

THE FORESTS ACT, 1973

OBJECTS AND REASONS

The objects of this Bill are—

- (a) to repeal and replace the Forests Act (Cap. 311); and
- (b) to provide for—
 - (i) the establishment and management of National Forests and Local Forests;
 - (ii) the conservation and protection of forests and trees;
 - (iii) the licensing and sale of forest produce; and
 - (iv) other matters connected with or incidental to the foregoing.

FITZPATRICK CHUULA,
Attorney-General

N.A.B. 41, 1973

3rd August, 1973

THE FORESTS ACT, 1973

ARRANGEMENT OF SECTIONS**PART I****PRELIMINARY***Section*

1. Short title and commencement
2. Interpretation

PART II**ADMINISTRATION**

3. Ownership of trees and forest produce
4. Chief Conservator of Forests
5. Deputy Chief Conservator of Forests
6. Other forest officers
7. Honorary forest officers

PART III**NATIONAL FORESTS**

8. Establishment of National Forests
9. Consultation with local authority
10. Acquisition of land
11. Rights in National Forests
12. Purpose of National Forests
13. Control and management of National Forests
14. Exercise of rights, etc.
15. Grant of right, title or interest in National Forests
16. Restrictions in a National Forest

PART IV**LOCAL FORESTS**

17. Establishment of Local Forests
18. Consultation with local authority
19. Acquisition of land
20. Rights in a Local Forest
21. Purpose of Local Forests
22. Control and management of Local Forests
23. Grant of right, title or interest in Local Forests
24. Restrictions in Local Forests

PART V**PROTECTED TREES***Section*

- 25. Declaration of protected trees
- 26. Restrictions concerning protected trees

PART VI**MAJOR FOREST PRODUCE**

- 27. Purpose of conserving trees on State Lands, Trust Lands and Reserves
- 28. Restrictions on the manufacture of charcoal
- 29. Restrictions in State Lands, Trust Lands and Reserves
- 30. Control and management

PART VII**LICENCES**

- 31. Restrictions on cutting etc., forest produce
- 32. Fees and prices
- 33. Delegation of authority to Chief Conservator
- 34. Issue of licences
- 35. Damage and waste by licensee
- 36. Transfer of licence
- 37. Suspension of licence
- 38. Appeal against suspension
- 39. Cancellation of licence
- 40. Appeal against cancellation of licence
- 41. Ownership of forest produce on cancellation of licence
- 42. Extension of licence
- 43. No exclusive right unless stated and no right of compensation
- 44. Limitations of licences
- 45. Produce to which licensee is entitled
- 46. Supply of information
- 47. Licensee's records and returns

PART VIII**REMOVAL OF FOREST PRODUCE**

- 48. Produce to be measured and marked before removal
- 49. Time limit for removal of forest produce
- 50. Restrictions on charging of forest produce

PART IX**MARKING OF TIMBER***Section*

- 51. Restrictions concerning timber marking instruments
- 52. Issue of licence for the manufacture and use of timber marking instruments
- 53. Government timber marking hammers
- 54. Alteration and defacement of marks on timber or tree stumps

PART X**FOREST OFFENCES, PENALTIES AND FORFEITURES**

- 55. Offences and penalties
- 56. Additional powers of the court
- 57. Civil remedy reserved
- 58. Evidence
- 59. Exhibits

PART XI**POWERS OF FOREST OFFICERS**

- 60. Demanding production of licence
- 61. Prevention of offences
- 62. Search without warrant
- 63. Arrest without warrant
- 64. Seizure of property
- 65. Restoration of seized property
- 66. Loss of, or damage to, seized property
- 67. Calling for assistance in extinguishing fires

PART XII**GENERAL**

- 68. Power to make regulations
- 69. Rights under Mines and Minerals Act
- 70. Repeal and savings

A BILL

ENTITLED

An Act to repeal and replace the Forests Act and to provide for the establishment and management of national forests and local forests, the conservation and protection of forests and trees, the licensing and sale of forest produce and other matters connected with or incidental to the foregoing.

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Forests Act, 1973, and
5 shall come into operation on such date as the Minister may, by statutory instrument, appoint.

Short title
and
commence-
ment

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

Interpreta-
tion

10 "Chief Conservator" means the Chief Conservator of Forests appointed under section *four* and includes any person for the time being acting as, or performing the duties of, the Chief Conservator of Forests;

"convert" means to carry out the process of converting wood into any kind of product, and "conversion" shall be construed accordingly;

15 "coupe" means any site or area for the felling or taking of forest produce, whether the boundaries thereof are demarcated on the ground or not;

"demarcated forest" includes National Forest and Local Forest;

