

ACT

To consolidate and amend the laws relating to the tenure, demarcation, protection, management and utilization of forests, the combating and prevention of fires, and the regulation and control of trading in and the removal, exportation or importation of forest produce; and to provide for other incidental matters.

(English text signed by the State President.)

(Assented to 20th June, 1968.)

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

Definitions.

1. In this Act, unless the context otherwise indicates—

- (i) “demarcated forest” means any area of State land which has, in accordance with the provisions of section 8, been declared to be a demarcated forest; (vi)
- (ii) “department” means the Department of Forestry; (v)
- (iii) “fire-belt” means a strip of land, whether under trees or not, which has been cleared of inflammable matter to prevent veld or forest fires or the spread thereof; (iv)
- (iv) “fodder tree” means a tree of which the leaves, bark, fruit or seed can be used as a stock feed and which has been declared by the Minister by notice in the *Gazette* to be a fodder tree; (xviii)
- (v) “forest officer” means the incumbent of a post designated under section 3 (2); (ii)
- (vi) “forest produce” means—
 - (a) anything which is produced by trees or is grown or grows in a forest, and includes trees, timber, wood, firewood, poles, laths, kraalwood, branchwood, slabs, chips, sawdust, charcoal, plants, grass, reeds, thatch, rushes, peat, creepers, leaves, moss, litter, humus, flowers, ferns, fruit, seeds, roots, bulbs, spices, bark, rubber latex, gum, oleoresin, sap and essential oils; and
 - (b) game, birds, skins, horns, ivory, fish, honey, wax, bees, shells, earth, stones, sand and any other things naturally found in or obtained from a forest; (iii)
- (vii) “local authority” means any institution or body contemplated in section 84 (1) (f) of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961); (x)
- (viii) “Minister” means the Minister of Forestry; (viii)
- (ix) “plantation” means any area of land utilized or set aside for the establishment of trees; (xi)
- (x) “police officer” means a member of any police force established by law in the Republic; (xii)

- (xi) "private forest" means a forest or plantation situated on land not owned by the State, but does not include a forest or plantation on land in respect of which the State by deed of grant or other document retains the right to the trees thereon; (xiii)
- (xii) "regulation" means any regulation made or deemed to have been made under this Act; (xiv)
- (xiii) "Secretary" means the Secretary for Forestry; (xv)
- (xiv) "State forest" means any demarcated or undemarcated forest and includes a State plantation, a State sawmill, a State timber preservation plant and any area controlled and managed by the department for the purpose of the conservation of water supplies or the prevention of sand drift or soil erosion or the protection of indigenous forests; (xvi)
- (xv) "this Act" includes the regulations; (vii)
- (xvi) "timber" means all wood contained in trees, whether standing, fallen or felled, and all wood, whether produced in or imported into the Republic, and whether sawn, split, hewn or planed or otherwise fashioned or processed; (xvii)
- (xvii) "tree" includes any plant species including any seedling, sapling, transplant or coppice shoot of any age; (i)
- (xviii) "undemarcated forest" means—
 - (a) any State land (not being demarcated forest) acquired, or with the concurrence of the Minister of Agriculture reserved, for the purposes of this Act; and
 - (b) all trees on—
 - (i) State land (not being demarcated forest); or
 - (ii) any other land, if the right to such trees has been reserved to the State. (ix)

Application of Act.

2. (1) Save as is otherwise provided in this Act, the provisions thereof shall not apply to any land in any area referred to in section 25 (1) of the Bantu Administration Act, 1927 (Act No. 38 of 1927), or any land referred to in section 21 (1) of the Bantu Trust and Land Act, 1936 (Act No. 18 of 1936), which is not a demarcated forest.

(2) (a) Upon the written request of the owner of any private forest, the Minister may, if he is satisfied that the public interest will not be prejudiced thereby, by notice in the *Gazette* apply to that private forest any provisions of this Act which relate to State forests only and which he may deem necessary for the better preservation of the said forest and for the better protection of the trees and other forest produce therein.

(b) Any such notice shall clearly specify the area affected and may by like notice be withdrawn or (with the consent of the owner) amended.

(3) Subject to the written approval of the Secretary a person specially appointed by any private forest owner or any local authority as forest officer shall, in respect of any private forest under the control of such owner or authority, as the case may be, have all the powers conferred on forest officers of the department by this Act.

Delegation of powers and other administrative provisions.

3. (1) The Minister may from time to time delegate all or any of the powers conferred upon him by this Act, save the power to make regulations, to the Secretary or to any other senior officer of the department.

(2) The Secretary may from time to time designate the posts in the department the incumbents of which shall be forest officers.

(3) The Secretary may from time to time authorize any officer of the department to exercise, carry out or perform on his behalf any of the powers, functions or duties conferred upon, assigned to or imposed upon him by this Act.

Expropriation
of land for
forestry and
other purposes.

4. If in the opinion of the Minister of Agriculture any land or any right or interest in or over land is required for the establishment of, or for any other purpose in connection with, a State forest or to enable the department to exercise, perform or carry out its powers, duties or functions in connection with any State forest he may expropriate such land or right or interest and the provisions of the Expropriation Act, 1965 (Act No. 55 of 1965), shall apply in connection with such expropriation.

Protection of
forests or
trees from
cutting, etc.

