

LAWS OF TANZANIA

CHAPTER 323

FORESTS

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CHAPTER 323

—
THE FORESTS ACT
—

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SCHEDULE

CHAPTER 323

—
THE FORESTS ACT
—

R.L. Cap.389 **An Act to provided for the conservation and [Ord.No.30 management of
Forests and Forest
of 1959] produce
Ord.No.14
of 1959
G.N. No.
76 of 1959
G.N.No.
478 of
1962 Acts.
No. 43 of
1963 Nos.1
and 51 of
1964.**

[1ST APRIL, 1959]

PART I

PRELIMINARY

1. This Act may be cited as the Forests Act.
2. In this Act unless the context otherwise requires-

"African" means a person belonging to a tribe of
Tanganyika;

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

"court" means a court having jurisdiction to try a charge of any offence against this Act;

"firewood" includes parts of trees made up into bundles or loads, or cut wood for burning, and all refuse wood generally, but does not include logs or poles;

"forest manager" means a person appointed in that capacity under the provisions of section 11;

"forest officer"* means any officer of the Forest Division of or above the rank of forest guard and includes an honorary forest officer appointed under section 4;

"forest produce" includes-

(i) trees, timber, firewood, charcoal, sawdust, withies, bark, bast, roots, fibres, resins, gums, latex, sap, galls, leaves, fruits and seeds; and

(ii) within forest reserves only, vegetation of any kind, litter, soil, peat, honey, wax and wild silk; and

(iii) such other things as the Minister may from time to time by notice published in the *Gazette* declare to be forest produce, either generally or within any forest reserve;

"forest reserve" includes a territorial forest reserve and a local authority forest reserve;

"leasehold land" does not include any land *Forests CAP. 323 [R.E. 1993] 6*

held under a mining claim granted under the Mining Act;

"licence" means a valid licence granted by the Chief Conservator of Forests, or any person duly authorized by him in that behalf, or by a local authority, under section 19;

*Senior Forest Officers have been appointed as public prosecutors throughout Tanganyika in respect of offences against this Act G.N. 1962 No. 164.

"livestock" includes cattle, sheep, goats, pigs, horses, donkeys, mules and all other domesticated animals and their young;

"local authority" includes a country council, municipal council,

town council, and local council;

"local authority forest reserve" means an area declared to be a local authority forest reserve under section 5;

"log" means the stem of a tree or a length of stem or branch after felling, cross-cutting and trimming, but does not include a pole;

"Minister" means the Minister for the time being responsible for matters relating to forests;

"owner" in relation to any land means any person having a freehold or leasehold estate (or any interest deemed under any law for the time being in force to be a freehold or leasehold estate) in, or a right of occupancy in respect of, such land;

"permit" means a permit in writing issued by the Chief Conservator under section 8;

"pole" means a tree or part of a tree of suitable size for use in the round as a telegraph, *Forests CAP. 323 [R.E. 1993] 7*

telephone, power transmission or building pole or for similar purposes;

Cap. 322 "police officer" means a police officer as defined in section 2 of the Police Force Act;

Cap. 167 "public highway" means a public highway as defined in the Highway Act;

"reserved tree" means any tree declared by order made under section 17 to be a reserved tree;

"senior forest officer" means any officer of the Forest Division of or above the rank of forester;

"territorial forest reserve" means an area declared to be a territorial forest reserve under section 5;

"timber" means any tree or part of a tree which has fallen or been felled or cut off, and all wood, whether or not sawn, split, hewn or otherwise cut up or fashioned, but does not include firewood or poles;

"tree" includes palms, bamboos, canes, shrubs, bushes, plants, poles, climbers, seedlings, saplings, and the re-growth thereof of all ages and all kinds and any part thereof;

Cap. 113 "unreserved land" means land not situated within a forest reserve which is not freehold or leasehold land (or not deemed to be freehold

or leasehold land under any law for the time being in force) or land occupied under a right of occupancy granted under the provisions of section 6 of the Land Act.

Administration 3. The Chief Conservator and the officers and of Ordinance staff of the Forest Division shall be responsible for the administration of this Act.

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Minister 4. The Minister may by notice published in the may appoint Gazette appoint any person he deems fit to be an honorary honorary forest officer for the purposes of this Act. forest Any such appointment shall be for such period as may officers be specified in the said notice. The Minister may in his discretion at any time revoke such appointment.

