

CHAPTER 79

FOREST LAW

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CHAPTER 79
FOREST LAW

ANSI Cap. 48

A Law for the preservation and control of forests in Enugu State
of Nigeria

[27th August 1991]

PART I. — PRELIMINARY

1. This Law may be cited as the Forest Law.

Short title

2. In this Law —

Interpretation.

“Assistant Conservator” means Assistant Conservator of Forests in the Forest Division;

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

“Chief Conservator” means Chief Conservator of Forest in the Forest Division;

“communal lands” means lands in Enugu States of Nigeria at the disposal of a community or of any chief on behalf of the community;

“Commissioner” means Commissioner for the time being charged with responsibility for Agriculture;

“community” means any group of persons occupying any lands in accordance with, and subject to, local law and custom;

“Council” means local government council;

“enclave” means an area completely surrounded by a forest reserve and not forming part of the forest reserve;

“forest” includes forest reserves, protected forest and where placed, in accordance with section 30, under the protection, control and management of the Commissioner;

“Forest Division” means the Forest Division of the Ministry of Agriculture;

“forest growth” includes anything growing in a forest or any tree protected under this Law;

“forest officer” means any officer of the Forest division or any officer appointed, under section 5, for the purpose of giving effect to the provisions of this Law;

“forest produce” includes —

- (a) wether found in or brought from a forest or not, timber, firewood, charcoal, rubber, latex, wood oil, gum resin, natural vanish, tanning extracts, tanning barks, fruits, bark and lac; and
- (b) when found in or brought from a forest —
 - (i) trees and all other parts or produce of trees not otherwise herein mentioned
 - (ii) wood ashes
 - (iii) peat, surface soil and minerals other than minerals within the meaning of any Act or Law, regulating the working or minerals,
 - (vi) gravel, limestone, rock and laterite,
 - (v) honey, beeswax, guano, silk- cocoons, humus and all produce from animals,

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

“forest reserve” means an area constituted or deemed to have been forest reserve under this Law which shall not have ceased to be forest reserve under any enactment;

“Government” means Government of Enugu State of Nigeria;

“lands at the disposal of the Government” includes any lands which the State

has acquired or may acquire by agreement or otherwise and also land leased to the Government;

“girth” means the circumference of a tree measured either at a height of 1.37 metres from the ground, or (if the tree is buttressed above that height) measured at 0.30 metre above where the highest buttress merges with the hole;

“minor forest produce” means any forest produce other than timber;

“protected forest” means any area declared by notice in the *Gazette*, in accordance with the provisions of section 7 or 8, to be a protected forest;

“protected tree” or “protected minor forest produce: means any tree or any minor forest produce declared to be such in accordance with regulations made under this Law;

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

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

“tree” includes palm;

“working plan” means, in relation to any forest, any plan of operations or work so decided upon and described as such and approved by the Commissioner.

PART II.— GENERAL PROVISIONS

3. The Commissioner may, by notice in the *Gazette*, and either for the period mentioned in the notice, or without any period assigned, withdraw from the operation of all or any of the provisions of this Law any class of persons, tribe or part of a tribe or any area specified therein.

Power to exempt certain persons, tribes or area.

4. (1) The Commissioner may, by notice in the *Gazette* and subject to such conditions, exceptions and qualifications as he may specify, depute any person, by name or office, to exercise or perform on his behalf, such of the powers and duties conferred upon him by this Law as he may specify and thereupon, or from the date specified in the notice, the person so deputed shall have and exercise such powers and perform such duties subject as aforesaid.

Delegation of powers by Commissioner.

(2) The Commissioner may, in the like manner, revoke any such notice, and may exercise any powers or perform any duties conferred upon him by this Law, notwithstanding the delegation by him of such powers or duties.

Appointment of officers..

5. The Civil Service Commission may appoint such officers as may be necessary for giving effect to the provisions of this Law.

Improvement of forest generally.

6. Any forest officer, not below the rank of Assistant Conservator of Forests, may enter upon any land and, with any necessary workmen, may cut out and destroy any diseased, dead or dying tree or any tree likely to cause damage to any forest property or to life or property.