5. (1) Whenever the Minister in respect of any land, not being a State forest, deems it expedient in the public interest that any tree or species of trees or the whole or any part of a forest shall be protected, he may by notice in the *Gazette* declare such tree or such species of trees or such forest or part thereof protected.

(2) After the publication of such notice no person shall, subject to the provisions of sections 13 and 14, cut, injure or destroy such protected tree or any tree belonging to such protected species of trees or any tree in such forest or part thereof which has been declared protected, except with the written consent of the Minister and subject to such conditions as he may determine.

(3) Any notice under subsection (1) may by like notice be withdrawn or amended.

Compensation for
loss due to
notice under
section 5.

6. (1) The owner of any land or forest in respect of which the Minister has exercised the powers conferred upon him under section 5 (1) shall be entitled—

(a) to recover damages for patrimonial loss resulting from a refusal to consent to cutting or from the imposition of onerous restrictions by the Minister under section 5 (2); Provided that no such damages shall be recoverable in respect of any refusal or restriction which relates to any living indigenous fodder tree; or

(b) to demand that the holding on which such forest is situated shall be expropriated in accordance with the provisions of section 4: Provided that no holding shall be expropriated in pursuance of any such demand unless the Land Tenure Board referred to in section 2 of the Land Tenure Act, 1966 (Act No. 32 of 1966), is of the opinion that the operation of section 5 (2) will result in a substantial interference with such owner's beneficial occupation of his holding or the rendering of a substantial portion thereof unavailable for the purpose for which such portion was being used at the time of the publication of the relative notice.

(2) The amount of damages recoverable under subsection (1) (a) shall, in the absence of agreement, be determined by the court and the provisions of sections 7, 9 and 10 of the Expropriation Act, 1965, shall *mutatis mutandis* apply in the determination of such amount.

(3) For the purposes of this section "holding" means—

(a) any area of land held by any person under separate grant, deed of transfer or certificate of title; or

(b) any area of land held under lease, licence or allotment, from the State, with an option to purchase such area, provided the instrument of such lease, licence or allotment is registered in a deeds office or other registration office or surveyor-general's office.

Nature reserves
and protection
forests.

7. (1) (a) The Minister may by notice in the *Gazette* set aside any State forest or any defined portion thereof as a nature reserve for the preservation of forests, natural scenery and forest produce, or as a protection forest for the conservation of water supplies or the prevention of sand drift or soil erosion, and the control and management of any State forest or portion thereof so set aside shall vest in the department.

- (b) Any such notice shall clearly specify the area set aside and may by like notice be withdrawn or amended.

(2) Subject to the provisions of sections 13 and 14, no person shall cut, disturb, injure, take, collect, destroy or remove any forest produce on any land set aside under subsection (1): Provided that nothing herein contained shall prevent the Secretary from taking on such land any measures which he may deem necessary for the protection thereof against fire, sand drift or soil erosion, or for the conservation of water, forest produce or veld, or for the eradication of noxious weeds and pests, or for the control of any animals whose presence may in the Minister's opinion constitute a nuisance or is or may become detrimental to the objects for which such nature reserve or protection forest has been set aside.

Procedure for demarcation or withdrawal from demarcation of State forest land.

8. (1) (a) If, after consideration of a written report submitted by the Secretary, the Minister is of the opinion that it is necessary for the better achievement of the purposes and objects of this Act that any land which is an undemarcated forest be converted to demarcated forest he shall—
- (i) cause a notice of his intention to declare the land in question a demarcated forest to be published three times at intervals of not less than one week in the *Gazette* and in at least one Afrikaans and one English newspaper circulating in the district in which the land is situated;
 - (ii) cause a copy of such notice to be sent by registered post to the body recognized by him as representing organized agriculture in such district; and
 - (iii) cause a copy of such report together with a surveyor's diagram or a map or sketch plan showing clearly the boundaries of the land to be demarcated to be deposited at the office of the magistrate of the district in which the land is situated and to be kept available for inspection free of charge by any member of the public until after expiration of the period within which objections may in terms of paragraph (b) be lodged.
- (b) Within a period of one month from the date of the last publication of such notice in the *Gazette* any person desiring to object to the demarcation of the land in question, may lodge with the Minister an objection in writing setting out the grounds on which he objects to the proposed demarcation.
- (c) The Minister may in his discretion uphold or reject any such objection.
- (d) If, after the expiry of the said period of one month, no such objection has been lodged or, if having been lodged, it is rejected by the Minister, he may by notice in the *Gazette* declare the land or any defined portion thereof to be demarcated forest.

(2) No land which has been declared to be a demarcated forest, or any portion thereof, shall be withdrawn from demarcation except with the approval, by resolution, of the Senate and the House of Assembly.

(3) Whenever the Senate and the House of Assembly have by resolution in terms of subsection (2) approved of the withdrawal from demarcation of any land which has been declared to be a demarcated forest, or any portion thereof, such land shall be withdrawn from demarcation by notice in the *Gazette*.

Servitudes over State forests and regulations regarding servitudes.