PART II

CREATION OF FOREST RESERVES

Declaration 5.-(1) Subject to the provisions of section 6, of forest the Minister may by order published in the Gazette reserve declare any area of unreserved land to be a Ord. No.14 territorial forest reserve or a local authority forest reserve as from the date specified in the s.21(2) G.N.order and may at any time vary or revoke such order:

No. 478 of Provided that before making, varying or 1962 revoking any order in respect of a forest reserve situate within the Conservation Area established Cap. 284 under the Ngorongoro Conservation Area Act, the Minister shall consult the Ngorongoro Conservation Area Authority.

(2) As soon as practicable;e after the publication of an order made under the provisions of subsection (1) declaring any area of unreserved land to be a territorial forest reserve the Chief Conservator shall cause the boundaries of such forest reserve to be visibly demarcated on the ground.

(3) As soon as practicable after the publication of an order made under the provisions of subsection (1) declaring any area of unreserved land to be a local authority forest reserve the local authority concerned shall cause the boundaries of such forest reserve to be visibly demarcated on the ground.

Requirements 6.-(1) Before the Minister makes any order
for decla- under section 5 declaring any area of land to be or ration of form part of a
forest reserve he shall:-
area as (a) ascertain that the Chief Conservator has forest given not
less than ninety days notice reserve in writing of the proposed declaration G.N.
No. of the said area as a forest reserve,
478 of which notice shall describe the proposed 1962
boundaries of the forest reserve, and that such notice has been
published in the Gazette and exhibited at the office
of every District Commissioner within whose district any part of
the said area is situate, and in such other manner as
may be customary in the area concerned;

(b) take into consideration any grounds of
objection that may be notified in accordance with subsection(2);

(c) satisfy himself-

(i) that all claims to rights in
relation to land or forest produce notified in accordance with
subsection (2) have been
investigated and determined in accordance with the
provisions of subsection (4);

(ii) that all rights so claimed which
have been determined to be lawfully exercisable by any
person or group of persons within the said area
have been recorded in accordance with the provisions
of section 7 or have been voluntarily
surrendered;

(iii) that in the case of voluntary
surrender such compensation (if *Forests CAP. 323 [R.E. 1993] 10*

any) as may be attributable to the
loss of the said rights has been assessed in
accordance with the provisions of subsection (9) and
has been or will be duly paid.

(2) Any person or group of persons who-

(i) objects to the declaration of such

an area as a forest reserve; or

(ii) claims any rights in relation to

land or forest produce in such area

or part thereof,

may before the expiry of the period of ninety days

following upon the

publication of the notice referred

to in paragraph (a) of subsection (1), lodge with any

District Commissioner within whose jurisdiction any

part of the area is

situate notice either in writing

or, if such person or group of persons is or are

illiterate, by word if mouth, stating either:-

(a) the grounds of his or their objection;

or

(b) the rights claimed, as the case may be,

and where verbal notice is given such

District Commissioner shall record the

same in writing.

(3) Any notice stating grounds of objection

lodged

in

accordance with the provisions of

subsection (2) shall be submitted by the Area

Commissioner through the Chief Conservator to the

Minister.

(4) Any notice stating a claim to rights in

relation to land or

forest produce shall be

investigated by the District Commissioner within

whose

jurisdiction the area is situate or the rights

are claimed, or by such other officer or

persons as

the Minister may appoint for the purpose, and the

District

Commissioner or other officer or person so

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appointed shall determine the nature and extent of

such of the rights

so claimed as may be lawfully

exercisable, if any, and shall without delay notify

in writing the person or group of person claiming

such rights of such determination

and the grounds

therefor.

(5) Notwithstanding any other provision of this

section no claim in

respect of any rights arising

subsequent to the publication of a notice of

intention to declare an area to be a forest reserve

shall be a forest reserve shall be

investigated under

this section.

(6) Any person or group of persons aggrieved

by

the

determination on the part of the District

Commissioner, or other officer or person thereunto

appointed in regard top rights in relation to land

or forest produce

claimed by him, or them, may appeal

within one month of such determination to the court

of a Resident Magistrate having jurisdiction in the

area concerned.