- "divisional forest officer" means a person for the time being holding appointment as such in the Forest Department;
- "domestic animal" includes any horse, donkey, mule, camel, cow, sheep, pig, goat or domestic fowl; 5
- "firewood", unless otherwise defined on any licence, means all woody parts of a tree which cannot be converted into timber or poles but can be cut into short lengths for use as fuel;
- "Forest Department" means the Forest Department of the Government;
- "forest offence" means an offence under this Act;
- "forest officer" means the Chief Conservator of Forests, the Deputy Chief Conservator of Forests, a Conservator of Forests, an Assistant Conservator of Forests, a Forester, a Forest Ranger or Forest Guard, and any public officer appointed to be the director, manager or foreman of any plantation, forest, sawmill or depot under the control of the Forest Department, and any person designated or recognised by the Chief Conservator as a forest officer for the purposes of this Act;
- "forest produce" includes bamboos, bark, bedding, beeswax, boards, canes, caterpillars, charcoal, chips, climbers, cones, coppice, creepers, 25 earth, fibres, flowers, fruits, fuelwood, fungi, gills, grass, gums, hives, honey, honeycomb, humus, insects, leaves, lichens, litter, logs, moss, mushrooms, nursery plants, peat, planks, plants, poles, reeds, resin, roots, rubber, rushes, sap, sawdust, scantlings, seed, 30 seedlings, slabs, stumps, thatch, thinnings, timber, trees, vegetable-derived oils, vegetable-derived pitch, vegetable-derived tar, and wood spirits;
- "forest revenue" means the appropriate revenue head and subhead under which revenue received in terms 35 of this Act is brought to account, or, when authorised by the Minister of Finance, the appropriate expenditure vote to which such revenue is credited in aid of such vote;
- "forest settlement officer" means any public officer 40 appointed as such under section eleven;
- "honorary forest officer" means any person appointed as such under section seven;
- "licence" means a permit or authorisation in writing issued under this Act by a forest officer or other 45 person generally or specially authorised to do so by the Chief Conservator of Forests; and "licensee" shall be construed accordingly;

- "local authority" means a municipal council, township council or rural council within the meaning of the Local Government Act; Cap. 480
- 5 "Local Forest" means any area declared to be a Local Forest under section *seventeen*;
- "major forest produce" means any tree or part thereof other than leaves, flowers, fruits and seeds;
- "National Forest" means any area declared to be a National Forest under section *eight*;
- 10 "pole", unless otherwise defined on any licence, means all sound and reasonably straight parts of a tree which are one point two metres (1.2 m) or more long and which are not more than thirty centimetres (30.0 cm) in maximum diameter over bark;
- 15 "protected tree" means any kind or category of tree declared to be a protected tree under section *twenty-five*;
- "provincial forest officer" means any person for the time being holding appointment as such in the Forest Department;
- 20 "public road" means any road of a class described in section *three* of the Roads and Road Traffic Act; Cap. 766
- "Reserves" has the meaning assigned thereto in Article 2 of the Zambia (State Lands and Reserves) Orders, 1928 to 1964; App. 4
- 25 "river" includes lakes, streams, canals and other channels, whether natural or artificial;
- "State Lands" means all lands in Zambia other than Reserves and Trust Lands, except National Forests and Local Forests and land the freehold or leasehold of which is vested in any person;
- 30 "timber", unless otherwise defined on any licence, means the part of any felled or fallen tree which has been cut off, or can be cut off, to provide wood whether sawn, split, hewn, sliced, veneered or otherwise fashioned, which is sound and reasonably straight, and which is
- 35 one point two metres (1.2 m) or more long and thirty centimetres (30.0 cm) or more in minimum diameter under bark;
- 40 "timber concession" means a licence issued for a period of at least one year to a person to cut and take timber from a defined area or areas of forest or to cut a certain number of trees or volume of timber;
- 45 "trees" includes bushes, climbers, coppice, palms, re-shoots, saplings, seedlings and shrubs of all ages and of all kinds and any part thereof;
- "Trust Land" means any area of Trust Land constituted under the Zambia (Trust Land) Orders, 1947 to 1964. App. 4

PART II

ADMINISTRATION

Ownership
of trees and
forest
produce

3. For avoidance of doubt, it is hereby declared that the ownership of all trees standing on, and all forest produce derived from, the State Lands, Reserves, Trust Lands, National Forests and Local Forests is vested in the President on behalf of the Republic, until lawfully transferred or assigned under this Act or any other written law.

Chief
Conservator
of Forests

4. (1) There shall be a Chief Conservator of Forests, who shall be a public officer and who shall be responsible for the carrying out of the provisions of this Act.

(2) Subject to the provisions of this Act and to the general or special directions of the Minister, the Chief Conservator may delegate any of his functions and duties under this Act to the Deputy Chief Conservator of Forests or to any other forest officer.

Deputy
Chief
Conservator
of Forests

5. There shall be a Deputy Chief Conservator of Forests, who shall be a public officer and who shall exercise such powers and perform such duties as are delegated to him by the Chief Conservator and shall be responsible to the Chief Conservator for the exercise of such functions and duties.

Other
forest
officers

6. (1) There shall be such number of other forest officers (who shall be public officers) as the Minister may determine:

Provided that any person designated or recognised by the Chief Conservator as forest supervisor, forest patrolman, forest watchman or timber checker need not be a public officer.

(2) A forest officer other than the Chief Conservator and Deputy Chief Conservator shall exercise such powers and perform such duties as are conferred or imposed upon him by or under this Act or are assigned to him by the Chief Conservator.

Honorary
forest
officers

7. (1) The Minister may, by statutory instrument, appoint any person to be an honorary forest officer for a period of not exceeding three years, and on the expiry of each such period may, in like manner and for like duration, renew such appointment.