9. (1) Notwithstanding anything to the contrary in any law contained, no servitude or other right of whatever nature in respect of any portion of a State forest shall be capable of being acquired by prescription and no such servitude or other right shall, except with the approval, by resolution of the Senate and the House of Assembly, be granted or alienated: Provided that nothing in this subsection contained shall be construed as—

- (a) prohibiting the granting in accordance with the regulations of any right (whether of a permanent or temporary nature) in respect of any portion of a State forest to any department of State, the South African Railways and Harbours Administration, the Post Office Administration, Provincial Administrations or local authority for public purposes;
- (b) prohibiting the sale or disposal of forest produce in accordance with the regulations or the grant in accordance with the regulations of temporary rights of trading, grazing, cultivation, abutment, aqueduct, occupation of mill, factory, shop, residential, camping or other sites, or of temporary rights for the conveyance of power, gas, liquids or other goods or of temporary rights for the establishment and maintenance of facilities for the transmission of communications, whether by land or by radio or other means, on State forests;
- (c) limiting the powers of the State President or any Minister of State or public officer, in respect of the issue, subject to the regulations governing prospecting in State forests, of permits, licences or leases under the laws in force relating to prospecting and mining for precious and base metals and minerals and precious stones, or in respect of the disposal of State forest containing such metals, minerals or stones, in accordance with the laws regulating the disposal of such land, but no forest produce shall be cut, injured, taken or removed by the holder of the prospecting permit, licence or lease, except under a licence or permit obtained from the Secretary.

(2) If at the commencement of this Act any servitude or right to forest produce, or right of grazing, cultivation, residence or camping, or to the use of water, or any other right exists in respect of any State forest or any portion thereof and which also existed at the commencement of the Forest Act, 1941 (Act No. 13 of 1941), the Minister may, subject to any such existing right, make regulations in relation to that forest or portion thereof—

- (a) specifying the kinds of forest produce and the quantities thereof which may be cut or taken or removed, and the season or time for cutting, taking or removal;
- (b) prohibiting, for specified periods, grazing of stock or the cutting or taking of forest produce in or the removal of forest produce from any specified area, for the purpose of regenerating the forest or of preserving thereon the forest produce or pasturage, or for the prevention of soil erosion or sand drift, or for the reclamation of the soil or of drift sands;
- (c) prescribing the particular areas over which rights of grazing or of cutting or taking or removing of forest produce may be exercised in particular years or periods, for the purpose of regenerating the forest, or of preserving young trees growing thereon, or of regulating the yield of forest produce;
- (d) limiting the cutting, taking or removal of forest produce to domestic or farm requirements, and prohibiting the sale thereof;
- (e) defining the areas on which, and the periods during which, the right of residence or camping may be exercised;
- (f) requiring the holder of a servitude or right of any nature to obtain from the Secretary a permit defining the nature of such servitude or right and specifying where and in what manner it may be exercised;

- (g) prescribing penalties for a contravention of or failure to comply with any such regulation, not exceeding the penalties specified in section 24;
- (h) prescribing generally the manner in which any right or servitude may be exercised.

(3) The Minister shall cause a register to be kept of all servitudes or rights in respect of State forests, specifying in each case the nature of the servitude or right, the manner in which it came into existence and the name of the holder thereof, or in the case of a praedial servitude, the dominant tenement.

- (4) (a) Notwithstanding anything to the contrary in any law contained, the Minister may, at any time when circumstances in his opinion warrant it, close any road (other than a road established or maintained by any person who or authority which by law has the power to establish or maintain roads) in any State forest or prohibit access to any such road during such times as he may deem necessary.
- (b) Whenever the Minister has exercised any power conferred upon him by paragraph (a) notice thereof shall be given in such manner as he may deem necessary.
- (c) Any person who uses any road closed under paragraph (a) or uses any road at any time when access thereto is prohibited under that paragraph, shall be guilty of an offence, and any forest officer may summarily eject such person from the State forest in question, and may for that purpose use such force as may be necessary.

Export, import, removal, sale, manufacture and grading of forest produce and the use of trade names in respect thereof.

10. (1) The Minister may, subject to the provisions of subsection (4), by notice in the *Gazette*, prohibit the importation into or the export from the Republic or the removal from any place to another within the Republic or the purchase, sale or disposal of any forest produce (other than the fruit of fruit trees), except on such conditions as may be prescribed in the notice.

(2) Any such notice may—

- (a) prescribe the dimensions and the methods of seasoning of any such forest produce and the grades, standards of quality and the manner of grading, packing or marking of any such forest produce, subject to which such forest produce may be sawn, manufactured or processed for trade purposes or purchased or sold or imported into or exported from the Republic;
- (b) prohibit the use for trade purposes, or the sale, disposal or removal from any place to another in the Republic, or the importation into or export from the Republic of any such forest produce which is not of the prescribed dimensions or has not been seasoned in the prescribed manner or which is not of the prescribed grade or standard of quality or has not been graded, packed or marked in the prescribed manner;
- (c) prescribe or define the trade name or description whereby any such forest produce or any product derived therefrom shall be known or described and under which it shall be imported into, or exported from, or sold or otherwise disposed of in, the Republic, and prohibit the use of any other trade name or description in respect thereof;
- (d) provide for the inspection of any such forest produce by any person (including the incumbent of any post) designated by the Minister for the purpose;
- (e) prescribe the place, time and manner of inspection of any such forest produce intended for export from, or for removal from any place to another within, the Republic or imported into the Republic, and the persons to whom notice of intention to export, remove or import such forest produce shall be given,

the fees to be paid in respect of the inspection of such forest produce, the times of payment of such fees and the persons to whom such payment shall be made;

- (f) prescribe the method of taking samples for examination, analysis or testing of any forest produce intended for import into or export from the Republic, and the circumstances under which and the manner in which such forest produce may be graded, marked, regraded or re-marked;
- (g) provide generally for improvement in the quality and the methods of manufacture and marketing of any such forest produce.