PART III — CONSTITUTION OF FOREST RESERVES AND DECLARATION OF PROTECTED FORESTS

Commissioner may constitute forest reserves and declare protected forests.

7. (1) The Commissioner may constitute, as forest reserves, any of the following lands —

- (a) lands at the disposal of the Government
- (b) any lands in respect of which it appears to the Commissioner that the forest growth on such lands should be protected or reserved or forest growth be established.

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

Preliminary notification of intention to create a reserve and appointment of reserve settlement officer.

8. (1) Before constituting any lands as a forest reserve, the Commissioner shall publish in the *Gazette* a notice —

- (a) specifying, as nearly as may be, the situation and the limits of the lands;
- (b) declaring that the lands now form a protected forest;
- (c) declaring whether the lands are at the disposal of the Government or are lands coming within paragraph (b) of subsection (1) of section 7;
- (d) declaring that it is intended to constitute the lands a forest reserve, either for the general purposes of the Government or for particular use and benefit wholly or in part of any class of persons or for the benefit of any community;
- (e) appointing an officer, hereinafter referred to as a "reserve settlement officer", to inquire into and determine the existence, nature and extent of any rights, claimed by or alleged to exist in favour of any persons or communities or brought to the knowledge of the said officer, affecting the lands or any other rights in or over the lands which it is proposed to constitute a forest reserve.

(2) If, for any reason, the reserve settlement officer appointed under this section is unable to perform his duties, the Commissioner may, by notice in the *Gazette*, appoint any person to act on his behalf or as his successor.

(3) The notice so appointing may have retrospective effect for a period not exceeding one month.

(4) The Commissioner may, by notice in the *Gazette*, revoke any notice under section 7 or 8.

9. Upon publication of the notice aforesaid the reserve settlement officer shall —

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

10. (1) As soon as possible after the expiration of the period fixed by the reserve settlement officer, he shall —

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

(2) The reserve settlement officer shall keep a record in writing of —

- (a) all such claims and alleged rights;
- (b) all objections which may be made to such claims or alleged rights; and
- (c) any evidence in support of or in opposition to any claim or alleged right.

Notice of
inquiry

Duty of reserve
settlement
officer at
inquiry.

11. For the purpose of the inquiry, the reserve settlement officer shall have all the powers conferred by Law upon a Magistrate.

Reserve settlement officer to have judicial powers

12. The reserve settlement officer may, at any time during the inquiry join any number of claims or sever any claim joined and, in his findings, may join any number of claims or sever any claims which were formerly joined.

Reserve settlement officer may join or sever claims.

13. Upon the completion of the inquiry, the reserve settlement officer shall submit to the Chief Conservator for the consideration of the Commissioner his findings, describing the limits of the lands specified in the notice under section 8 and setting forth, with all such particulars as may be necessary to define their nature, duration, incidence and extent, all claims and alleged rights preferred or brought to his knowledge in respect of the lands and admitting or rejecting the same wholly or in part.

Submission of reserve settlement officer's findings on completion of inquiry.

14. Where the reserve settlement officer has admitted wholly or in part any right or claim and, in the opinion of the Chief Conservator, the exercise of such right or claims or any part thereof —

Rights may be extinguished or modified by commissioner

- (a) would stultify the objects of the proposed forest reserve;
- (b) would seriously hinder the efficient working of the proposed forest reserve; or
- (c) would do serious damage to the proposed forest reserve;

the Commissioner may —

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

- (iv) add such additional rights as he shall consider it just and equitable to allow, notwithstanding that the reserve settlement officer has not admitted such rights; or
- (v) adopt wholly, or in part, any one or any combination of the above methods of dealing with the matter;

Provided that, in altering the external boundaries of the proposed forest reserve, the Commissioner shall not include any area which lies outside the original limits set out in the notice published in accordance with the provisions of section 8.

Notification
of lands to be
reserved and
rights
admitted.

15. (1) The Commissioner shall, thereupon, publish a notice in the State *Gazette* specifying —

- (a) the lands which it is finally intended to constitute a forest reserve;
- (b) the rights which may be exercised within the proposed forest reserve; and
- (c) any other special conditions affecting the proposed forest reserve.

