

**CHAPTER 51****FORESTRY LAW****ARRANGEMENT OF SECTIONS****PART I - ESTABLISHMENT OF FORESTRY TRUST FUND, BOARD OF TRUSTEES AND APPRAISAL COMMITTEE****SECTION**

1. Establishment and administration of Forestry Trust Fund.
2. Board of Trustees of the Fund and its Composition etc.
3. Functions of the Board.
4. Powers of the Board.
5. Power to give directions to the Board.
6. Financial provisions.
7. Annual Report.
8. Establishment of the Trust Fund Appraisal Committee.
9. Functions of the Committee.
10. Zones.

**PART II - GENERAL PROVISIONS**

11. Power to exempt certain persons, tribes or areas.
12. Delegation of powers by Commissioner.
13. Appointment of officers.
14. Improvement of forests generally.

**PART III - CONSTITUTION OF FOREST RESERVES AND DECLARATION OF SPECIALLY PROTECTED FORESTS**

15. Commissioner may constitute forest reserves and declare specially protected forests.
16. Preliminary notification of intention to create a reserve and appointment of reserve settlement officer.
17. Notice of inquiry.
18. Duty of reserve settlement officer at enquiry.
19. Reserve settlement officer to have judicial powers.
20. Reserve settlement officers may join or sever claims.
21. Submission of reserve settlement officer's finding on completion of inquiry.
22. Rights may be extinguished or modified by Commissioner.
23. Notification of lands to be reserved and rights admitted.
24. Appeals from notice specifying lands to be reserved and rights admitted.
25. Order of Commissioner constituting a forest reserve.
26. Revision or modification of orders constituting a forest reserve.
27. Extinguishment and revival of rights.
28. No new rights to be acquired without approval in lands to be constituted a forest reserve.
29. Rights in forest reserves may not be alienated without approval.
30. Non-exercise of rights.

31. Rights of way and watercourses may be closed.
32. Lands and rights may be granted absolutely to government.
33. Marking of boundaries.
34. Power to de-reserve.

#### **PART IV - ADMINISTRATION OF FOREST RESERVES AND SPECIALLY PROTECTED FOREST**

35. Control of forest reserves, protected forests and specially protected forests.
36. Working plans.
37. Forest produce required for public purposes may be taken.

#### **PART V - LOCAL GOVERNMENT PLANTATIONS AND FOREST RESERVES**

38. Control of local government forest plantations and forest reserves.

#### **PART VI – LICENCES**

39. Grant of licences by Commissioner.

#### **PART VII - DISPOSAL OF FEES AND ROYALTIES**

40. Disposal of fees and royalties.

#### **PART VIII – REGULATIONS**

41. Power of Commissioner to make regulations and prescribe penalties for contravention thereof.
42. Power to exclude area from regulations.

#### **PART IX - OFFENCES AND LEGAL PROCEDURE**

43. Prevention of offences.
44. Inspection of forest produce.
45. Seizure of forest produce.
46. Arrest of suspected persons.
47. Onus of proof.
48. Admission in evidence of maps of forest officer.
49. Offences in respect of property and boundary marks.
50. Offences in forest reserve.
51. Savings in respect of section 50.
52. Offences in protected forest.
53. Additional penalties.
54. Forest officer may compound offences.
55. Presumption as to ownership of forest produce.
56. Defence in proceedings.
57. Legal proceedings.

**PART X - REPEAL AND SAVINGS**

58. Effect of certain things done under Forestry Ordinance.

**PART XI – MISCELLANEOUS**

59. Interpretation.  
60. Short title.
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## CHAPTER 51

## FORESTRY LAW

B.S.L. 1998.

**A Law to provide for the establishment of Forest Trust Fund and for other purposes connected therewith.**

Commencement.

[15th August, 1998.]

**PART I - ESTABLISHMENT OF FORESTRY TRUST FUND, BOARD OF TRUSTEES AND APPRAISAL COMMITTEE**

Establishment and administration of Forestry Trust Fund.

1. (1) There is established a fund to be known as the Forestry Trust Fund (hereinafter in this Law, referred to as "the Fund") into which shall be paid such proportion of any such fees received under this Law, and in such manner as the Board may from time to time direct.

(2) The said Fund shall be applied for the purposes of regeneration of particular forest reserves or generally for forest regeneration and afforestation in the State, as the Board may from time to time deem necessary or expedient.

(3) Subject to the provisions of this section the disbursement from the fund shall be made in accordance with such special or general directions as the Commissioner acting after consultations with the Director of Forestry may give from time to time.

Board of Trustees of the Fund and its composition, etc.