The Resident Magistrate may appoint

assessors not exceeding four in number, being

persons

having their ordinary place of residence within, or

possessing

knowledge of, the said area, to assist him

at the hearing of such appeal, but shall not be bound

to conform to the opinions of such assessors. The Resident Magistrate may confirm, rescind or vary the determination of the District Commissioner or other officer or person, and may make such further or other order as he may think just, and his decision shall be final.

The Chief Justice may make rules governing all matters of procedure in the submission and hearing of such appeals.

(7) Every right in relation to land or forest produce in respect of which no claim has been made in accordance with the provisions of subsection (2)

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shall, subject to the provisions of this Act, be deemed to be extinguished.

(8) Any person or group of persons possessing any rights in relation to land or forest produce which have been determined under this section to be lawfully exercisable in a forest reserve shall be entitled to surrender all or any of such rights and on the surrender of any such rights the same shall be extinguished.

(9) Any compensation payable in respect of rights to land or forest produce within any area within a proposed forest reserve which have been coluntarily surrendered shall be assessed by the District Commissioner within whose jurisdiction such area is situate or by such other officer or shall be assessed on the basis of the loss sustained by the holder or holders of the right by reason of the surrender of such right:

Provided that in assessing compensation no account shall be taken of-

(a) improvements made or works constructed on the land after publication of the notice referred to in paragraph (a) of subsection (1); or

(b) the loss of any right not ordinarily enjoyed by the holder or holders thereof at the time of publication of such notice.

(10) Any compensation awarded under the provisions of this section shall be paid out of such funds as may be set aside for this purpose by the

National Assembly, save and except that if an area in which the right to such compensation arises is declared a local authority forest reserve in excess of the costs of management of the said forest reserve in excess of the costs of management and development

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of the said forest reserve or may reasonably be expected to receive such profits, the Minister may order that the said compensation or any part thereof be paid or reimbursed to Government by the local authority concerned.

(11) If the Minister has ordered the payment or reimbursement of compensation by the local authority under the provisions of subsection (10) he may at a later date order that the amount of the said compensation or any part thereof be refunded to the local authority out of the public funds of Tanganyika.

Recording 7.-(1) Any rights in relation to land or forest of rights produce which have been determined under section 6 in relation to be lawfully exercisable within any area declared to land to be a forest reserve, shall, if they are not or forest voluntarily surrendered, be recorded within such time produce and in such manner as may be prescribed, be recorded within such time and in such manner as may be prescribed, and the Chief Conservator shall, subject to the provisions of section 8, permit the exercise of such rights.

(2) A copy of any record made as aforesaid concerning rights in relation to land or forest produce which is certified by or on behalf of the Chief Conservator, or such other person or officer as the Minister may appoint for the purpose, as the case may be, shall be *prima facie* evidence for all purposes of the possession of such rights as may be therein set forth by such person or group of persons as may be respectively shown therein as possessing such rights.

Grant of 8. Where any person or group of persons permits to possesses any rights in relation to forest produce *Forests CAP. 323 [R.E. 1993]* 14

take forest which have been determined under section 6 to be produce lawfully exercisable in a forest reserve, and such rights have been duly recorded as in section 7 provided, such person or any member or members of such group of persons shall apply in the prescribed manner to the Chief Conservator for a permit in writing to exercise such rights. The Chief Conservator, if he is satisfied that such person or group of persons is or are the person or group of persons lawfully entitled to the exercise of such rights, shall without charge grant a permit accordingly and such permit when granted to any person or group of persons shall be lawful authority to the holder or holders and to his or their heirs

and successors according to law for the exercise of those rights in relation to forest produce to such terms and conditions as may be set forth in such permit: Provided that such terms and conditions shall not be inconsistent with the nature of such rights.

Restriction 9.-(1) The provisions of this section shall on creation apply to any area of unreserved land in respect of of new which notice has been given in accordance with rights in paragraph (a) of subsection (1) of section 6, with area of effect from the date of publication of such notice intended (hereinafter referred to in this section as the reserve effective date).

(2) Notwithstanding the provisions of any other law, and in particular, but without prejudice to the generality of the foregoing, the provisions of the Land Act, on the effective date and thereafter the following provisions shall, subject to the provisions of subsection (3), apply to such area- (a) no right in relation to land in such area shall be capable of being created or *Forests CAP. 323 [R.E. 1993] 15*

existing except by or under a grant under section 6 or section 11 of the Land Act.