(2) The notice shall be made known in the same manner as the notice published under section 8 and to every person who, and the representative of any community which, preferred any claim or in respect of which any claim was brought to the knowledge of the reserve settlement officer.

Appeal from
notice
specifying
lands to be
reserved and
rights
admitted

16. (1) Any person who has made a claim on his own behalf or, where a claim has been made on behalf of a community, the representative of that community, may, within three months of the date of publication of the notice under section 15 appeal to the High court in whose area of jurisdiction the proposed forest reserve is situated against that portion of the notice which affects his claim or the claim made on behalf of the community which he represents.

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

(3) The decision on appeal of the High Court shall be final.

17. (1) After the time limited under section 16 for appealing to the High Court has elapsed or, if there has been an appeal, after the determination of the appeal, the Commissioner may, after taking into consideration the decision on appeal of the High Court, make an order constituting as a forest reserve the lands in respect of which an inquiry has been held.

Order of
Commissioner
constituting a
forest reserve.

(2) The order shall set forth —

- (a) the limits of the lands which constitute the forest reserve; and
- (b) all rights affecting the same, as set forth in the notice published under section 15 or established by the court upon appeal against such notice.

(3) The order shall be published in the State *Gazette* and made known in the same manner as the notice published under section 8.

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

18. (1) Any order made under section 17 may be revised or modified by the Commissioner and such revision or modification may be given retrospective effect.

Revision or
modification of
orders
constituting a
forest reserve.

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

- (a) exercise the powers conferred on him by section 14;
- (b) add such additional rights as he shall consider it just and equitable to allow notwithstanding that such right had not been admitted in the notice published under section 15;
- (c) provide for any two or more contiguous forest reserves being joined to form one forest reserve.

Extinguishment and revival of rights.

19. Every right in or over land in respect of which no claim shall have been made to the reserve settlement officer or of which no knowledge shall have been acquired by that officer shall be extinguished;

Provided that if any person shall, within one year of the date of the publication in the *State Gazette* of the notice under section 8, claim, and satisfy the Commissioner that he was possessed of, a right in respect of which he might have made a claim and that, through ignorance of the fact that an inquiry was being held or for other sufficient reason, he failed to make such claim, the Commissioner may direct —

- (a) that such right shall be revived;
- (b) that such right shall be modified; or
- (c) that such right shall be extinguished in accordance with the provisions of section 14.

No new rights to be acquired without approval in lands to be constituted a forest reserve.

20. During the period between the dates of the publication under section 8 of the notice of the intention to create a forest reserve and of the order under section 17 constituting the forest reserve —

- (a) no right shall be acquired in or over the lands comprised within such notice otherwise than by succession or under a grant or contract in writing entered into with the approval of the Commissioner; and
- (b) no act or thing shall be done in contravention of section 44 except that any right admitted in the notice published under section 15 may be exercised, to the extent and in the manner described therein, by the communities or persons to whom it was admitted, without prejudice to any subsequent revision or modification as provided for in this Law.

Right in forest reserves may not be alienated without approval.

21. (1) Without the consent of the Commissioner first obtained, it shall be unlawful for any person or community to alienate, by sale, mortgage or transfer, any right admitted in an order made under section 17.

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

22. Any right in a forest reserve admitted in an order made section 17 and not exercised for a period of ten years shall be deemed to be extinguished.

Non-exercise of rights.

23. Provided that another right of way or watercourse is available, the Commissioner may, by notice in the Enugu State *Gazette* close any right of way or watercourse in a forest reserve.

Right of way and watercourses may be closed.

24. Notwithstanding any customary Law to the contrary, any person, and the chief or head of any community on behalf of the community, shall be entitled to enter into any agreement to grant and convey absolutely to the Government any lands, and any rights in and over any lands, owned by him or it, which it is proposed to constitute a forest reserve under the provisions of this Law.

Lands and rights may be granted absolutely to Government.

25. The Commissioner may require any person, with any necessary workmen, to enter upon any lands for the purpose of erecting any beacons or demarcating or cutting any boundary lines within and around any lands which it is proposed to constitute a forest reserve or a protected forest and around any portions of lands included as enclaves.