2. (1) There shall be a Board of Trustees of the Fund (hereinafter in this Law referred to as "the Board") which shall conduct the affairs of the Board and its composition, etc.

- (2) The Board shall consist of -
- (a) a Chairman who shall be the Commissioner responsible for agriculture in the State;
  - (b) the Director of Forestry;
  - (c) two zonal forest officers;
  - (d) one academician from the University community with in-depth experience and knowledge in forestry matters;
  - (e) one person to be appointed from the private sector by the Governor on the recommendation of the Commissioner; and
  - (f) a Secretary to be nominated by the Forestry Department.

(3) Members of the Board mentioned in paragraphs ( c ) to ( e ) shall be appointed by the Commissioner on the recommendation of the appropriate bodies.

(4) A member of the Board who is not a public officer shall unless he previously vacates his office hold office for three years on such terms as may be specified in his letter of appointment and may be subject to re-appointment for a further period of three years.

(5) A member of the Board who is not a public officer shall be paid meeting expenses from funds at the disposal of the Board as the Commissioner may direct.

Functions of the Board.

3. (1) The functions of the Board shall be to -
- (a) attract money into the Fund in order to enhance the afforestation programme of the State;
  - (b) provide funds for the establishment, management and conservation of forest resources;
  - (c) participate in the capitalisation of research organizations formed by public and private enterprises, industrial firms or industrial groups;
  - (d) make grants for the furtherance of research and development in forestry, in accordance with the national policy on agriculture; and
  - (e) to provide funds for the commercialisation of research and development results.

(2) Any grant or loan made or provided pursuant to sub-section (1), (b) to (e) of this section shall be evidenced by a duly written and signed agreement between the Fund and the parties concerned.

(3) The Board shall be responsible for the determination of the overall policy of the Fund and, in particular, for the financial programmes and the implementation of all its policies and programmes.

Powers of the Board.

4. (1) Subject to the provisions of this Law, the Board shall have power to -
- (a) do anything which in its opinion is calculated to facilitate the carrying out of its functions under this Law;
  - (b) open and operate accounts with any recognised banking institutions in Nigeria;
  - (c) invest monies in stock, bonds, research projects and commercialisation of research results when the need arises;
  - (d) entertain or consider and accept applications for funds in relation to the functions specified in section 3 of this Law; and
  - (e) appoint specialist committees to assess applications for grants.

(2) The Board shall have power to regulate its proceedings and may make standing orders for that purpose.

Power to give directions to the Board.

5. (1) The Commissioner may give to the Board directions of a general character or relating generally to matters or policy with respect to any of the functions of the Board under this Law and it shall be the duty of the Board to comply with such directions.

(2) The directions referred to in subsection (1) of this section shall be conveyed to the Board through the Chairman by the Commissioner.

Financial provisions.

6. (3) There shall be paid into the Fund -
- (a) such money as may from time to time be provided by the Federal or State Governments;

- (b) such money as may be received by the Board in the course of its operations or in relation to the exercise of any of its functions under this Law and from such fund there shall be defrayed all expenses incurred by the Board; and
- (c) such philanthropic donations as may be made to the Board.

(2) Subject to any general or special direction that may be given by the Commissioner pursuant to section 5 of this Law, the Board may invest its funds and maintain a general financial reserve.

(3) The Board shall keep proper account and records of its receipts, payments, assets and liabilities and shall prepare in respect of each financial year a statement of accounts in such form as the State Government may direct.

(4) The Board shall as soon as may be after the end of the financial year to which the accounts relate cause the accounts to be audited.

Annual report.

7. The Board shall as soon as may be after the expiration of the financial year prepare and submit to the Commissioner a report of its activities during the preceding financial year, and shall include in the report a copy of the auditors report on the accounts.

Establishment of the Trust Fund Appraisal Committee.

8. (1) There is established a Committee to be known as the Trust Fund Appraisal Committee (hereinafter in this Law, referred to as "the Committee").

- (2) The Committee shall consist of -
  - (a) a Chairman who shall be the Director of Forestry;
  - (b) one forest officer of not less than the rank of Senior Forestry Officer from each zone; and
  - (c) An accountant to be seconded from the State Civil Service Commission.

Functions of the Committee.

9. The functions of the Committee shall be to -
 

- (a) recommend selected submissions from various bodies to the Board for final approval; and
- (b) any other duties that may be assigned to it by the Board.

Zones.

10. (1) The Director of Forestry shall divide the State into zones for the proper carrying into effect of the provisions of this Law.

(2) The zones to be created under sub-section (1) of this section, shall be headed by Zonal Forest Officers.