(3) The conditions prescribed or specified in any such notice may include any conditions to the effect that the grades, standards of quality and packing or marking of any such forest produce shall be as prescribed by the South African Bureau of Standards established by section 4 of the Standards Act, 1962 (Act No. 33 of 1962), and that each piece of such forest produce shall be marked in such a manner as to indicate conformity with the relevant specification of the said Bureau.

(4) Before the publication of a notice under subsection (1) the Minister shall publish in the *Gazette* a draft of such notice together with a notice calling upon all interested persons who have any objections to lodge them in writing with the Secretary within a period of thirty days of the date of publication thereof: Provided that, if the Minister thereafter determines on any alteration in the draft notice published as aforesaid, as a result of any objections submitted in respect thereof, it shall not be necessary to publish such alterations before finally publishing the notice in terms of this section.

(5) Any person who contravenes or fails to comply with any notice published in terms of subsection (1) or any condition specified therein, or hinders or obstructs any person designated by the Minister in the exercise of his powers in pursuance of any authority conferred upon him in terms of subsection (2) (d) shall be guilty of an offence.

Reservation
of forest
produce.

11. The Minister may, in respect of any State forest, by notice in the *Gazette* declare any forest produce to be specially reserved and, until such notice is withdrawn, no person shall, subject to the provisions of sections 13 and 14 fell, remove or injure any such forest produce, except upon the authority of a licence or permit issued by the Secretary and for the purpose mentioned in such licence or permit.

Minister may
cause extraordinary
precautions to
be taken.

12. (1) Whenever the Minister deems it necessary that extraordinary or special measures be taken to protect any State forest or private forest against fire hazard, he may by notice in the *Gazette* provide that in any specified area outside such State forest or private forest or within any specified distance from the boundaries of such State forest or private forest no person shall make or cause to be made any fire in the open air or, if such a fire has been made, allow such fire to continue to burn or add fuel thereto or rekindle it, otherwise than in accordance with such conditions as may be specified in such notice.

(2) Any person who contravenes or fails to comply with any notice published in terms of subsection (1) or any condition specified therein shall be guilty of an offence.

Clearing of
fire-belts on
common
boundaries of
properties.

13. (1) (a) Notwithstanding anything to the contrary in this Act contained, but subject to the provisions of this section, any owner or occupier or person in charge of any land, may clear or cause to be cleared a fire-belt on the boundary common to such land and any land adjacent thereto or on any line on each or on one or other side thereof.

(b) The person proposing to clear such a fire-belt or to cause it to be cleared, shall, in the form and manner prescribed by regulation, give to the owner or person

in charge of the adjacent land at least fourteen days' notice of his intention.

- (c) The party to whom such notice is given shall assist in the clearing of any such fire-belt, but may claim a reasonable extension of time to enable him to cut or to clear any space or to bring up labourers and equipment the more effectually to execute and control any burning or other operations which may be reasonably necessary in connection with such clearing.
- (d) The manner and time of clearing such fire-belt, the type, length, width and position thereof, and the nature of the assistance to be rendered by each party and the share of the cost to be borne by each party, shall be subject to mutual agreement between the parties concerned or, failing such agreement, shall on the application of either party be decided summarily by a magistrate having jurisdiction in the district in which the said adjacent land is situated, who may make such order as to the payment of the cost of clearing such fire-belt and as to costs of the application as he may deem just.
- (e)
 - (i) On the appointed day and thereafter until the clearing of the fire-belt has been completed, the parties concerned shall each in person or through a duly authorized representative attend with the number of workmen and the equipment as agreed upon, and all operations shall be under the joint direction and control of both parties or their representatives.
 - (ii) Should weather conditions on the appointed day prove unfavourable, another day may be fixed as provided in paragraph (d).
- (f)
 - (i) In the event of one or other of the said parties failing to attend with such number of workmen and such equipment or to render such assistance as may have been mutually agreed upon by the parties or decided by the court, or as is specified in the notice of intention referred to in paragraph (b), as the case may be, the party who does so attend or who attends on the first succeeding suitable day, may forthwith and from day to day by himself and his servants clear or cause to be cleared the fire-belt specified in the said notice or agreed upon or ordered by the court, and he shall be entitled to claim and recover from the defaulting party such expenses or other relief as the court may decide.
 - (ii) No liability shall attach to any person in respect of any loss or damage arising out of the lawful exercise by him of any power conferred by subparagraph (i).

(2) Notwithstanding anything to the contrary in this Act contained, but subject to the provisions of this section, any owner or occupier or person in charge of any land may, for the protection from fire of his land or of the land occupied by him or in his charge, after having given, in the form and manner prescribed by regulation, not less than fourteen days' notice to the owner or the person in charge of any land adjacent to such first-mentioned land, on the day stated in that notice or within a reasonable time thereafter, clear a fire-belt on his own side of the common boundary between the properties concerned: Provided that the person on whom such notice is served may, at any time before the expiration of the period mentioned in that notice, in writing require the person giving such notice to follow the procedure prescribed in subsection (1), and in that event the provisions of that subsection shall *mutatis mutandis* apply and such notice shall be deemed to be a notice given under paragraph (b) thereof.