Marketing of boundaries.

26. The Commissioner may, by notice in the Enugu State *Gazette*, direct that, from a date named therein, any lands or any part thereof, constituted a forest reserve under section 17, shall cease to be a forest reserve or part of forest reserve or part of such reserve:

power to be reserve.

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

PART IV— ADMINISTRATION OF FOREST RESERVES AND PROTECTED FORESTS.

27. The protection, control and management of forest reserves and protected forests shall be exercised and directed by the Commissioner.

Control of forest reserves and protected forests.

28. Where there is a working plan the Commissioner shall publish a notice in the State *Gazette* setting out —

Working plans.

(a) the name and nature of the working plan;

- (b) a general description of the area covered by the working plan; and
- (c) the place or places at which a copy of the plan may be inspected by any interested person.

Forest produce required for public purposes may be taken.

29. The Commissioner may cause to be taken, from any forest reserve or protected forest, any forest produce, which may be required for public purposes upon payment of a fair and reasonable price therefor, which price shall not exceed the amount of such fees and royalties as may be specified in regulations made under this Law and are generally applicable in respect of the reserve or protected forest whence the forest produce was taken.

PART V — LOCAL GOVERNMENT PLANTATIONS AND FOREST RESERVES

Control of local government forest plantations and forest reserves.

30. At the request of a council, a forest plantation or forest reserve constituted under and in accordance with the provisions of the Local Government Law may on notification to the effect being published by the Commissioner in the *State Gazette*, be placed, temporarily, under the protection, control and management of the Commissioner.

PART VI — LICENCES

Grant of licence by Commissioner.

31. (1) The Commissioner may grant licences, in such form and on such terms as he may decide, for the taking of forest produce in forest reserves.

(2) Except with the approval of the Commissioner, no licence shall be transferred.

PART VII — DISPOSAL OF FEES AND ROYALTIES

Disposal of fees and royalties.

32. (1) All fees received under this Law in respect of forest produce shall, when individual ownership of the lands from which the forest produce has been taken can be proved, be paid to the individual owner.

(2) Royalties received under this Law in respect of forest produce shall, when individual ownership of the lands from which the forest produce has been taken can be proved, be paid to the individual owner.

(3) In all other cases such royalties shall be deposited in the Treasury of a district council in the name of the local council or councils having jurisdiction in the area in trust for and on behalf of such village, community or group of persons as is specified by the Commissioner.

(4) A local council shall not withdraw any sum so deposited or pay any such sum to any village, community or group of person other than in accordance with a direction from the Commissioner charged with responsibility for Local Government.

(5) Before giving a direction under subsection (4) the Commissioner shall consult with the inhabitants of the village, the community or the group of person concerned.

PART VIII — REGULATIONS

33. (1) The Commissioner may make regulations for all or any of the purposes following and may specify the area or areas to which all or any of the regulations shall apply —

- (a) providing for the management, protection and utilization of forest reserve;
- (b) providing for the protection of forest produce in forest reserves by —
 - (i) prescribing the time at which and the manner in which the rights set forth in the order constituting the reserve may be exercised;
 - (ii) prohibiting the taking or destruction of any specified kind of timber or minor forest produce in the exercise of such rights as aforesaid; and
 - (iii) prohibiting the exercise of all or any of such rights as aforesaid in any specified part of a forest reserve;
- (c) regulating or prohibiting the destruction of, or any act which may tend to the destruction of or cause injury to, any forest produce or forest growth or forest property in any forest reserve or on lands at the disposal of the Government;
- (d) providing for the control of protected forests and the protection of forest produce in a protected forest *mutatis mutandis* as if such protected forest were a forest reserve;
- (e) regulating the kindling of fires for any purpose within a protected forest or a forest reserve, and prescribing the

Power of Commissioner to make regulations and prescribe penalties for contravention thereof.

