminary 10. (1) Before designating any lands as forest park, the Minister shall
notification publish in the Gazette a notice—
of intention
to create fo-
rest park and
appointment
of Reserve
Settlement
Officer

(a) specifying, as nearly as may be, the situation and the limit
of the lands;

(b) declaring that the lands now form a protected forest

- (c) declaring whether the lands are at the disposal of the Government or are lands falling within paragraph (b) of sub-section (1) of section 9;
- (d) declaring that it is intended to designate the lands a forest park, either for the general purposes of the Government or for the particular use and benefit wholly or in part of any class of persons or for the benefit of any community;
- (e) appointing an officer, hereinafter referred to as a "Reserve Settlement Officer" to inquire into and determine the existence, nature and extent of any rights, claimed by or alleged to exist in favour of any persons or communities or brought to the knowledge of the said officer affecting the lands or any other rights in or over the lands which is proposed to be designated a forest park.

(2) If, for any reason, the Reserve Settlement Officer appointed under this section is unable to perform his duties, the Minister may, by notice in the Gazette, appoint any person to act on his behalf or as his successor.

11. The Minister may, by notice in the Gazette, revoke any notice under section 9 or 10. Upon publication of the notice aforesaid, the Reserve Settlement Officer shall—

- (a) immediately cause the particulars contained therein to be made known in the areas under the jurisdiction of the Councils or authorities in which the lands are situated by causing the same to be read and interpreted in the local vernacular in every court in the said areas under the jurisdiction of the councils or authorities, and also as far as he considers essential, by informing in writing the chiefs of the communities dwelling on, and the councils or authorities having jurisdiction over, the lands aforesaid; and
- (b) fix, and in the manner aforesaid, make known a period within which, and a place to or at which, any persons or community claiming any right or rights in or over or affecting the lands which it is proposed to designate a forest park shall either send in a written statement of claims to him or appear before him and state orally the nature and extent of his or its alleged rights.

12. (1) As soon as possible after the period fixed by the Reserve Settlement Officer, he shall—

- (a) inquire into and determine the limits of the lands specified in the notice aforesaid; and
- (b) determine the nature and extent of any claims or alleged rights affecting the lands which have been preferred or brought to his notice.

Duty of Reserve Settlement officer at inquiry

- (2) The Reserve Settlement Officer shall keep a record in writing of—
- (a) all such claims and alleged rights;
 - (b) all objections which may be made to such claims or alleged rights; and
 - (c) any evidence in support of or in opposition to claim or alleged right.

Reserve Settlement Officer to have Judicial powers

13. For the purpose of the inquiry, the Reserve Settlement Officer shall have all the powers conferred by law upon a Magistrate.

Reserve Settlement Officer may join or settle claims

14. The Reserve Settlement Officer may at any time during the inquiry, join any number of claims or sever any claims joined and, in his findings, may join any number of claims or sever any claims which were formerly joined.

Submission of Reserve Settlement Officer's findings on completion of inquiry

15. Upon the completion of the inquiry, the Reserve Settlement Officer shall submit to the Conservator for the consideration of the Minister his findings, describing the limits of the lands specified in the notice under section 10 and setting forth, with all such particulars as may be necessary to define their nature, duration, incidence and extent, all claims and alleged rights referred or brought to his knowledge in respect of the lands and admitting or rejecting the same wholly or in part.

Rights may be extinguished or modified by Minister

16. Where the Reserve Settlement Officer has admitted wholly, or in part any right or claim and, in the opinion of the Conservator, the exercise of such right or claim or any part thereof—

- (i) would stultify the objects of the proposed forest park;
- (ii) would seriously hinder the efficient working of the proposed forest park; or
- (iii) would cause any damage to the proposed forest park;

The Minister may—

- (a) extinguish any such rights or claims and may either give monetary compensation or grant in exchange similar rights on other similarly situated land either within or without the final boundaries of the forest park; or
- (b) confine or restrict any such rights or claims to certain areas either within or without the final boundaries of the forest park or the exercise of such rights to certain times of the year or
- (c) make any enclave or so amend the boundaries of the proposed forest park so as to exclude from the forest park, any areas over which such rights or claims have been admitted or

(d) add such additional rights as he shall consider it just and equitable to allow, notwithstanding that the Reserve Settlement Officer has not admitted such rights; or

(e) adopt wholly, or in part, any one or any combination of the above methods of dealing with the matter.

Provided that, in altering the external boundaries of the proposed forest park, the Minister shall not include any area which lies outside the original limits set out in the notice published in accordance with the provisions of Section 10 of this Act.