## PART II -GENERAL PROVISIONS

Power to exempt certain persons, tribe or area.

11. 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, community or part of a community or any area specified therein.

Delegation of powers by Commissioner.

**12.** (1) The Commissioner may, by notice in the Gazette and subject to such conditions, exemptions and 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.

(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.

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

Improvement of forest generally.

**14.** Any forest officer, not below the rank of Forest Officer II, may enter upon any land, and with any necessary work-men, 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 SPECIALLY PROTECTED FORESTS**

Commissioner may constitute forest reserves and declare specially protected forests.

**15.** (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 specially protected or reserved or forest growth be established;

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

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

**16.** (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 specially protected forest;
- (c) declaring whether the lands are at the disposal of Government or are lands coming within paragraph (b) of sub-section (1) of section 15 of this Law;
- (d) declaring that it is intended to constitute the lands as 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; and
- (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 right in or over the lands which it is proposed to constitute a forest reserve.

- (2) (a) 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; and
- (b) the notice so appointing him may have retrospective effect for a period not exceeding one month.

(3) The Commissioner may, by notice in the Gazette, revoke any notice under sections 15 or 16 of this Law.

Notice of inquiry.

- 17.** 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 local government council 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 local government councils, and also as far as he considers essential, by informing in writing the chiefs of the communities dwelling on, and the local government 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 rights in or over or affecting the lands which it is proposed to constitute a forest reserve shall either send in a written statement of claims to him or appear before him and state orally the nature and extent of his or its alleged rights.

Duty of reserve settlement officer at inquiry.

- 18.** (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; 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.

Reserve settlement officer to have judicial powers.

**19.** For the purposes of the inquiry, the reserve settlement officer shall have all the powers conferred by law upon a magistrate.

Reserve settlement officer may join or sever claims.

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

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

**21.** Upon the completion of the inquiry, the reserve settlement officer shall submit to the Director of Forestry for the consideration of the Commissioner his findings, describing the limits of the lands specified in the notice under section 16 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.

Rights may be extinguished or modified by Commissioner.

**22.** Where the reserve settlement officer has admitted wholly or in part or right or claim and, in the opinion of the Director of Forestry, the exercise of such right or claim or any part thereof -

- (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 for similar rights on other similarly situated land either within or without the final boundaries of the forest reserve,
- (ii) confine 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, and 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, anyone *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 16 of this Law.

Notification of lands to be reserved and rights admitted.

**23.** (1) The Commissioner shall, thereupon, publish a notice in the 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 manner as the notice published under section 16 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

Appeals from notice specifying lands to be reserved and rights admitted.

**24.** (1) Any person who has made a claim on his own behalf or, where a claim has been made on the behalf of a community, the representative of that community, may, within three months of the date of publication of the notice under section 23 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 the behalf of the community which he represents.

(2) The Chief Judge of the State 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 to the High Court shall be final.

Order of Commissioner constituting a forest reserve.

**25.** (1) After the time limited under section 24 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.

(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 23, or established by the court upon appeal against such notice.

(3) The order shall be published in the Gazette and made known in the same manner as the notice published under section 23 of this Law.

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

Revision or modification of orders constituting a forest reserve.

**26.** (1) Any order made under section 25 may be revised or modified by the Commissioner and such revision or modification may be given retrospective effect.

(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 22;
- (b) add such additional rights as he shall consider it just and equitable to allow notwithstanding that such rights had not been admitted in the notice published under section 23;
- (c) provide for any or more contiguous forest reserves being joined to form one forest reserve.

Extinguishment and revival of rights.

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

PROVIDED that if any person shall, within one year of the date of the publication in the Gazette of the notice under section 16, 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) extinguished in accordance with the provisions of section 22.

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

**28.** During the period between the dates of the publication under section 16 of the notice of the intention to create a forest reserve and of the order under section 25 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 51 except that any right admitted in the notice published under section 23 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.

Rights in forest reserves may not be alienated without approval.

**29.** (1) Without the consent of the Governor 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 25 or revived under section 27.

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

Non-exercise of rights.

**30.** Any right in a forest reserve admitted in an order made under section 25 and not exercised for a period of ten years shall be deemed to be extinguished.

Rights of way and water-courses may be closed.

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

Lands and rights may be granted absolutely to Government.

**32.** 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.

Marking of boundaries.

**33.** 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 specially protected forest and around any portions of lands included as enclaves.

Powers to  
de-reserve.