- persons who may declare the period during which fires may or may not be allowed for any purpose;
- (f) prohibiting or regulating the taking of forest produce or of any specified kind of forest produce on lands at the disposal of the Government;
 - (g) prohibiting the possession, sale or purchase of forest produce, or of any specified kind of forest produce, by any person other than the holders of licences and permits granted under this Law or by any other persons to be specified in the regulations;
 - (h) regulating the grant, issue of and prescribing the form that any licence or permits may take in any particular case —
 - (i) to take forest produce in forest reserves or on lands at the disposal of the Government,
 - (i) to sell or purchase forest produce, or
 - (ii) to erect or operate saw mills or other manufacturing plant using wood as raw material;
 - (i) prescribing the procedure for fixing, and making known to the public, the fees to be paid on the application for, and the grant of, any licence or permit and the royalties and fees to be paid by the holders thereof;
 - (j) prescribing the persons who may declare any specified kind of tree to be a protected tree and any specified kind of minor forest produce to be protected minor forest produce under this Law, and the procedure thereof;
 - (k) providing for, and imposing conditions in respect of the collection, payment and disposal of fees, royalties, tolls and cost of survey and permit;
 - (l) providing for the cancellation, forfeiture, termination or revocation of licences and permits;
 - (m) providing for the remission or reduction by a forest officer of any royalty, fee or toll charged or payable under the provisions of this Law;
 - (n) requiring the holders of licences and permits to render returns and accounts and to submit their books for inspection;

- (o) authorizing the payment of grants and bonuses out of the public revenue for the encouragement of forestry;
- (p) regulating the collection, preparation and taking of forest produce;
- (q) regulating the marking of timber, the registration of marks and the manufacture, possession or use of marking instruments;
- (r) regulating the transit by land and water of forest produce and by different means and classes of transport;
- (s) providing for the examination, marking, reporting or stoppage of timber or other forest produce in transit;
- (t) providing for the establishment, management or control of checking stations to which timber or other forest produce shall be taken for examination by those in charge of it; and the conditions under which such timber or other forest produce shall be brought to, stored at or removed from the checking stations;
- (u) regulating the salving and disposal of drift timber;
- (v) prohibiting any act which may cause the obstruction of any waterway or cause danger to navigation;
- (w) providing for the survey, and demarcation, of any lands for giving effect to the purposes of this Law;
- (x) providing for the establishment and maintenance of nurseries and for the establishment and maintenance of nurseries and for the afforestation of lands, the preservation and production of forest produce;
- (y) generally for giving effect to the purposes of this Law.

(2) The regulations may provide that any contravention thereof shall be punishable by a fine not exceeding two hundred naira or imprisonment not exceeding twelve months or by both such fine and imprisonment.

34. The Commissioner may, by notice in the *State Gazette*, excluding any area from the operation of any regulations made under this Law.

Power to
exclude area
from
regulations.

PART IX — OFFENCES AND LEGAL PROCEEDINGS

Prevention
of offences.

35. Any forest officer, administrative officer or police officer may prevent the commission of any offence under this Law.

Inspection of
forest
produce.

36. A forest officer, administrative officer or police officer may stop any vehicle, vessel or raft engaged in transporting or moving any forest produce on any road or inland waterway for the purpose of inspecting the produce.

Seizure of
forest
produce.

37. (1) Any administrative officer, forest officer, or police officer not below the rank of assistant superintendent of police, may himself, or by any person acting under his directions, seize any forest produce reasonably suspected of having been unlawfully obtained or being unlawfully removed and any instrument or thing reasonably suspected of having been used in the commission of any offence under this Law.

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

(3) Where the person suspected to having committed the offence in respect of which the forest produce has been seized has not been charged and the offence has not been compounded as provided in section 46, the officer, after obtaining an order of a Magistrate, may —

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

Arrest of
suspected
persons.

38. Any forest officer, administrative officer or police officer may arrest, without a warrant, any person who may be reasonably suspected of having committed any offence under this Law, if such person refuses to give his name and address or gives a name or address which is believed to be false, or if there is reason to believe that he will abscond:

Provided that any person so arrested shall be taken before a court or to the nearest police station without unnecessary delay.

39. The onus of proof that any forest produce has not been taken in contravention of this Law shall lie upon the person in whose possession the forest produce is found. Onus of proof.