(3) Any person who fails to give notice as required by this section shall be guilty of an offence.

(4) (a) Subject to the provisions of paragraph (b), nothing in this section contained shall be construed as precluding the Secretary or the owner of a private forest from entering into an agreement with any local authority, or such other authority or person as may be specially approved by the Minister, in terms of which the Secretary or such owner or such local authority or such other authority or person undertakes to clear and maintain a fire-belt—

(i) on one side or both sides of a road established or maintained by any person who or authority which by law has the power to establish or maintain roads and situated in or on the boundary of a State forest or private forest;

(ii) on any State forest or private forest or land adjacent thereto.

(b) Such agreement shall provide for the type, length, width and position of the fire-belt, the manner in which it shall be cleared and maintained and the remuneration payable (if any) for the clearing and maintenance thereof.

(5) (a) Whenever the Minister is of the opinion that the clearing in any area of a fire-belt by burning during any period in any year would give rise to a fire hazard he may by notice in the *Gazette* provide that no person shall clear any fire-belt referred to in this section by burning during any such period specified in such notice in any such area so specified.

(b) Any person who contravenes any notice published in terms of paragraph (a) shall be guilty of an offence.

(c) The Minister may at any time by notice in the *Gazette* amend or repeal any notice issued in terms of paragraph (a).

(6) The provisions of subsections (1) and (2) shall not apply in respect of any fire-belt which is to be cleared by any owner or occupier or person in charge of any land wholly on his own side of the common boundary between such land and any other land and in a manner other than by burning, and nothing in this Act contained shall be construed as prohibiting the clearing of any such fire belt.

Clearing of
fire-belts by
fire protection
committees.

14. (1) Notwithstanding anything to the contrary in any law contained, any fire protection committee established under section 15 of the Soil Conservation Act, 1946 (Act No. 45 of 1946), in respect of any fire protection area, or person acting on behalf of or on the instructions of such committee, may enter upon any land within any area with reference to which a fire protection scheme prepared by such committee has been applied in accordance with the provisions of section 15bis of the said Act and there clear or cause to be cleared any fire-belt for which provision has been made in such scheme.

(2) No liability shall attach to any person in respect of any loss or damage arising out of the lawful exercise by the fire protection committee concerned or any person acting on behalf of or on the instructions of such committee of any power conferred by subsection (1).

Procedure in
regard to
extinguishing
fire.

15. (1) Whenever there is good reason to believe that any fire in the open air may become dangerous to life or property, any person acting in good faith may either alone or with persons under his control enter upon any land for the purpose of extinguishing that fire or preventing the spreading thereof.

(2) If such fire is within five miles of the boundary of a State forest, any forest officer shall, subject to the terms of any agreement entered into in terms of section 16, have the right to take full control.

- (3) Any person acting in terms of subsection (1)—
- (a) shall, subject to the provisions of subsection (2), have the control of persons under his command and of persons who voluntarily place their services at his disposal;
 - (b) may take such measures as in the circumstances are reasonable and necessary for the protection of life and property or for extinguishing or preventing the spreading of the fire, and may for such purpose cause reasonable destruction of any trees, grass, crops or other vegetation by cutting, burning, ploughing or otherwise;
 - (c) may call upon any person present at such fire or upon any person on any property to which such fire is liable to spread or upon any person who has any interest in any such property to assist or to do any act or perform any service which may reasonably be considered necessary or expedient to control or extinguish or prevent the spreading of the fire;
 - (d) may order any person, whose life may be or may become endangered or whose presence at or in the vicinity of the fire may interfere with any operation in connection with the fire, to remove himself or any vehicle or other thing under his control.

(4) Any person who fails to comply with any requirement or order under subsection (3) shall be guilty of an offence.

(5) No liability shall attach to the department or any person in respect of any loss or damage arising out of the lawful exercise by a forest officer or such person of any power conferred by this section, and no person shall be entitled to any compensation or reward whatsoever in respect of any act performed or service rendered by him in pursuance of any requirement or order under subsection (3): Provided that the Secretary may pay to any person who has so suffered loss or damage or who has performed any such act or rendered any such service in connection with the protection from fire of a State forest, such compensation or reward as the Minister, in consultation with the Minister of Finance, may determine.

(6) No action shall lie for trespass or for damage caused in good faith by any person in charge of any operations lawfully undertaken under this section, or by any person assisting in such operations, but the person in charge of such operations shall at the first convenient opportunity report the circumstances and the action taken to the nearest police officer or justice of the peace or to the magistrate of the district concerned,

Agreements for reciprocal assistance.

16. The Secretary may, in consultation with the Treasury, enter into an agreement with any local authority or other person whereby provision is made for reciprocal assistance in the event of any fire occurring on, threatening or endangering any land belonging to or in charge of such local authority or person or any State forest and for the charges (if any) to be paid for any service rendered in terms of the agreement.

Wrongful possession of forest produce.