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(2) The Minister may, at any time, by statutory instrument, revoke any appointment or renewed appointment made under subsection (1).

(3) The appointment of an honorary forest officer may be—

(a) general, whereby the honorary forest officer is empowered to act as such in any part of the Republic including any National Forest or Local Forest; or

(b) limited, whereby any honorary forest officer is empowered to act as such in such part of the Republic or in such National Forest, Local Forest or other area as is specified in the instrument of his appointment.

5 (4) Subject to the provisions of this Act and to the terms of the instrument of his appointment, every honorary forest officer shall discharge the functions and perform the duties of a forest officer.

PART III

10

NATIONAL FORESTS

8. Subject to the provisions of section nine, the President may, by statutory instrument, declare any area of land within the Republic to be a National Forest and may in like manner declare that any National Forest or part thereof shall cease to be a National Forest or that the boundaries of any National Forest shall be altered or extended.

Establishment of National Forests

9. Where any area proposed to be declared a National Forest under section eight lies within the jurisdiction of a local authority, it shall not be declared to be a National Forest unless the local authority has been consulted:

Consultation with local authority

Provided that such consultation shall not be necessary in the case of any area which was immediately before the commencement of this Act a Forest Reserve or Protected Forest Area under the Forests Act.

Cap. 311

10. The President may, by purchase or by compulsory acquisition under the Lands Acquisition Act, acquire any land for the purposes of a National Forest, if he considers it necessary or desirable in the public interest so to do.

Acquisition of land.
Cap. 296

11. (1) The President may, if he is satisfied that rights, easements or profits may reasonably be claimed over any area declared or proposed to be declared a National Forest under section eight, appoint a public officer as a forest settlement officer, or make such other arrangements as he may deem fit, to enquire into and determine the existence, nature and extent of such rights, easements or profits.

Rights in National Forests

(2) A forest settlement officer or other person appointed under subsection (1) may, after proper enquiry, either admit in whole or in part, or reject any such claim as is referred to in subsection (1) as seems just to him in the circumstances:

40 Provided that for the purposes of this section the practice of shifting cultivation shall not be deemed to be a right.

(3) Where it appears to a forest settlement officer or other person appointed under subsection (1) that it is expedient or desirable to commute in whole or in part, any right, easement

or profit admitted under subsection (2), he shall assess the amount of money payable to the holder of such right, easement or profit for commutation thereof:

Provided that no amount shall be payable on account of any restrictions or prohibitions imposed in the interest of forest management on the exercise or enjoyment of any right, easement or profit relating to the collecting of forest produce, hunting, fishing setting any trap, obstructing any river, pasturing any domestic animal or lighting any fire.

(4) Where any rights, easements or profits over any area have been admitted under subsection (2) and the Chief Conservator is of the opinion that such area could be excised in whole or in part from the National Forest or proposed National Forest without materially affecting the proper management of such Forest, the President may so alter the boundaries of the National Forest or proposed National Forest as to exclude therefrom such area or part of such area.

(5) The rights, easements or profits which have been admitted under subsection (2) and have not been commuted under subsection (3) shall, unless the area on or in relation to which such rights, easements or profits have been admitted has been excluded from the National Forest under subsection (4), be specified in a statutory instrument; and save for the rights, easements or profits so specified and the mining rights, no rights, easements or profits shall be recognised on or in relation to any land comprised in a National Forest.

**Purpose of
National
Forests**

12. Subject to the provisions of this Act and of any other written law, all land comprised in a National Forest shall be used exclusively for the conservation and development of forests with a view to securing supplies of timber and other forest produce, providing protection against floods, erosion and desiccation and maintaining the flow of rivers:

Provided that the Minister may, where in his opinion public interest so demands, authorise the use of any specified part of such land for any other purpose.

**Control and
manage-
ment of
National
Forests**

13. Subject to the provisions of this Act, the control and management of National Forests shall be the responsibility of the Chief Conservator, and shall, subject to the general and special directions of the Minister, be exercised by, and in the name of, the Chief Conservator.

**Exercise of
rights, etc.**

14. Notwithstanding anything to the contrary contained in this Act, the Chief Conservator shall not prohibit or restrict the exercise or enjoyment of any rights, easements or profits which have been specified in a statutory instrument made under subsection (5) of section eleven.

15. Nothing in this Act shall be so construed as to prevent or restrict the granting, under any written law, for any purpose not inconsistent with the provisions of this Act, of any right, title or interest in or in relation to any area of land comprised in a National Forest :

Grant of right, title or interest in National Forests

Provided that the Minister may impose such conditions on the exercise and enjoyment of any such right, title or interest as are not inconsistent with the nature thereof.

