

KENYA

The Forests Act

CHAPTER 385

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CHAPTER 385

THE FORESTS ACT

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THE FORESTS ACT

Commencement: 1st March, 1942

An Act of Parliament to provide for the establishment, control and regulation of Central Forests, forests and forest areas in the Nairobi Area and on unalienated Government lands.

Cap. 176 (1948), 1 of 1949, 56 of 1954, 27 of 1959, G.N. 1681/1955, L.N. 210/1957, L.N. 172/1960, L.N. 173/1960, 25 of 1963, L.N. 142/1963, L.N. 236/1964, L.N. 303/1964, 25 of 1968.

1. This Act may be cited as the Forests Act.
Short title.

2. In this Act, except where the context otherwise requires -
"cattle" means horned cattle, asses, bulls, camels, cows, geldings, goats, horses, mares, mules, oxen, pigs and sheep, and includes the young thereof;

"Chief Conservator" means the person for the time being performing the duties of the Chief Conservator of Forests;

"firewood" includes parts of trees made up into bundles or loads, or cut up in a manner in which it is usual to cut wood for burning, and refuse wood generally, but does not include sound straight timber logs or poles of any kind;

"forest area" means an area of land declared, under the provisions of section 4, to be a forest area;

Interpretation.

1 of 1949, s.2, L.N. 210/1957, L.N. 172/1960. L.N. 236/1964

"forest officer" means any forest officer, or any assistant forest, ranger, forest guard, assistant forest guard, or any person upon whom the Minister may, in writing, confer the powers of a forest officer;

"forest produce" includes bark, beeswax, canes, charcoal, creepers, earth, fibres, firewood, fruit, galls, grass, gum, honey, leaves, limestone, litter, moss, murrum, peat, plants, reeds, resin, rushes, rubber, sap, seeds, spices, stone, timbers, trees, wax, withies and such other things as the Minister may, by notice in the Gazette declare to be forest produce for the purposes of this Act.

"timber" means any tree which has been felled or which has fallen, and the part of any tree which has been cut off or fallen, and all wood whether sawn, split, hewn or otherwise fashioned;

"trees" includes not only timber trees, but shrubs, bushes of all kinds, seedlings, saplings and re-shoots of all ages, palms, bamboos, and any part of the tree;

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"unalienated Government land" means land for the time being vested in the Government which -

- (a) is not the subject of any conveyance, lease or occupation licence from the Government;
- (b) has not been dedicated or set aside for the use of the public, but includes outspans; and
- (c) has not been declared to be a Central Forest or a forest area.

3. *(Repealed by L.N. 236/1964).*

4. (1) The Minister may, from time to time, by notice in the Gazette -

- (a) declare any unalienated Government land to be a forest area;
- (b) declare the boundaries of a forest and from time to time alter those boundaries;
- (c) declare that a forest area shall cease to be a forest area.

Forest areas. L.N. 236/1964.

(2) Before a declaration is made under paragraph (b) or paragraph (c) of subsection (1), twenty-eight days' notice of the intention to make the declaration shall be published by the Minister in the Gazette.

5. *(Repealed by L.N. 236/1964).*

6. (1) The Minister may, by notice in the Gazette, declare a forest area or a Central Forest or any part thereof to be a nature reserve for the purpose of preserving the natural amenities thereof and the flora and fauna therein and may declare that a nature reserve shall cease to be a nature reserve.

(2) In a nature reserve, not cutting, grazing, removal of forest produce or disturbance of the flora shall be allowed except with the permission of the Chief Conservator, and permission shall only be given with the object of conserving the natural flora and amenities of the reserve. Nature reserves. 1 of 1949, s.6, L.N.236/1964.

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of the
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consultatio
n with the
Chief
Game
Warden,
and
permission
shall only
be given in
cases
where the
Chief
Conservato
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Chief
Game
Warden
considers it
necessary
or
desirable
to take or

kill any species.

7. The Chief Conservator or any person authorized by him in that behalf may issue licences for all or any of the purposes referred to in subsection (1) of section 8, upon such conditions as may be approved by the Chief Conservator or upon such conditions and subject to payment of such fees or royalties as may be prescribed; but no licence shall be issued for any purpose in respect of which a licence is required under the Wildlife (Conservation and Management) Act or under the Trout Act.
Licences. 1 of 1949, s.7, L.N.236/1964.

8. (1) Save as provided in this Act and subject to the provisions of any rules made thereunder, no person shall, except under the licence of the Chief Conservator -

(a) in a forest area or Central Forest -

(i) fell, cut, take, burn, injure or remove any forest produce;

Various prohibitions. 1 of 1949, s.8, L.N. 236/1964.