17. (1) The Minister shall, thereupon publish a notice in the Gazette specifying—

Notification
of lands to be
reserved and
rights admi-
ted

(a) the lands which is finally intended to be designated a forest park;

(b) the rights which may be exercised within the proposed forest park; and

(c) any other special conditions affecting the proposed forest park.

(2) The notice shall be made known in the same manner as the notice published under section 10 and to every person who, and the representative of any community which, preferred any claim or in respect of which any claim was brought to the knowledge of the Reserve Settlement Officer.

18. (1) Any person who has made a claim on his own behalf or where a claim has been made on behalf of a community, such person or the representative of that community, may, within three months of the date of publication of the notice under section 18 appeal to the Supreme Court against that portion of the notice which affects his claim or the claim made on behalf of the community which he represents.

Appeals from
notice speci-
fying lands to
be reserved
and rights
admitted

(2) The Supreme Court may make rules in respect of appeals and may in the rules prescribe fees to be paid in respect of such appeals.

19. (1) After the time limited under section 18 for appealing to the Supreme Court has elapsed or, if there has been an appeal, after the determination of the appeal, the Minister may, after taking into consideration the decision on appeal, make an order designating as a forest park the lands in respect of which an inquiry was held.

Order of Mi-
nister con-
stituting a fo-
rest park

(2) The Order shall set forth—

(a) the limits of the lands which constitute the forest park; and

(b) all rights affecting the same as set forth in the notice published under section 17 or established by the court upon appeal against such notice.

(3) The order shall be published in the Gazette and made known in the same manner as the notice published under section 10.

(4) From the date of the publication of the order in the Gazette such lands shall be a forest park.

Revision or
modifica-
tion of or-
ders constitu-
ing a forest
park

20. (1) Any order made under section 19 may be revised or modified by the Minister and such revision or modification may be given retrospective effect.

(2) In any revision or modification made under this section the Minister may, after further inquiry if such be deemed necessary—

- (a) exercise the rights conferred on him under section 16;
- (b) add such additional rights as he shall consider it just and equitable to allow notwithstanding that such rights had not been admitted in the notice published under section 17;
- (c) provide for any two or more contiguous forest parks being joined to form one forest park.

Extinguish-
ment and re-
vival of rights

21. Every right in or over land in respect of which no claim shall have been made to the Reserve Settlement Officer or of which no knowledge shall have been acquired by that officer shall be extinguished:

Provided that if any person shall, within one year of the date of the publication in the Gazette of the notice under section 10, claim, and satisfy the Minister that he was possessed of, a right in respect of which he might have made a claim and that, through ignorance of the fact that an inquiry was being held or for other sufficient reason, he failed to make such claim, the Minister may direct—

- (i) that such right shall be revived;
- (ii) that such right shall be modified; or
- (iii) that such right be extinguished in accordance with the provisions of section 16.

Nonew rights
to be ac-
quired
in lands to be
constituted a
forest park
without
approval

22. During the period between the dates of the publication under section 10 of the intention to create a forest park and of the order under section 20 designating the forest park—

- (a) no rights shall be acquired in or over the lands comprised within such notice otherwise than by succession or under a grant or contract in writing entered into with the approval of the Minister; and
- (b) no act or thing shall be done in contravention of section 37 except that any right admitted in the notice published under section 19 may be exercised, to the extent and in the manner described therein, by the communities or persons to whom it was admitted, without prejudice to any subsequent revision or modification as provided for in this Act.

23. (1) Without the consent of the Minister first obtained, it shall be unlawful for any person or community to alienate, by sale, mortgage or transfer, any right admitted in an order made under section 19.

Rights in forest parks may not be alienated without approval

(2) Any sale, mortgage or transfer effected without consent shall be null and void.

24. (1) Any right in a forest park admitted in an order made under section 19 and not exercised for a period of ten years shall be deemed to have extinguished.

Non-exercise of rights

(2) Where another right of way is available, the Minister may, by notice in the Gazette close any right of way in a forest park.

25. Notwithstanding any native law or custom to the contrary, any person, and the chief or head of any community on behalf of the community, shall be entitled to enter into any agreement to grant and convey absolutely to the Government any lands, and any rights in and over any lands, owned by him or it, which it is proposed to designate a forest park under the provisions of this Act.

Lands and rights may be granted absolutely to Government

26. The Minister may, by notice in the Gazette, direct that from a date named therein, any lands or any part thereof, designated a forest park under section 20 shall cease to be a forest park or part of that park and thereupon from that date such lands shall cease to be a forest park or part of such park:

Power to de-reserve

Provided that the rights, if any, which may have been extinguished therein, shall not revive in consequence of the cessation:

PART IV DECLARATION OF WIND EROSION AREAS

27. The Minister may, by notice in the Gazette declare any lands to be wind-erosion areas.

Minister may declare wind erosion areas

28. In lands so declared, the Minister may make regulations for all or any of the purposes following:

Power to make regulations

- (a) the formation of wind breaks;
- (b) the retention of trees;
- (c) the planting of trees;
- (d) generally for the purposes of preventing wind-erosion.