16. No person shall without a licence do any of the following acts in a National Forest :

Restrictions in a National Forest

- (a) fell, cut, fashion, burn, injure, take, collect or remove any forest produce;
- 15 (b) squat, camp, reside, build or excavate, or construct or use any enclosure, or construct, reopen or use any road other than a public road, or erect or operate any plant, machinery or equipment;
- 20 (c) fire any tree, undergrowth, grass or forest produce, or assist in lighting any fire, or allow any fire lit by himself or his employees or agents to enter a National Forest;
- (d) graze domestic animals or allow domestic animals to trespass;
- (e) clear, cultivate or break up land for cultivation or other purposes, or grow crops;
- 25 (f) enter or be in or upon any National Forest in any manner or for any purpose contrary to an order made by the Chief Conservator and published in the *Gazette*, unless he is a traveller on a public road;
- 30 (g) collect any bees, comb, honey or beeswax, or hang or place on any tree or elsewhere any beehive or other receptacle for the purpose of obtaining any comb, honey or beeswax, or be in or upon any National Forest for the purpose of collecting any bees, comb, honey or beeswax;
- 35 (h) collect any caterpillars or enter or be in or upon any National Forest for the purpose of collecting any caterpillars;
- 40 (i) remove or damage any boundary mark, beacon, notice, fence or gate, or remove or damage any mark placed on any tree by or on the authority of a forest officer;
- (j) deposit or negligently allow to fall over or on such National Forest any rubbish or debris.

PART IV

LOCAL FORESTS

Establish-
ment of
Local
Forest

17. Subject to the provisions of section *eighteen*, the President may, by statutory instrument, declare any area of land within the Republic to be a Local Forest and may in like 5 manner declare that any Local Forest or part thereof shall cease to be a Local Forest or that the boundaries of any such forest shall be altered or extended.

Consulta-
tion with
local
authority

18. Where any area proposed to be declared a Local Forest under section *seventeen* lies within the jurisdiction of a local 10 authority, it shall not be declared to be a Local Forest unless the local authority has been consulted:

Cap. 311

Provided that such consultation shall not be necessary in the case of any area which was immediately before the commence- ment of this Act a Forest Reserve or Protected Forest Area 15 under the Forests Act.

Acquisition
of land.
Cap. 296

19. The President may, by purchase or by compulsory acquisition under the Lands Acquisition Act, acquire any land for the purpose of a Local Forest, if he considers it necessary or desirable in the public interest so to do. 20

Rights in a
Local
Forest

20. The provisions of section *eleven* shall, *mutatis mutandis*, apply to any Local Forest as, they apply to a National Forest.

Purpose of
Local
Forests

21. Subject to the provisions of this Act and of any other written law, all land comprised in a Local Forest shall be used exclusively for the conservation and development of forests 25 with a view to securing supplies of timber and affording protection to land and water supplies in the local area.

Control and
manage-
ment of
Local
Forests

22. Subject to the provisions of this Act, the control and management of Local Forests shall be the responsibility of the Chief Conservator and shall, subject to the general and special 30 directions of the Minister, be exercised by and in the name of the Chief Conservator:

Provided that the Minister may, by statutory instrument, assign the control and management of any Local Forest to any other person or authority subject to such conditions as he may 35 think fit.

Grant of
right, title
or interest
in Local
Forests

23. Nothing in this Act shall be so construed as to prevent or restrict the granting under any written law, for any purpose not inconsistent with this Act, of any right, title or interest in or relation to any area of land comprised in a Local Forest: 40

Provided that the Minister may impose such conditions on the exercise and enjoyment of any such right, title or interest as are not inconsistent with the nature thereof.

24. The provisions of section *sixteen* shall *mutatis mutandis* apply to a Local Forest as they apply to a National Forest, as if a Local Forest were a National Forest.

Restrictions
in Local
Forests

Provided that the President may, by statutory instrument,
5 permit in a Local Forest the doing of any of the acts prohibited under that section.

PART V

PROTECTED TREES

25. Whenever the Minister thinks that any kind or category of trees should for any reason be generally conserved, he may, by statutory instrument, declare such kind or category of tree to be a protected tree in the whole of Zambia or any part thereof.

Declaration
of
protected
trees

26. No person shall without a licence fell, cut, fashion, burn, injure, take or remove any protected tree, except in or from any land vesting in any person as freehold or leasehold.

Restrictions
concerning
protected
trees

PART VI

MAJOR FOREST PRODUCE

27. Major forest produce in State Lands, Reserves and Trust Lands shall be conserved for the use and benefit of the inhabitants of such Lands:

Purpose of
conserving
trees on
State
Lands,
Trust Lands
and
Reserves

Provided that—

- (i) trees may be felled and land cleared by or for such inhabitants for the purposes of agricultural and other developments; and
- (ii) any major forest produce which, in the opinion of the Chief Conservator, is not required to be conserved or would be wasted or destroyed if left, may be disposed of under a licence.

28. Save and insofar as it is permissible, under this Act or any other written law so to do, no person shall without a licence manufacture wood into charcoal or offer for sale, sell or remove charcoal in or from any State Land, Reserve or Trust Land.

Restrictions
on the
manufac-
ture of
charcoal

29. (1) No person shall without a licence fell, cut, work, take, collect or remove any major forest produce in or from any State Lands, Reserves or Trust Lands:

Restrictions
in State
Lands,
Trust Lands
and
Reserves

Provided that where any State Land, Reserve or Trust Land lies within the area of a local authority, the inhabitants of such lands may, subject to the by-laws of the local authority, do any of the said Acts, except removing major forest produce from such Lands.

(2) No person shall without a licence sell, offer for sale, barter or otherwise deal in any major forest produce from any State Land, Reserve or Trust Land.