(ii) be or remain, therein between the hours of 9 p.m. and 6 a.m., unless he is using a recognized road or footpath or is in occupation of a building authorized by the Chief Conservator;

(iii) erect any building or cattle enclosure;

(iv) set fire to or assist any person to set fire to any grass or undergrowth or any forest produce;

(v) smoke, where smoking is by notice prohibited, or kindle, carry or throw down any fired, match or other lighted material;

(vi) depasture cattle, or allow any cattle to be therein;

(vii) clear, cultivate or break upland for cultivation or for any other purpose;

(viii) capture or kill any animal, set or be in possession of any trap, snare, gin or net, or

[Subsidiary]

- animal, or use or be in possession of any poison or poisoned weapon; but nothing in this sub-paragraph shall be deemed to prohibit the capturing or killing of an animal in accordance with the conditions of a valid licence or permit issued under the Wildlife (Conservation and Management) Act;
- (ix) construct any road or path;
 - (x) enter any part thereof which may be closed to any person;
 - (xi) collect any honey or beeswax, or hang on any tree or elsewhere any honey barrel or other receptacle for the purpose of collecting any honey or beeswax, or enter therein for the purpose of collecting honey and beeswax, or be therein with any equipment designed for the purpose of collecting honey or beeswax; or
 - (xii) damage, alter, shift, remove or interfere in any way whatsoever with any beacon, boundary mark, fence, notice or notice board;
- (b) on unalienated Government land -
- (i) fell, cut, take, burn, injure or remove any tree;
 - (ii) collect any honey or beeswax, or hang on any tree or elsewhere any honey barrel or other receptacle for the purpose of collecting any honey or beeswax, or enter therein for the purpose of collecting honey and beeswax, or be therein with any equipment designed for the purpose of collecting honey or beeswax; or
 - (iii) light any fire or throw down any match or other lighted material within the vicinity of a forest area or Central Forest in such manner as to subject the forest area or Central Forest to the risk of fire.

(2)
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y cattle
found in
any forest
area or in
any Central
Forest
shall be
deemed to
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authority
of the
owner
thereof
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contrary,
and under
the
authority
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person, if
any,
actually in
charge of
the cattle.

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(b) alters, obliterates, removes or defaces any stamp, mark, sign, licence or other document lawfully issued under the authority of this Act, or removes or destroys any part of a tree bearing the stamp or other mark used by any forest officer;
Counterfeiting or unlawfully affixing marks, etc. L.N. 236/1964.

Compound
ing
offences, 1
of 1949,
s.9.

(c) covers any tree stamp in any Central Forest or forest area or on any unalienated Government land with brushwood or earth or by any other means whatsoever conceals, destroys or removes or attempts to conceal, destroy or remove such tree stump or any part thereof; or
(d) wears any uniform or part of a uniform or any badge, or other mark issued by the Forest Department to be worn by forest officers or other employees of the Forest Department,

11.
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A
magistrate,
justice of
the peace,
forest
officer or
police
officer, the
Chief
Game
Warden or
a Senior
Game
Warden or
Game
Warden
may -

shall be guilty of an offence.

(2) Any person who counterfeits or issues without lawful authority any licence or other document purporting to be a licence or document issued under this Act or any rules made thereunder shall be guilty of an offence.

10. (1) A forest officer empowered in that behalf by the Minister by notice in the Gazette may, with the consent of the Chief Conservator, if he is satisfied that a person has committed an offence under this Act, accept from that person a sum of money by way of compensation for the offence together with the forest produce, if any, in respect of which the offence has been committed :

Search,
arrest, etc.
1 of 1949,
s.10, L.N.
236/1964,
L.N.
303/1964.

Provided that the compensation shall not exceed five times the value of the estimated damage, or where the value cannot be estimated, two hundred shillings for each offence.

(2) Compensation shall be accepted only in cases where the person reasonably suspected of having committed an offence has expressed his consent to the offence being dealt with under this section.

(3) In any proceedings brought against a person for an offence under this Act, it shall be a good defence if that person proves to the satisfaction of the court that he has compounded the offence under this section.

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he may be arrested and taken before a magistrate or a forest officer authorized under subsection (1) of section 10 to compound offences.

Rewards to informers

- (c) arrest and search any person suspected of being guilty or an offence under this Act or of being in possession of any forest produce in respect of which an offence has been committed, and seize and detain any baggage, package, parcel, conveyance, tent, hut or building under the control of that person or his agent or servant:

13.
Wh
en, in any proceeding
s under this Act, a question arises as to whether forest produce has been cut in or obtained from a forest area or Central Forest, it shall be presume dot have been so cut or obtained unless the contrary is proved.