17. (1) (a) Whenever a forest or police officer on reasonable grounds suspects that any forest produce found in or obtained from or in transit from a State forest or private forest, is about to be or has been wrongfully removed, he may seize and detain such forest produce pending inquiry.
- (b) No action for damages shall lie in respect of such seizure or detention.
- (2) (a) A forest or police officer may without warrant arrest any person found by him in possession of forest produce which he on reasonable grounds suspects to have been obtained unlawfully from any State forest or private forest.
- (b) If such person is unable to satisfy the court that he had a lawful right to be in possession of such forest produce, he shall be guilty of an offence.

Special powers
of various
officers.

18. (1) Any magistrate, justice of the peace, forest officer or police officer may at all reasonable times demand from any person the production of any licence, permit or other authority which he is under this Act required to have, and any person who refuses or fails to produce such licence, permit or other authority on such demand shall be guilty of an offence.

(2) Any forest officer shall, in respect of any offence, attempted offence or suspected offence under this Act, have all the powers vested by law in police officers.

(3) Any forest officer may, in addition to the powers conferred upon him by subsection (2), and any police officer may—

- (a) arrest without warrant any person reasonably suspected of having been a party to any offence mentioned in section 21 (1);
- (b) arrest without warrant any person reasonably suspected of having been a party to any offence under this Act if such officer has reason to believe that such person will fail to appear in answer to a summons;
- (c) seize any forest produce in respect of which such officer has reason to believe that an offence under this Act has been committed;
- (d) seize any weapon, vehicle, instrument, animal or other thing which such officer has reason to believe has been used in the commission of an offence under this Act.

(4) Any seizure under subsection (3) shall forthwith be reported to a magistrate who may make such order as to the further retention or disposal of the seized property as may, from the facts reported, appear to him to be just or expedient.

Special powers
of civil nature
of magistrates
in case of
squatting,
camping and
cultivating
on State forests.

19. Whenever any person without proper authority camps, squats or resides or builds any structure upon, or clears or cultivates, land in a State forest, the magistrate's court having jurisdiction in the district where such forest is situated may, upon the request of a forest officer, summon such person to appear before the court to show cause why he should not be ordered to leave such forest or remove such structure, and if he fails to appear or, having appeared, fails to prove that he has proper authority for the acts aforesaid, the court may direct that, within a period fixed by it, such person shall leave such forest and not return thereto, and shall remove therefrom any structure erected by him in such forest and any crops belonging to him, and the court may at the same time authorize the forest officer concerned or any officer designated by it, to remove, destroy or otherwise dispose of such structure or crops unless the order is complied with by such person within the period so fixed.

Court may
order return
of forest produce
unlawfully
removed.

20. (1) (a) Whenever upon the hearing of a charge under this Act or any other law, the court finds as a fact that forest produce has been unlawfully removed from a State forest or private forest, it shall, in addition to any other powers which it may exercise in terms of any other law, have power to order that such forest produce be returned to the owner by the person in possession thereof or that damages in respect thereof, to an amount fixed by the court, be paid by the accused to the owner.

(b) Any such order may be enforced in the same manner as judgments of such court in civil cases are enforced.

(2) The provisions of subsection (1) relating to damages shall apply in respect of any unlawful cutting of or injury to forest produce, or any damage wilfully or negligently caused to forest produce or other property in a forest by fire or by any other means.

Offences.

21. (1) Any person who—

- (a) without authority, in or on any State forest or private forest—
 - (i) cuts, injures, destroys, collects, takes or removes any forest produce; or
 - (ii) injures, alters, shifts or removes or interferes with any beacon, boundary mark or fence; or
 - (iii) lights or assists in lighting or uses, rekindles or adds fuel to any fire; or
- (b) in a State or private forest is in possession of any explosives or petroleum or other inflammable substance and who is unable to prove that he requires it for a lawful purpose; or
- (c) in the open air—
 - (i) leaves unattended a fire which he, with or without authority, has lighted or assisted in lighting or used or rekindled or to which he has added fuel before such fire is thoroughly extinguished; or
 - (ii) with or without authority, either personally or through his servant or agent, lights or assists in lighting or uses, rekindles or adds fuel to any fire which, through his negligence spreads or causes damage or injury,

shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand rand or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment or, where any such act or omission is of a wilful and aggravated nature, to a whipping not exceeding six strokes or to both such a fine and such a whipping or to both such imprisonment without the option of a fine and such a whipping.

(2) Any person who, in or on a State forest or private forest—

- (a) without authority, clears, breaks up or cultivates land;
- (b) without authority, in any manner hunts or destroys or attempts to hunt or destroy game, birds or other animals, or fishes for or destroys or attempts to fish for or destroy fish, or is accompanied by a dog or has in his possession any gun;
- (c) without authority, robs or attempts to rob any beehive or disturbs or removes any swarm of bees;
- (d) without authority enters any part where entry is by notice prohibited or climbs through or over any fence or gate;
- (e) throws down or drops any burning match or other burning material or any material capable of spontaneous combustion or self-ignition or smokes where smoking is by notice prohibited;
- (f) contravenes or fails to comply with any condition or regulation stated or referred to in any licence, permit or other authorization issued under this Act;
- (g) allows any dog to stray or any stock to trespass;
- (h) wilfully injures, alters, shifts or in any other way interferes with any notice or notice board,

shall be guilty of an offence.