Control and
manage-
ment

30. Subject to the provisions of this Act, the control and management of the licensed felling, cutting, taking and removal of major forest produce on State Lands, Reserves and Trust Lands shall vest in the Chief Conservator and shall, subject to the general and special directions of the Minister, be exercised 5 by and in the name of the Chief Conservator:

Provided that in the case of any State Land, Reserve or Trust Land lying within the area of a local authority, the Minister may assign the control and management of licensed felling, cutting, taking and removal of major forest produce 10 in or from such Land to the local authority, subject to such conditions, if any, as he may think fit.

PART VII

LICENCES

Restrictions
on cutting
etc., forest
produce

31. Save as otherwise provided in this Act, any person 15 who cuts or takes or otherwise deals in any forest produce or does any other act the doing of which requires a licence, except under, and in accordance with the conditions of, a licence, shall be guilty of an offence.

Fees and
prices

32. The Minister may by regulations prescribe the fees to 20 be paid for the various kinds of licences and fix the prices at which various kinds of forest produce shall be sold; and different fees may be prescribed and different prices fixed in different areas.

Delegation
of
authority
to Chief
Conservator

33. (1) Subject to the regulations made under this Act and 25 to the general or special directions of the Minister, the Chief Conservator may—

- (a) offer produce for sale and sell by auction, tender or estimate;
- (b) negotiate a licence to cut and take forest produce or to 30 do any other act requiring a licence and after negotiation issue such licence;
- (c) grant the exclusive right to cut or take forest produce or to do any other act requiring a licence;
- (d) grant the right to cut or take forest produce or to do 35 any other act requiring a licence free or at a reduced fee.

(2) The Chief Conservator may delegate any authority given to him under subsection (1) to any forest officer of the rank of or above Forester, subject to such conditions as he may 40 think fit.

Issue of
licences

34. (1) Subject to the provisions of this Act and the regulations made under this Act, the Chief Conservator and any forest officer duly authorised by him in that behalf may issue

any licence, and any licence may be made subject to such conditions as the Chief Conservator or, as the case may be, the forest officer thinks fit to impose.

(2) Without prejudice to the generality of the powers contained in subsection (1), conditions attached to a licence may relate to—

- (i) the suspension, cancellation, termination or extension of the licence;
- 10 (ii) the payment of fees and penalties for non-payment of fees;
- (iii) the felling, cutting, taking, removal, conversion, processing, transport or sale of forest produce;
- (iv) the erection of buildings and the construction of roads, tracks, tramways, waterways, bridges, sawmills, depots and water installations;
- 15 (v) the prevention and fighting of fires;
- (vi) the keeping of records and submission of returns by persons engaged in the cutting, taking, removal, conversion, processing, transport, sale or use of forest produce;
- 20 (vii) the payment of compensation for damage to trees, growing crops, roads, tracks, paths, bridges, waterways and other improvements;
- (viii) the making good of any damage to land.

25 35. All felling, cutting, taking, conversion and other operations performed under a licence shall be carried out in such manner as to cause the least possible waste of, or damage to, trees and forest produce, and the licensee shall be liable to pay such value of the trees or any forest produce damaged or wasted
30 as may be assessed by the Chief Conservator.

Damage and
waste by
licensee

36. A licence or any rights conferred thereby shall not be transferred or assigned by the licensee to any other person without the written consent of the forest officer who issued the licence or of a forest officer of equivalent or higher rank.

Transfer of
licence

35 37. (1) The forest officer who issued the licence or any forest officer of or above the rank of Forest Guard may, if he is satisfied that the licensee has failed to comply with any of the conditions of the licence, suspend the licence until the licensee has complied with such conditions:

Suspension
of licence

40 Provided that a licence for a timber concession shall not be suspended by any officer other than the Chief Conservator, a provincial forest officer, a divisional forest officer or a forest officer specially empowered in that behalf by the Chief Conservator.

(2) Any forest officer who suspends a licence under subsection (1) shall, unless the suspension is withdrawn within seven days, notify the licensee in writing of such suspension, stating therein that the licensee has a right to appeal against the suspension under section *thirty-eight*. 5

Appeal
against
suspension

38. A licensee may, not later than thirty days after his being notified under subsection (2) of section *thirty-seven* of the suspension of his licence, appeal in writing against the order of suspension—

- (a) where such order was made by the Chief Conservator, 10
to the Minister;
- (b) where such order was made by a provincial forest
officer, a divisional forest officer, or a forest officer
specially empowered by the Chief Conservator, to the
Chief Conservator; 15
- (c) in any other case to the divisional forest officer or the
provincial forest officer;

and the decision of the appellate authority thereon shall be final.

Cancellation
of licence

39. (1) The forest officer who issued the licence or any 20
forest officer of or above the rank of Forest Ranger may cancel the licence, if he is satisfied that the licensee has failed to comply with any of the conditions of the licence and such non-compliance cannot be adequately dealt with by suspension of the licence under section *thirty-seven*: 25

Provided that a licence for a timber concession, shall not be cancelled by any officer other than the Chief Conservator, a provincial forest officer or a divisional forest officer or a forest officer specially empowered in that behalf by the Chief Conservator. 30

(2) Any forest officer who cancels a licence under subsection (1) shall, as soon as possible after cancelling the licence, notify the licensee in writing of such cancellation, stating therein that the licensee has a right to appeal against the cancellation under section *forty*. 35

Appeal
against
cancellation
of licence

40. A licensee may, not later than thirty days after his being notified under subsection (2) of section *thirty-nine* of the cancellation of his licence, appeal in writing against the order of cancellation—

- (a) where such order was made by the Chief Conservator, 40
to the Minister;
- (b) in any other case, to the Chief Conservator;

and the decision of the appellate authority thereon shall be final.