40. Notwithstanding anything contained in any written Law, all maps, plans or diagrams made by a forest officer and approved by the Chief Conservator shall be admissible in evidence in any proceeding under this Law in a court or before a reserve settlement officer. Admission in evidence of maps of forest officer

41. Any person who —

- (a) forges or fraudulently uses, or aids or abets any person to forge or fraudulently use, any registered hammer or hammer mark or any mark used for denoting the ownership of any forest produce, or any other mark used by the Forest Division in connexion with the administration of the provisions of this Law or any mark similarly used by a council; or offences in respect of property and boundary marks.
- (b) alters, removes, destroys or defaces any such mark placed on forest produce or any boundary mark of a forest or of any lands proposed to be included in a forest,

is guilty of an offence and is liable on conviction to a fine of two hundred naira or imprisonment for two years or to both such fine and imprisonment.

42. Whoever, in a forest reserve, except with the authority in writing of a forest officer not below the rank of Assistant Conservator — Offences in forest reserve.

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

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

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

Saving in respect of section 42.

43. Nothing in the immediately preceding section shall prohibit the exercise by any person or community of any right in a forest reserve if such right has been recognized in the order constituting such forest reserve except such right be restricted in accordance with other provisions of this Law.

Offences in protected forest.

44. Whoever in a protected forest, except as provided in section 20 (2) or except with the authority in writing of a forest officer not below the rank of Assistant Conservator, does any act or thing prohibited in a forest reserve by section 42, shall be liable on summary conviction to a fine of one hundred naira or to imprisonment for six months or to both such fine and imprisonment and in addition thereto may be required by the court to pay a sum equivalent to the fees and royalties payable on any forest produce removed or damaged and also such amount, if any, as the court may consider just as compensation for any damage done.

Additional penalties.

45. In addition to any penalty imposed for an offence against the provisions of this Law or regulations made hereunder, the court may order —

- (a) the forfeiture and disposal, as the court may direct, of any forest produce in respect of which the offence was committed, or any instruments or thing with which the offence was committed, or any instruments or thing with which the offence was committed;
- (b) the destruction of any farm or plantation made in contravention of section 42 in a forest reserve, or, on the application of the Commissioner, that the produce of the farm or plantation be confiscated and thereafter disposed of in the discretion of the commissioner;
- (c) the cancellation of any licence or permit held under this Law,
- (d) that, where no licence or permit has been taken out and the offender should have taken out a licence or permit, a sum equal to the amount of the fees and royalties that should have been paid in respect of the licence or permit be paid to the authority or person who would otherwise have been entitled to such fee or royalty; or
- (e) that a portion, not exceeding one half, of any fine that may be recovered from a person convicted by the court be paid to any person or persons on whose information the offence was detected and proved.

46. (1) Where a person is reasonably suspected of having committed an offence against this Law, other than an offence under section 41, a forest officer not below the rank of Assistant Governor may instead of taking proceedings against that person in court, compound the offence and receive from that person a sum of money by way of compensation for the offence that he is suspected of having committed.

Forest officer
may compound
offences.

(2) On such payment being made —

- (a) the suspected person, if in custody, shall be released and no further proceedings shall be taken against that person in respect of that offence; and
- (b) any produce seized as being liable to forfeiture shall be restored and any proceedings pending in court in respect of the same person on the same facts shall be withdrawn.

(3) The officer compounding the offence may then give one of the following directions —

- (a) that the full amount of such compensation shall be paid into the Treasury;
- (b) that a portion, not exceeding half the full amount of such compensation, be paid as a reward to the informer, and the balance paid into the Treasury

Presumption as to ownership of forest produce.

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

Defence in proceedings.

48. It shall be a sufficient defence to any proceedings, civil or criminal, against any forest officer, or other person acting under the directions of the Commissioner to show that the officer, or that other person, was, in good faith, purporting to carry out the provisions of this Law.

Legal proceedings.

49. In any proceedings for an offence against any provision of this Law, the State may be represented by any forest officer not below the rank of Assistant Conservator or by any other forest officer authorized generally or specifically in relation to any particular proceedings or class of proceedings by writing under the hand of a forest officer not below the rank of Assistant Conservator.