(3) (a) Any person who—

- (i) without authority makes upon or affixes to any forest produce a mark used by the department to indicate that such produce is the property of the State, or makes upon or affixes to any forest produce in a State forest a mark to indicate that such forest produce may be lawfully cut or removed from such forest;
- (ii) without authority alters or defaces any mark placed upon any forest produce in terms of this Act or any notice issued thereunder or any licence, permit or other authorization issued under this Act;
- (iii) obstructs or hinders any forest officer, police officer or other person in the exercise of his

powers or the performance of his functions or the carrying out of his duties under this Act; and

(b) any forest officer or other employee of the department who—

- (i) solicits or receives or agrees to receive, whether for himself or otherwise, any payment, advantage or reward, pecuniary or otherwise, in consideration of his doing anything in conflict with his duty or of his refraining from doing his duty;
- (ii) solicits or receives or agrees to receive, from any person any payment, advantage or reward, pecuniary or otherwise, in consideration of his doing his duty;
- (iii) trades in forest produce (other than forest produce grown or produced on his private property) or acts as an agent for any person trading in forest produce,

shall be guilty of an offence.

(4) Any owner, occupier or person in charge of any land who fails to take such steps as in the circumstances are reasonable and necessary for preventing any fire on such land from spreading to any adjacent land or from causing damage to any property on such adjacent land shall be guilty of an offence.

Evidence.

22. (1) Whenever in any prosecution under this Act it is alleged in the charge that any forest produce is the property of the State or of any person, it shall be presumed, until the contrary is proved, that such produce is the property of the State or of such person, as the case may be.

(2) Any person charged with doing any act for which by this Act a licence, permit or other authority is required, shall be deemed to be without such licence, permit or authority unless he produces the same to the court or gives other satisfactory proof of possessing the same.

Negligence presumed.

23. Notwithstanding anything to the contrary in any law contained, whenever in any proceedings under this Act or at common law the question of negligence in respect of veld or forest fires arises, negligence shall be presumed unless the contrary is proved.

Penalties where not expressly provided.

24. Any person guilty of an offence under this Act shall, where no penalty is expressly provided for such offence, be liable on conviction to a fine not exceeding one hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Award of portion of fine recovered to informer.

25. The court by which any fine is imposed for an offence under this Act, may order that a sum not exceeding one-fourth of any fine recovered be paid to any person, not being an officer in the service of the State, upon whose information the conviction for such offence has been obtained or who has materially assisted in bringing the offender to justice.

Rights of post office, local authorities, etc.

26. Notwithstanding anything to the contrary in any law contained, no rights—

(a) of cutting, trimming or removing trees or underwood on any land; or

(b) of entry upon any State forest or private forest, for the purposes of the Post Office Act, 1958 (Act No. 44 of 1958), or the construction and maintenance of electrical power lines, roads and railways, including the taking of stone, sand, earth or water, shall be exercised without prior consultation with the Secretary or the owner, as the case may be: Provided that where any such right exists and can reasonably be exercised the Secretary or the owner, as the case may be, shall point out suitable and adequate areas for the exercise of that right: Provided further that where communication is interfered with or en-

dangered by trees or underwood the authority concerned may take such steps as are actually necessary for the removal of the interference or danger without consultation as aforesaid but in such a case the authority concerned shall as soon as possible notify the Secretary or owner, as the case may be, of the steps which have been taken.

Service of notices.

27. Service of any notice under this Act may be effected—

- (a) by delivering a copy thereof personally to the person upon whom it is to be served; or
- (b) by leaving such copy at the usual or last known place of residence or business of such person; or
- (c) by sending such copy by registered post to the usual or last known place of residence or business of such person.

Restrictions upon actions against State, Minister, etc., for anything done in good faith.

28. Unless negligence is proved, no action shall lie against the State, the Minister, the Secretary, a forest officer or other officer of the department or a police officer for any injury to or loss sustained by any person in consequence of anything done in good faith under this Act.

Regulations.

29. (1) The Minister may make regulations, not inconsistent with this Act, in respect of any State forest, as to—

- (a) any matters which by this Act are required or permitted to be prescribed by regulation;
- (b) the establishment of plantations, the sale or disposal of forest produce and the felling, working and removing thereof;
- (c) the granting of leases, the issuing of licences, permits or other authorizations in respect of the sale or disposal of forest produce and the procedure in connection therewith;
- (d) the manner in which trees, wood or other forest produce sold shall be disposed of, manufactured or processed and the manner in which any products derived therefrom shall be marketed, sold or otherwise disposed of;
- (e) the establishment and management by the department of sawmills and other plants and appurtenances thereto for sawing, manufacturing or processing forest produce, and the carrying on by the department of trade or business in forest produce and any other work or function incidental thereto;
- (f) the grazing of animals and the manner in which pasturage shall be used;
- (g) the clearing, breaking up or cultivation of land;
- (h) the use of land for mill, factory or trading sites or for residential, camping or recreational purposes;
- (i) hunting or fishing, subject to the laws relating to the preservation of game, fish or birds;
- (j) the control or extermination of animals which in his opinion are problem animals and the eradication of weeds which in his opinion are noxious weeds;
- (k) the issuing of licences, permits or other authorizations in respect of rights in or over the State forest;
- (l) entry thereto, subject to the rights of the travelling public; and
- (m) the conditions subject to which vehicles not owned by the State may operate on any road therein (other than a road established or maintained by any person who or authority which by law has the power to establish or maintain roads), the manner in which such vehicles shall be operated and the rules which shall be complied with by persons driving, using or operating such vehicles.