41. On the cancellation of a licence, any forest produce belonging to the licensee and lying within the licence area shall become the property of the Republic, subject, however, to the result of the appeal, if any, made under section *forty*. Ownership of forest produce on cancellation of licence
- 6 42. A forest officer authorised to issue a licence may on the expiry of the licence grant an extension of the same for such period and on such conditions as he may think fit. Extension of licence
- 10 43. A licence shall not, unless contrary intention is expressly stated thereon, grant any exclusive right, or confer on the licensee any right to compensation for any works or improvements effected by him, or for any loss suffered by him as a result of the suspension or cancellation of the licence, or for inability of the licensee to take away any produce within the period of the validity of the licence, or for any damage to, or 15 loss of, any produce before its removal from the licence area or coupe. No exclusive right unless stated and no right of compensation
44. Unless contrary intention is expressly stated on the licence, rights under a licence shall not extend to— Limitations of licences
- 20 (a) any land dedicated as a place of burial;
(b) any National Park as defined in the National Parks and Wildlife Act; Cap. 316
- 25 (c) any land within sixty metres of the centre line of any public road;
(d) any land within sixty metres of the boundary of any rail reserve;
(e) any land within sixty metres of the bank or edge of any river, dam or lake;
(f) any way-leave registered by the Commissioner of Lands.
- 30 45. All forest produce derived from the operations of a licensee, except the produce which the licensee is authorised by the licence to take, shall remain the property of the Republic. Produce to which licensee is entitled
- 35 46. A licensee shall, when so requested by a forest officer, furnish such information concerning his operations, conversion, processing, transport, sale, manufacture, export or use of the forest produce as the forest officer may reasonably require. Supply of information
47. A licensee shall keep such records and submit such returns as may be prescribed by regulations. Licensee's records and returns

PART VIII

40 REMOVAL OF FOREST PRODUCE

48. No forest produce cut or taken under a licence shall, unless a forest officer by endorsement on the licence or by separate writing otherwise permits, be removed from any coupe until the produce has been measured or checked by a Produce to be measured and marked before removal

person authorised by a forest officer and has been marked by such person with the imprint of a Government timber marking hammer or instrument or any other mark.

Time limit
for removal
of forest
produce

49. All forest produce cut or taken under a licence shall, unless a forest officer by endorsement on the licence or by 5 separate writing otherwise permits, be removed from the coupe before the date of the expiry of the licence; and the forest produce not removed before such date shall become the property of the Republic:

Provided where the licence is subsequently extended, the 10 produce may, at the discretion of the Chief Conservator, be restored to the licensee.

Restrictions
on
charging of
forest
produce

50. Unless the contrary intention is expressed on the licence, any forest produce covered by the licence shall not be removed from the licence area or sold, pledged, charged or otherwise 15 disposed of, unless full fees payable in respect of the licence have been paid, and until then the forest produce shall remain the property of the Republic.

PART IX

MARKING OF TIMBER

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Restrictions
concerning
timber
marking
instruments

51. No person shall without a licence manufacture, possess or use any timber marking hammer or instrument.

Issue of
licence for
the
manufac-
ture and use
of timber
marking
instruments

52. (1) The Chief Conservator or any forest officer authorised by him in writing in that behalf may, on the application of any person submitted in such form and on payment of such fees, as 25 may be prescribed, issue a licence for the manufacture, possession or use of a private timber marking hammer or instrument; and any such licence shall be subject to such conditions as may be specified by the Chief Conservator, or, as the case may be, the forest officer. 30

(2) Every licence issued under subsection (1) shall be registered in such register as may be prescribed.

Government
timber
marking
hammers

53. No person other than the Chief Conservator or a forest officer authorised by him in writing in that behalf shall possess or use a Government timber marking hammer or other 35 Government timber marking instrument.

Alteration
and
defacement
of marks
on timber
or tree
stumps

54. No mark made on any timber or tree stump by a timber marking hammer or other instrument shall be altered, defaced, obliterated or removed without the consent of the owner of the tree or timber and the concurrence of a forest 40 officer.