PART V ADMINISTRATION OF FORESTPARKS AND PROTECTED FOREST

29. The protection, control and management of forest parks and protected forests shall be exercised and directed by the Minister.

Control of forest parks and protected forests

Power to
make regula-
tions and
prescribe pe-
nalties for
contraven-
tion thereof

30. The Minister may make regulations for all or any of the following and may specify the area or areas to which all or any regulations shall apply-

- (a) prohibiting or regulating the taking of forest produce or of any specified kind of forest produce on lands at disposal of Government or on Provinces' lands or communal lands;
- (b) prohibiting the sale and purchase of forest produce of any specified kind of forest produce by any persons other than the holders of licences and permits granted under this Act, or by any other persons or by any classes of persons specified in the regulations;
- (c) prohibiting the sale, purchase and possession of forest produce taken, collected or prepared in contravention of this Act;
- (d) prohibiting the destruction of, or any act which may tend to the destruction of or cause injury to, any forest produce or forest growth or forest property in any forest park or on lands at the disposal of the Government or on Provinces lands or communal lands;
- (e) regulating the kindling of fires for any purpose within a protected forest or a forest park, and prescribing the person who may declare the period during which fires may or may not be allowed for any purpose;
- (f) regulating the kindling and suppression of bush fires in all lands and prescribing the persons who may declare the period during which fires may or may not be allowed;
- (g) regulating the grant, issue of and prescribing the form that any licence or permits may take in any particular case—
 - (i) to take forest produce in forest parks or lands at the disposal of the Government;
 - (ii) to sell or purchase forest produce;
 - (iii) to erect or operate sawmills or other manufacturing plant using wood as a raw material;
- (h) prescribing the procedure for fixing and making known to the public the fees to be paid on the application for and the grant of any licence or permit and the royalties and fees to be paid by the holders thereof;
- (i) prescribing the persons who may declare any specified kind of tree to be a protected tree and any specified kind of minor forest produce to be protected minor forest produce under this Act, and the procedure thereof;
- (j) providing for, and imposing conditions in respect of the collection, payment and disposal of fees, royalties, tools and costs of survey and demarcation;

The Forest Act, 1977.

- (k) providing for the cancellation, forfeiture, termination or revocation of licences and permits;
- (l) providing for the remission or reduction by a forest officer of any royalty, fees or tolls charged or payable under the provision of this Act;
- (m) requiring the holders of licences and permits to render returns and accounts and to submit their books for inspection;
- (n) regulating the collection, preparation and taking of forest produce;
- (o) regulating the transit of forest produce by land and water or by different means and classes of transport;
- (p) providing for the examination, marking, reporting or stoppage of timber or other forest produce in transit;
- (q) providing for the establishment, management or control of checking stations to which timber or other forest produce shall be taken for examination by those in charge of it; and the conditions under which such timber or other forest produce shall be brought to, stored at or removed from the checking stations;
- (r) providing for the management, utilization and protection of forest parks;
- (s) prescribing the powers and duties of forest officers and providing for the maintenance of discipline;
- (t) regulating the export of forest produce or of any specified kind of forest produce;
- (u) generally for the more effectual carrying out of all or any of the provisions of this Act.

PART VI

OFFENCES AND LEGAL PROCEEDINGS

31. A Forest Officer, Divisional Commissioner, or Police Officer may stop any vehicle, vessel or craft engaged in transporting or moving any forest produce on any road or inland waterway for the purpose of inspecting the produce.

Inspection of
forest pro-
duce

32. (1) Any Divisional Commissioner, Forest Officer or Police Officer not below the rank of a Sergeant may himself, or by any person acting under his directions, seize any forest produce reasonably suspected of having been unlawfully obtained or being unlawfully removed and any instrument or thing reasonably suspected of having been used in the commission of any offence under this Act.

Seizure of fo-
rest produce

The Forest Act, 1977.

(2) No action shall be brought against the officer, or person acting under his direction, in respect of any deterioration in quality or value of any forest produce, instrument or thing seized in accordance with the provisions of subsection (1) of this section.

(3) Where the person suspected of having committed the offence in respect of which forest produce has been seized has not been charged the officer, after obtaining an order of a Magistrate, may—

- (a) sell such forest produce and pay to the Accountant General the proceeds thereof, after deducting the expenses of the sale; or
- (b) allocate such forest produce to the use of the Government; or
- (c) destroy such forest produce.