- (2) (a) The Minister may in consultation with the Minister of Planning make such regulations as he may consider necessary for the making and keeping of a comprehensive running survey of requirements in respect of forest produce in the Republic, of the potential productivity of plantations and forests therein, of timber supplies and of such other facts as he may consider necessary for the sound and balanced development of the forest and timber industry in the Republic.
- (b) Without prejudice to the generality of the provisions of paragraph (a), any such regulation may—
- (i) provide for the registration of owners of plantations or forests or persons who intend to establish or expand plantations and of persons who are engaged in or who intend to become engaged in the sawing, manufacturing or processing or selling of any forest produce;
 - (ii) provide for the inspection of any plantation or forest or of the premises of persons engaged in the sawing, manufacturing or processing or selling of any forest produce;
 - (iii) provide for the collection of data by owners of plantations or forests and persons engaged in the sawing, manufacturing or processing or selling of any forest produce, and the records which shall be kept and the returns (other than returns relating to processing techniques, cost, selling prices or profits) which shall be rendered to the Secretary by such owners or persons and the dates and times before or on which such returns shall be rendered.
- (3) Any regulation made under this section may prescribe penalties for any contravention thereof or failure to comply therewith, not exceeding the penalties prescribed in section 24.
- (4) Different regulations may be made under this section with reference to different portions of the Republic, different plantations or forests or different classes of plantations or forests, different owners of plantations or forests or different classes of owners of plantations or forests and in such other respects as the Minister may determine.

Minister may determine tariffs and charges.

30. The Minister may, in consultation with the Minister of Finance—

- (a) in respect of any State forest, determine tariffs, which may vary according to circumstances, in regard to—
 - (i) the disposal of forest produce;
 - (ii) the use and occupation of land for mill, factory or trading sites or for residential, cultivation, grazing, camping, picnicking or other purposes;
 - (iii) the use and occupation of buildings;
- (b) determine the charges to be levied in respect of any services rendered by officers or employees of the department;
- (c) determine the circumstances under which and the conditions subject to which such charges may be varied or exemption from payment thereof may be granted by any officer of the department designated for the purpose.

Administrative regulations and regulations for the control of diseases and pests.

31. (1) The State President may make regulations, not inconsistent with this Act, in respect of the application and administration thereof in particular circumstances, and may make different regulations for different provinces, districts or other areas of the Republic.

(2) The State President may make regulations, not inconsistent with this Act or any other law, for the purpose of combating any fungus or bacterial disease or insect or parasite pests affecting any kind of forest tree or timber on any State forest or any private forest or any other land or in any ship, vessel, vehicle, aircraft, building, depot or place for storage, stacking, seasoning or working of timber, or for preventing the introduction into or the spread within the Republic of any such disease or pest.

(3) Any regulation made under this section may prescribe penalties for any contravention thereof or failure to comply therewith, not exceeding the penalties prescribed in section 24.

Application of Act on land in any area referred to in section 25 (1) of Act 38 of 1927 or land referred to in section 21 (1) of Act 18 of 1936.

32. The provisions of sections 10, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23 and 29 (2), (3) and (4) shall apply also to any land in any area referred to in section 25 (1) of the Bantu Administration Act, 1927 (Act No. 38 of 1927), or any land referred to in section 21 (1) of the Bantu Trust and Land Act, 1936 (Act No. 18 of 1936), which is not a demarcated forest.

Saving of existing agreements.

33. Nothing in this Act contained shall be construed as affecting in any manner whatsoever any agreement in connection with the management of State forests, or the disposal or sale of forest produce, or the granting of rights in respect of grazing, cultivation, sawmills, factories, trading, camping, residence or establishment of communications, whether by land, radio or otherwise existing between the State and any person and in force at the commencement of this Act.

Repeal of laws.

34. (1) Subject to the provisions of subsections (2) and (3), the laws mentioned in the Schedule are hereby repealed to the extent indicated in the third column thereof.

(2) Any notice issued or deemed to have been issued or any regulation, proclamation, licence, permit, permission, approval or agreement made, issued, granted, given or entered into or any other action taken or anything done by or under any provision of a law repealed by subsection (1), shall be deemed to have been issued, made, granted, given, entered into, taken or done by or under the corresponding provision of this Act.

(3) Anything done by any authority under any provision of a law repealed by subsection (1), shall be deemed to have been done in the prescribed manner by the appropriate authority under the corresponding provision of this Act.

Short title.

35. This Act shall be called the Forest Act, 1968.

Schedule

LAWS REPEALED.

No. and year.	Title.	Extent of repeal.
Act No. 13 of 1941.	Forest Act, 1941. . . .	The whole.
Act No. 45 of 1946.	Soil Conservation Act, 1946. . .	Sections 35, 36, 37 (1), 38 and 39.
Act No. 10 of 1948.	Forest Amendment Act, 1948.	The whole.
Act No. 55 of 1965.	Expropriation Act, 1965. ✓ . .	Sections 22 and 23.
Act No. 70 of 1967.	Forest Amendment Act, 1967. ✓	The whole.