Provided that no person shall be arrested under this section unless the person authorized and seeking to arrest him has reasonable cause to believe that that person will fail to appear in answer to a summons or unless that person refuses to give his name and address or gives a name and address which there is reasonable cause to believe is false;

- (d) seize and detain any forest produce in respect of which there is reason to believe that an offence has been committed, together with any tools, boats, vehicles or cattle used in the commission of the offence:

Provided that the person seizing the property shall forthwith report the seizure to the nearest magistrate having jurisdiction, or to a forest officer authorized under subsection 91) of section 10 to compound offences;

- (e) seize and detain any cattle found without any person in charge of them in a Central Forest or forest area;
- (f) destroy any honey barrel or any receptacle placed without authority i a Central Forest or forest area or upon unalienated Government land.

Presumptio
n
concerning forest produce, L.N. 236/1964.

12. In any proceedings instituted against any person for any offence under this Act or under any rules made thereunder, the court may award an amount not exceeding one-half of any fine imposed to the person who, not being a person in the employment of the government, may have supplied information which may have led to the conviction of the offender.

14.
(1)
any
person
who -

(a) com

- (b) commits a breach of, or fails to comply with, any of the terms of conditions of a licence issued to him under this Act or any rules made thereunder;
- (c) fails to comply with a lawful requirement or demand made or given under section 11; or
- (d) obstructs a person in the execution of his powers or duties under this Act or any rules made thereunder,

Penalty. 1 of 1949, s.11, L.N. 236/1964, 25 of 1968, Sch.

shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding six months, or to both, and to forfeiture of his licence.

(2) Where a person is convicted of an offence whereby forest produce has been damaged or injured or removed, the court may, in addition to any other penalty, order that person -

- (a) to pay to the Chief Conservator by way of compensation the value of the forest produce so damaged or injured or removed; and
- (b) if it is provide to the satisfaction of the court that the person so convicted is the agent or employee of another person, the court may order that other person to pay the compensation unless, after hearing that other person, the court is satisfied that the offence was not due to this neglect or default.

(3) Where a person is convicted of an offence of occupying or cultivating land in a forest area or a Central Forest without a licence, the court may order the person so convicted to remove any buildings, enclosures, huts or crops within a period to be specified in the order, and, if the person so convicted fails to comply with the order of the court within the period so specified, the building, enclosure, hut or crops shall be deemed to be the property of the Government and may be disposed of as the Chief Conservator may think fit.

15. The Minister may make rules -

- (a) either of general application or in respect of a particular Central Forest, forest area or any unalienated Government land, for all or any of the

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providing for an appeal to the
Rules. 1 of 1949, s.12, G.N. 1681/1955, L.N. 173/1960, L.N. 142/1963,
L.N. 236/1964

Minister; and any rule made under this subparagraph may empower
the Chief Conservator to require a licensee,
as a term or condition of his licence, to
provide assistance in the prevention and
fighting of any fire in the Central Forest or
forest area, and to take such measures as the
Chief Conservator may require to report,
control and eradicate such noxious insects or
fungi as may, from time to time, be specified
by the Chief Conservator by notice in the
Gazette;

**Things
declared
to be
forest
produce
under
section 2**

(iv)controlling the entry of persons into a Central Forest or forest
area, and regulating the period during which
persons may remain there and the conditions
under which they may do so;

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(v)closing paths and roads in a Central Forest or forest area either
to persons and traffic or to both;

L.N.

491/1958

(vi)closing a Central Forest or forest area;

L.N.13/196
3

(vii)controlling and regulating the entry into and the use of a
Central Forest or forest area declared to be a
nature reserve;

**Proclamat
ions as to
forest
areas
under
section 4**

(viii)prescribing fees and royalties;

(b)(Deleted by L.N. 236/1964).

(c)for the protection and management of indigenous forests on
alienated Government land; and

*All
proclamat
ions under
section 4
are
omitted, by
virtue of
section 5 of
the
Revision of
the Laws
Act.*

(d)generally for the better carrying out of the provisions of this Act.

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Cap. 1.

Nature reserved declared under section 6 (1)

The areas defined below are declared to be nature reserves for the purpose of preserving the natural amenities thereof and the flora and fauna therein.