PART X

FOREST OFFENCES, PENALTIES AND FORFEITURES

55. A person shall be guilty of an offence, if he—

Offences
and
penalties

- 5 (a) contravenes any of the provisions of this Act or regulations or any order made thereunder or any condition of a licence;
- 10 (b) in exercising his rights under this Act through his employees or agents, fails to give any such employee or agent such instructions as would, if followed, avoid the commission of a forest offence, and such employee or agent, due to want of such instructions, commits a forest offence;
- 15 (c) knowingly receives or is in possession of any forest produce in respect of which a forest offence has been committed;
- 20 (d) without being authorised under this Act so to do, makes upon or fixes to any forest produce a mark used by a forest officer to indicate that forest produce has been inspected or measured or to indicate that forest produce may lawfully be cut or removed;
- (e) counterfeits any timber marking hammer or instrument or counterfeits any mark made by such hammer or instrument;
- 25 (f) without a licence, manufactures, possesses or uses a private timber marking hammer or instrument or contravenes any condition of a licence to manufacture, possess or use such a hammer or instrument;
- 30 (g) without being authorised under this Act so to do, alters, defaces, obliterates or removes any stamp, mark or sign placed upon forest produce or upon a tree stump by or under the authority of a forest officer;
- 35 (h) being liable under section *sixty-seven* to render assistance in the case of a fire, accident or other danger in a National Forest or Local Forest, refuses or fails to do so, without reasonable excuse, when called upon by a forest officer or police officer;
- 40 (i) without being authorised under this Act so to do, removes, damages or defaces any boundary mark beacon, notice, fence or gate posted or erected by or on the authority of a forest officer;
- 45 (j) intentionally damages any plant, machinery, equipment, road, track, tramway, bridge, water installation, power-line, telephone-line, drain or other improvement in a National Forest or Local Forest;

- (k) counterfeits or issues without due authority any licence;
- (l) without authority wears or is in possession of any uniform or part of a uniform or any badge, mark or identity document issued by or on behalf of the Chief Conservator to be worn or possessed by a forest officer;

and shall upon conviction be liable—

- (i) if the offence was committed within, or in connection with, a National Forest, to imprisonment for a term not exceeding two years or to a fine not exceeding one thousand kwacha or to both such imprisonment and fine; and
- (ii) in all other cases, to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred kwacha or to both such imprisonment and fine.

Additional
powers of
the court

56. (1) When a person has been convicted of a forest offence, the court may, in addition to any other penalty provided for in this Act—

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- (a) order the cancellation of such person's licence;
- (b) assess the amount of compensation for any loss or damage caused by such person in the course of the offence and cause the same to be recovered from such person, as if it were a fine imposed by the court;
- (c) order the removal or demolition, within such time as the court may fix, of any unauthorised establishments, buildings, structures, plant, machinery, equipment, crops and other works set up or grown by such person, and the restoration, as far as possible, of all places and things to their former state, and if such removal, demolition and restoration is not effected within the time fixed as aforesaid, the Chief Conservator shall cause the same to be done and the cost incurred thereon shall be recovered by the court from the person convicted;
- (d) order the confiscation of any forest produce in respect of which the offence was committed and of any livestock, tools, plant, machinery, equipment, vehicles or other property used in the commission of such offence.

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(2) The amount of compensation recovered under clause (b) of subsection (1) shall be paid to the person who had suffered loss or damage or, if there is no such person, into forest revenue.

(3) The Government shall not be liable for any loss or damage which may be caused to any building, structure, plant, machinery, equipment, crops and other works in the course of such removal, demolition or restoration by the Chief Conservator as is mentioned in clause (c) of subsection (1).

(4) The Chief Conservator may sell or otherwise dispose of any property confiscated under subsection (1) and handed over to the Chief Conservator by order of the court and any moneys received from the sale or disposal of such property shall be paid into forest revenue.

57. Nothing in this Act shall be so construed as to take away or interfere with the right of the Republic or of any person to sue for and recover at common law or otherwise compensation for or in respect of any damage or injury caused by a forest offence:

Civil remedy
reserved

Provided that in assessing such compensation the court shall take into account the amount of any compensation recovered under section *fifty-six*.

58. Whenever in any proceedings under this Act the question arises whether any forest produce is the property of the Republic, it shall be presumed to be the property of the Republic unless the contrary be proved.

Evidence

59. Where in any proceedings under this Act it becomes necessary for a forest officer or police officer to produce in evidence any forest produce and, in the opinion of such officer, production of the whole of such produce would be impracticable or involve unnecessary expense or undue delay, it shall be sufficient for such officer to produce in the court any piece or sample of the forest produce.

Exhibits

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PART XI

POWERS OF FOREST OFFICERS

60. A forest officer or police officer may demand from any person engaged in doing or causing to be done anything for which a licence is required under this Act to produce the licence, and, if such person fails to produce the licence, restrain such person and his employees and agents from doing such thing until the licence is produced.

Demanding
production
of licence

61. A forest officer or police officer may take such measures and do such acts for preventing the commission of a forest offence as he may deem necessary, and in so doing use reasonable force.

Prevention
of offences

Search
without
warrant

62. Whenever any forest officer or police officer suspects that any person has been guilty of a forest offence or is in possession of any forest produce in respect of which such offence has been committed, he may search, without warrant, any baggage, package, parcel, vehicle, vessel, tent, building or 5 enclosure under the control of such a person or his employee or agent:

Provided that no private dwelling house shall be entered save in the presence of the occupier thereof or of a person over the apparent age of eighteen years who resides therein as a member 10 of the occupier's family.

Arrest
without
warrant

63. (1) Any forest officer or police officer may, without a warrant, arrest any person reasonably suspected of having committed a forest offence, if such person refuses to give his name and address to such officer or gives a name and address 15 which such officer has reason to believe is false, or if such officer has reason to believe that such person will abscond.