**34.** The Commissioner may, by notice in the Gazette, direct that, from a date named therein, any lands or any part thereof, constituted a forest reserve under section 25, shall cease to be a forest reserve or part of that reserve and, thereupon, from that date such lands shall cease to be a forest reserve or part of such 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, PROTECTED FORESTS AND SPECIALLY PROTECTED FORESTS**

Control of forest  
reserves, protected  
forests, and specially  
protected forests.

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

Working plans.

**36.** Where there is a working plan the Commissioner shall publish a notice in the Gazette setting out -

- (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.

**37.** The Commissioner may cause to be taken, from any forest reserve or specially protected forest, any forest produce, which may be required for public purposes upon payment of a fair reasonable price therefore, 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 specially protected forest where the forest produce was taken.

#### **PART V - LOCAL GOVERNMENT PLANTATIONS AND FOREST RESERVES**

Control of local  
government forest  
plantations and forest  
reserves.  
Cap. 78.

**38.** At the request of a local government 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 Gazette, be placed, temporarily, under the protection, control and management of the Commissioner.

#### **PART VI - LICENCES**

Grant of licences by  
Commissioner.

**39.** (1) The Commissioner may grant licences, in such form and in 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.

**40.** (1) Subject to the provisions of subsection (1) of section 1 of this Law, all fees received under this Law shall be paid by the officer receiving them into the State Treasury.

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

(5) Before giving a direction under sub-section (4) the Commissioner charged with responsibility for Local Government shall consult with the inhabitants of the village, the community or the group of persons concerned.

**PART VIII - REGULATIONS**

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

**41.** (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 reserves and specially protected forests;
- (b) providing for the protection of forest produce in forest reserves and specially protected forests 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 non-timber 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 reserve and specially protected forests;
- (c) regulating or prohibiting 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 specially protected forests and the protection of forest produce in a specially protected forest mutatis mutandis as if such specially protected forest were a forest reserve;

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- (e) regulating the kindling of fires for any purpose within a specially protected forest or a forest reserve, and prescribing the person 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 or by any classes of 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,
    - (ii) to sell or purchase forest produce, or
    - (iii) to erect or operate sawmills or other manufacturing plants using wood as a raw material;
  - (i) prescribing the procedure of 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 non timber forest produce to be protected non-timber 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 demarcation;
  - (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 afforestation of lands, the preservation and production of forest produce and the introduction of new species of trees or other forest produce; and
- (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 ten thousand naira or a term of imprisonment not exceeding five years or by both such fine and imprisonment.

Power to exclude area from regulations.

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

**PART IX - OFFENCES AND LEGAL PROCEDURE**

Prevention of offences.

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

Inspection of forest produce.

**44.** 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.

**45.** (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 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 forest produce, instrument or thing seized in accordance with provisions of sub-section (1).

(3) Where the person suspected of 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 54, the officer, after obtaining an order of a magistrate, may -

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

Arrest of suspected persons.

**46.** Any forest officer, administrative officer or police may arrest, without a warrant, any person who may be reasonably suspected of having committed any

offence under this Law, if such person refuse 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.

Onus of proof.

**47.** 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.

Admission in evidence of maps of forest officer.  
Cap. 135.

**48.** Notwithstanding anything contained in the Survey Law, all maps, plans or diagrams made by a forest officer and approved by the director of Forestry shall be admissible in evidence in any proceedings under this Law in a court or before a reserve settlement officer.

Offences in respect of property and boundary marks.

**49.** 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 Forestry Department in connection with the administration of the provisions of this Law or any mark similarly used by a council; or
- (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 reserve,

shall be liable to a fine of twelve thousand naira or to a term of imprisonment for seven years or to both such fine and imprisonment.

Offences in forest reserve.

**50.** (1) Any person who, in a forest reserve, except with the authority in writing of a forest officer, not below the rank of Forest Officer II-

- (a) takes any forest produce;
- (b) uproots, burns, strips off the bark, or leaves from, or otherwise damages, any tree;
- (d) sets fire to any grass or herbage, or kindles a fire without taking due precaution to prevent its spreading;
- (e) pastures cattle or permits cattle to trespass;
- (f) digs, cuts, turns or cultivates the soil or makes a farm 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; or
- (k) damages, in any way, or destroys any forest property,

shall be liable on summary conviction to a fine of ten thousand naira or to a term of imprisonment for five years 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 damages done.

(2) In addition to the penalty imposed under subsection (1) of this section any farm, or plantation or building or other infrastructure found on the reserve shall be destroyed and no compensation shall be paid in respect thereof.

Savings in respect of section 50.