KISERE NATURE RESERVE (Kisere Forest)

L.N.22/1967

All that parcel of land known as the Kisere Forest, being an area of approximately 1,1165 acres, situated approximately 11 miles north-east of Kakamega Township, the boundaries of which are more particularly delineated, edged green, on boundary Plan No. 180/40, which is deposited in the Survey Records Office, Survey of Kenya; Nairobi.

FOREST STATION NATURE RESERVE (Kakamega Forest)

L.N.22/1967

An area of land of approximately 520 acres lying within and forming part of the Kakamega Forest, situated in the western portion of that forest approximately seven miles south-east of Kakamega Township, the boundaries of which are more particularly delineated, edged green, on Boundary Plan No. 180/41, which is deposited in the Survey Records Office, Survey of Kenya, Nairobi.

YALA RIVER NATURE RESERVE (Kakamega Forest)

L.N.22/1967

An area of land of approximately 1,160 acres lying within and forming part of the Kakamega Forest, and situated in the southern portion of that forest, approximately nine miles south-east of Kakamega township, the boundaries of which are more particularly delineated, edged green, on Boundary Plan No. 180/42, which is deposited in the Survey Records Office, Survey of Kenya, Nairobi.

ARABUKO-SOKOKE NATURE RESERVE

L.N. 100/1977, L.N.180/1979.

An area of land of approximately 4,301.4 hectares, lying within the Arabuko-Sokoke Forest, situated approximately five kilometres west of

Malindi
Township,
in Kilifi
District,
Coast
province,
the
boundaries
of which
are more
particularly
delineated,
edged
green, on
boundary
Plans Nos.
175/194
and
175/215,
which are
signed and
deposited
in the
Survey
Records
Office,
Survey of
Kenya,
Nairobi,
and copies
of which
may be
inspected
at the
office of
the
Divisional
Forest
Office,
Forests
Departmen
t,
Mombasa.
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bsidiary]RTH NANDI NATURE RESERVE
L.N.163/1978.

An area of land of approximately 3,434.0 hectares, lying within the North Nandi Forest, situated approximately nine kilometres north-west of Kapsabet Town, in Nandi District, Rift Valley Province, the boundaries of which are more particularly delineated, edged green, on Boundary Plan No.175/213, which is signed and deposited in the Survey Records office, Survey of Kenya, Nairobi, and a copy of which may be inspected at the office of Divisional Forest officer, Forest Department, Eldoret.

UASO NAROK NATURE RESERVE
L.N.21/1981.

An area of land of approximately 1,574.7 hectares, lying within the Uaso Narok Forest, situated north-east of Nyahururu Township, in Laikipia District, Rift Valley Province, the boundaries of which are more particularly delineated, edged green on boundary Plan No.175/221, which is signed and deposited in the Survey Records Office, Survey of Kenya, Nairobi, and a copy of which may be inspected at the office of the Divisional Forest office, Forest Department, Nyahururu.

SOUTH-WESTERN MAU NATURE RESERVE
L.N.4/1961.

An area of land of approximately 165 square miles situated in the Nakuru and Kericho Districts, and comprising part of the South Western Mau Forest Reserve and part of the Western Mau Forest Reserve, the boundaries of which are approximately as follows:

Commencing at the point where the South-Western Mau Forest Reserve boundary meets the Kipsonoi (Karau) River west of the southernmost beacon of L.R. No.9877;

thence downstream by that river to its intersection with a cut and beacons line which forms part of the generally eastern boundary of the Kipsigis Land Unit;

thence north-westerly by that cut and beacons line to a beacon Posta;

thence north-easterly and generally north-westerly by cut and beacons lines to a beacon Kaborr, and continuing generally north-westerly by a cut and beacons line to its intersection with the Itare River;

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downstream by that river to the point where it meets the 162,000 metre East grid line as shown on 1:50,000 scale map GSGS 4786^{S.A.36} (131/II);
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northerly by that grid line as shown on the above-mentioned map and on S.A. 36 (117/IV) to its intersection with the 4,454,000 metre North grid line;
F.I.SE

the
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easterly by

that grid line to the point where it meets the Kiptiget River;

thence upstream by that river to its intersection with the southern boundary of L.R. No.8799;

thence up-stream by that river to its intersection with the southern boundary of L.R. No.8766;

thence easterly and north-easterly by the South-Western Mau Forest Reserve boundary and north-easterly, south-easterly and southerly by the Western Mau Forest Reserve boundary to a beacon;

thence generally south-easterly again by the South-Western Mau Forest Reserve boundary to the point of commencement.

These boundaries are more particularly delineated and edged red on boundary Plan No.175/82, which is deposited in the Survey Records Office, Survey of Kenya, Nairobi.