(2) Every officer who arrests any person under this Act shall without unnecessary delay take or send such person to be produced before the court. 20

Seizure of
property

64. Where there is reason to believe that a forest offence has been committed, any forest produce involved in the offence and all livestock, tools, instruments, plant, machinery, equipment, vehicles and other property suspected of having been used in the commission of the offence may be seized by any 25 forest officer or police officer and detained until an order of the court as to the disposal thereof is made.

Restoration
of seized
property

65. If any person from whose possession any forest produce or other property has been seized under section *sixty-four* is found not guilty, or the proceedings against him are withdrawn, 30 the Chief Conservator shall without unnecessary delay restore such produce or property to such person:

Provided that the Chief Conservator shall, if he is satisfied that such person cannot be found or is unwilling to receive back such produce or property, dispose of such produce or 35 property, and the moneys received from such disposal shall be paid into forest revenue.

Loss of, or
damage to,
seized
property

66. The Republic shall not be liable for any loss or damage caused to any property in the course of its seizure or during its detention, and no forest officer or police officer shall be liable 40 for any such loss or damage, unless he shall have caused the same negligently, maliciously or fraudulently.

Calling for
assistance
in extin-
guishing
fires

67. (1) In the case of fire, other than any controlled fire started by or on the authority of a forest officer, or in the case of other accident or emergency involving danger to a National 45

Forest or Local Forest, every male person of not less than eighteen years of age normally resident within ten kilometres of the boundary of any such forest shall be bound forthwith to assist any forest officer who reasonably demands his aid in 5 extinguishing such a fire or averting such a danger, and the Chief Conservator may pay to such person such consideration as he may deem fit in respect of any such aid.

(2) It shall be a condition of every licence that, in the event of an outbreak of fire through whatever cause in any National 10 Forest or Local Forest or in any other land in which forest produce is being cut, carried or stored under licence, the licensee shall, when called upon to do so by a forest officer, forthwith provide all available employees, tools, plant, machinery and equipment which he may have in the vicinity of such Forest 15 or land to assist in extinguishing such fire, and the licensee shall be paid such consideration therefor as the Chief Conservator may, with the approval of the Minister, deem adequate:

Provided the fire was not, in the opinion of the Chief Conservator, occasioned wilfully by, or through the carelessness or 20 neglect of the licensee or his employees or agents.

PART XII

GENERAL

69. (1) The Minister may, by statutory instrument, make regulations for carrying the provisions of this Act into effect.

Power to
make
regulations

25 (2) In particular, and without prejudice to the generality of the foregoing power, the Minister may make regulations concerning—

- (a) the survey and demarcation of National Forests and Local Forests;
- 30 (b) the protection and management of National Forests and Local Forests;
- (c) the utilisation, conservation and planting of trees in State Lands, Trust Lands and Reserves;
- 35 (d) the prohibition and regulation of the cutting and taking of forest produce;
- (e) the fees and prices to be paid in respect of forest produce and other acts requiring a licence and the methods of calculating or fixing such fees and prices;
- 40 (f) the withholding, issue, suspension, cancellation, forfeiture and extension of licences, and the issue of licences free or at a reduced fee;
- (g) the collection and disposal of fees paid in respect of forest produce and of other acts requiring a licence;
- (h) the provision by a licensee of a deposit, guarantee,

surety, security, liquidated damages or sum of money to be drawn upon or confiscated for non-fulfilment or breach of the conditions of a licence or for the commission of a forest offence;

- (i) the extraction, conversion or processing of forest produce; 5
- (j) the marking of timber and forest produce, and the manufacture, possession and use of timber marking hammers;
- (k) the keeping of records and submission of returns by persons engaged in the cutting, taking, removal, conversion, processing, transport, sale or use of forest produce; 10
- (l) the erection, construction or use of buildings, roads, tracks, tramways, waterways, bridges, sawmills, depots and water installations, and the erection and operation of plant, machinery and equipment; 15
- (m) the seizure, detention and disposal of forest produce felled or taken in contravention of this Act or in respect of which an offence has been committed; 20
- (n) the prevention and fighting of fires in National Forests and Local Forests and in coupes in State Lands, Trust Lands and Reserves;
- (o) the transport of forest produce by road, tramway or waterway, and the prohibition of acts which might cause obstruction of roads, tramways or waterways; 25
- (p) the training of persons in forestry and the qualifications for forest officers and other forestry staff;
- (q) the forms to be used for the purposes of this Act;
- (r) any other matters required to be prescribed by this Act. 30

Rights
under Mines
and Minerals
Act.
Cap. 329

69. Nothing in this Act shall affect the rights of the holder of a prospecting licence, exploration licence or mining licence to take forest produce in accordance with the provisions of the Mines and Minerals Act. 35

Repeal and
savings.
Cap. 311
Cap. 311

70. (1) The Forests Act is hereby repealed.

(2) Notwithstanding the repeal of the Forests Act, any licence issued under that Act which was immediately before the commencement of this Act in force or capable of acquiring force shall, after such commencement and subject to the provisions of this Act, remain in force, or, as the case may be, capable of acquiring force, as if it were a licence issued under this Act. 40