**51.** Nothing in the preceding section shall profit 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.

**52.** Any person who, in a protected forest, except as provided in section 28 (b) or except with the authority in writing of a forest officer not below the rank of Forestry Officer II does any act or thing prohibited in a forest reserve by section 50, shall be liable on summary conviction to a fine of five thousand naira or to a term of imprisonment for two years 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.

**53.** 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 instrument or thing with which the offence was committed;
- (b) the destruction of any farm or plantation made in contravention of section 50 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.

Forest Officer may compound offences.

**54.** (1) Where a person is reasonably suspected of having committed an offence against this Law, other than an offence under section 49, a forest officer, not below the rank of Forest Officer II 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 together with the value of the forest produce or forestry property in respect of which he was suspected of having committed an offence.

- (2) On such payment being made -
  - (a) the suspected person, if in custody, shall be released and no further proceedings shall be taken against the 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 State 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 State Treasury.

Presumption as to ownership of forest produce.

**55.** 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.

**56.** 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.

**57.** 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 Forest Officer II or by any 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 Forest Officer II.

**PART X - REPEAL AND SAVING**

Effect of certain things done under Forestry Ordinance.

**58.** (a) Any appointment, notice or notification, made or published; or  
(b) Any inquiry or the decision or judgment of any person holding such inquiry, held or given, whether at the inquiry or on appeal,

(L. of N. 1948 Cap.75)

under the provisions of the Forestry Ordinance shall be deemed to have been made or published, given or held under the provisions of this Law.

**PART XI – MISCELLANEOUS**

Interpretation.

**59.** In this Law, except the context otherwise requires -

“**cattle**” includes sheep, goats, swine, horses, mules, donkeys and camels and any other four-legged animal;

“**Commissioner**” means the Commissioner for the time being charged with responsibility for Agriculture and Natural Resources in the State;

“**communal lands**” means lands in Bayelsa State at the disposal of a community or of any chief on behalf of the community;

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

“**council**” means a local government council established under, and in accordance with, provisions of the Local Government Law or the Constitution of the Federation of Nigeria;

“**Director of Forestry**” means the Director of Forestry in the Forestry Department;

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

“**forest**” includes forest reserves, protected forests or, where placed, in accordance with section 38, under the protection, control and management of the Commissioner, forest plantations or forest reserves established under the Local Government Law;

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

“**forest officer**” means any officer of the Forestry Department or any officer appointed, under section 13, for the purpose of giving effect to the provisions of this Law;

“**Forestry Department**” means the Forestry Department of the Ministry of Agriculture and Natural Resources;

“**forest produce**” includes -

- (a) whether found in or brought from a forest or not, timber, firewood, charcoal, rubber, gutta percha, latex, wood oil, gum, resin, natural varnish, tanning extracts, tanning barks, fruits, fibres, bark, and lac; and
- (b) when found in or brought from a forest or not -
  - (i) trees and all other parts or produce of trees not otherwise herein mentioned,
  - (ii) plants, including climbers and grasses, creepers and all parts or produce of plants,
  - (iii) wood ashes,
  - (iv) peat, surface soil and minerals other than minerals within the meaning of any Law, regulating the working of minerals,
  - (v) gravel, limestone, rock, laterite and sand, and
  - (vi) 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 forest operation 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;

“**Gazette**” means the official Gazette of the State;

“**girth**” means the circumference of a tree measured either at a height of 1.3m from the ground, or (if the tree is buttressed above that height) measured at 0.03 metre above where the highest buttress merges with the bole;

“**Government**” means the Government of Bayelsa State;

“**lands at the disposal of the Government**” includes any lands which the State has acquired or may acquire by agreement or otherwise and also lands leased to the Government;

“**Governor**” means the Governor of Bayelsa State;

“**non-timber forest produce**” means any forest produce other than timber;

“**Protected forest**” means all Forests in Bayelsa State;

“**specially protected forest**” means any area declared by notice in the Gazette, in accordance with the provisions of sections 15 or 16, to be a specially protected forest;

“**protected tree**” or “**protected non-timber forest produce**” means any tree or any non-timber forest produce declared to be such in accordance with regulations made under this Law;

“**State**” means Bayelsa State of Nigeria;

“**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 non-timber forest produce**” includes to cut, collect, gather or remove that produce;

“**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;

“**Treasury**” means, unless the context otherwise requires, the State Government Treasury or a Sub- Treasury thereof in the State;

“**tree**” includes any plant with a wooden trunk;

“**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.

Short title.

60. This Law may be cited as the Forestry Law.

**CHAPTER 51**

**FORESTRY LAW**

**SUBSIDIARY LEGISLATION**

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*No Subsidiary Legislation*

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