Arrest of suspect persons **33.** Any Forest Officer, Divisional Commissioner or Police Officer may arrest, without a warrant, any person who may be reasonably suspected of having committed any offence under this Act, if such person refuses to give his name or address or gives a name or address which is believed to be false, or if there is reason to believe that he will abscond:

Provided that any person so arrested shall be taken before court or to the nearest Police Station without unnecessary delay.

34. Any person who—

Offences in respect of property and boundary marks

(1) forges or fraudulently uses, or aids or abets any person to forge or fraudulently use, any registered hammer or hammer mark or any mark use for denoting the ownership of any forest produce, or any other mark used by the Forestry Division in connection with the administration of the provisions of this Act; or

(2) alters, removes, destroys or defaces any such mark placed on forest produce or any boundary mark of a forest or of any lands proposed to be included in a forest, shall be liable to a fine of Five hundred Dalasis or imprisonment for two years or to both such fine and imprisonment.

35. Whoever, in a forest park, except with the authority in writing of a forest officer not below the rank of Assistant Conservator—

Offences in forest park

- (a) takes any forest produce;
- (b) uproots, burns, strips off the bark or leaves from or otherwise damages any tree;
- (c) sets fire to any grass or herbage, or kindles a fire without taking due precaution to prevent its spreading;
- (d) smokes or lights a fire in any part of a forest park within which, or at a time when, smoking or the lighting of fires is prohibited;

- (e) pastures cattle or permits cattle to trespass;
- (f) digs, cuts, or turns or cultivate the soil or makes a farm or plantation;
- (g) trespasses in any part of a forest park;
- (h) constructs any dam or weir across any river or stream or otherwise obstructs the channel of any river or stream;
- (i) resides or erects any building;
- (j) hunts or fishes;
- (k) damages, in any way, or destroys any forest property;

shall be liable on summary conviction to a fine of Five hundred Dalasis or to imprisonment for twelve months or to both such fine and imprisonment and, in addition thereto, may be required by the court to pay a sum equivalent to the fees and royalties payable on any forest produce removed or damaged and also such amount, if any, as the court may consider just as compensation for any damage done:

Provided that on a second or subsequent conviction the offender shall be ordered to pay double the fine imposed by this section and to a term of imprisonment not exceeding three years

36. Nothing in the preceding section shall prohibit the exercise by any person or community of any right in a forest park if such right has been recognised in the order constituting such forest park except such right be restricted in accordance with other provisions of this Act. Exercise of rights

37. Whoever in a protected forest, except as provided for in section 22 or except with the authority in writing of a Forest Officer not below the rank of Assistant Conservator, does any act or thing prohibited in a forest park by section 35, shall be liable on summary conviction to a fine of two hundred and fifty Dalasis or to imprisonment for six months or to both such fine and imprisonment and in addition thereto may be required by the court to pay a sum equivalent to the fees and royalties payable on any forest produce removed or damaged and also such amount, if any, as the court may consider just as compensation for any damage done. Offences in protected forest

38. In addition to any penalty imposed for an offence against the provisions of this Act or regulations made hereunder, the court may order- Additional penalties

- (a) the forfeiture and disposal, as the court may direct, of any forest produce in respect of which the offence was committed, or any instrument or thing with which the offence was committed;
- (b) the destruction of any farm or plantation made in contravention of section 35 in a forest park, or, on the application of the Minister, that the produce of the farm or plantation be confiscated and thereafter disposed of in the discretion of the Minister;

- (c) the cancellation of any licence or permit held under this Act;
- (d) that, where no licence or permit has been taken out and the offender should have taken out a licence or permit, a sum equal to the amount of the fees and royalties that should have been paid in respect of the licence or permit be paid to the authority or person who would otherwise have been entitled to such a fee or royalty; or
- (e) that a portion, not exceeding one half, of any fine that may be recovered from a person convicted by the court be paid to any person or persons on whose information the offence was detected and proved.

Presump-
tion owner-
ship of forest
produce

39. When in any proceedings taken under this Act, or in consequence anything done under this Act, a question arises as to the ownership of any forest produce, such forest produce shall be presumed to be the property of the Government unless the contrary is proved.

PART VII

REPEAL AND SAVING

Repeal of
Lands (Pro-
vinces) Act
and saving of
as to existing
forest parks

40. (1) The Provinces Lands Regulations is hereby revoked.

(2) All forest parks existing at the time of the coming into force of this Act shall be deemed to have been designated under and in accordance with the provisions of this Act.

PASSED in the House of Representatives this Twentysixth day of January in the year of Our Lord One thousand nine hundred and Seventy-seven.

A. M. SALLAH
Clerk of the House of Representatives.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed the House of Representatives, and found by me to be a true and correct copy of the said Bill.

A. M. SALLAH
Clerk of the House of Representatives