(b) subject to the provisions of section 3 of the Land Act, if shall not be lawful for any person to use or occupy any land in such area unless he holds a right of occupancy granted under section 6 or section 11 of the Land Act or a grant or lease made under section 20 of the Land Act; and

(c) no right in relation to forest produce in such area shall be capable of being created or existing.

(3) Nothing in subsection (2) of this section shall prejudice or affect-

(a) any right to forest produce in such area enjoyed immediately before the effective date; or

(b) the right of any native or native community to the use and occupation of any land within such area which such native or native community was lawfully using or occupying in accordance with native law and custom immediately before the effective date; or

(c) the right of any native or native community who or which lawfully succeeds under native law and custom to the use and occupation of land to which paragraph

(b) of this subsection applies:

Provided however, as follows:-

(i) any rights specified in paragraph (b) or (c) of this subsection shall be extinguished if at any time thereafter such native or native community or his *Forests CAP. 323* [R.E. 1993] 16

or its successor in title, as the case may be, abandons the land concerned for a period of three months or more or if such right is merged in a right of occupancy granted in respect thereof under section 6 or section 11 of the Land Act; and

(ii) any rights specified in paragraph (b) or (c) of this subsection shall extend only to the area of use or occupation which such native or native community was lawfully using or occupying immediately before the effective date.

(4) The Chief Conservator shall cause-

(i) the boundaries of every such area to be beaconed; and
(ii) notices to be exhibited on such boundaries, both in the English and appropriate vernacular languages, in such manner as may be sufficient for such boundaries to be known in the neighborhood.

(5) The preceding provisions of this section cease to apply to such area-

(a) if at the time before it is declared to be a forest reserve under the provisions of section 5, the Chief Conservator by notice in the *Gazette* declares that the intention to declare such area to be a forest reserve has been abandoned, or

(b) when such area, as near as may be, is

declared to be a forest reserve under the

provisions of section 5.

PART III

LOCAL AUTHORITY FOREST RESERVES

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Local authori- 10.-(1) The Minister shall, in an order under ties to section 5 declaring any area to be a local authority manage forest reserve, specify the local authority which local shall be responsible for the maintenance and control authority of such local authority forest reserve, and the said forest local authority shall upon the coming into operation reserves of such order have the duty of managing such local G.N.No.478 authority forest reserve, and meeting the costs of of 1962 management, and any revenue derived from fees for Act No. 8 forest produce and licences charged or issued in of 1979 respect of such local authority forest reserve shall s. 10 form part of the revenue of the said local authority;

Provided that where the local authority forest reserve forms, either wholly or in part, part of a village, any revenue derived from fees for forest produce and licences charged or issued in respect of that local authority forest reserve or part of it, shall form part of the revenue of the village in which the forest reserve or part of it is situated.

(2) Except as hereinbefore provided nothing in this section shall be deemed to transfer to or vest in a local authority any right, title or interest whatsoever in or over any land declared to be a local authority forest reserve.

Local 11.-(1) A local authority specified in any authority order made under sub-section (1) of section 10 may may appoint appoint a forest manager.

manager (2) A forest manager shall manage the local authority forest reserve in respect of which he is appointed as agent for and under the direction of the local authority.

(3) The Chief Conservator may by notice published in the *Gazette* grant such forest manager and any such other officers or employees of the local authority as he deems fit either by name or by *Forests* CAP. 323 [R.E.

1993] 18

office, the powers of a forest officer in respect of a local authority forest reserve for such period as may be specified in the said notice, and may in his discretion at any time revoke such grant.

Control of 12.-(1) A local authority forest reserve shall be managed by the local authority specified in that Conservator regard in accordance with the advice of the Chief over manage- Conservator.

ment of local (2) The Chief Conservator shall be entitled to authority make such written representations as he thinks fit forest to the local authority concerned regarding the reserves management of a local authority forest reserve and shall be entitled, upon making a written request to such effect, to appear before the local authority personally or by his representative for the purpose of making such representations orally.

(3) If the Minister, after considering a report from the Chief Conservator, is satisfied that, owing to mismanagement of any local authority forest reserve by the local authority concerned, it is in the public interest that such local authority forest reserve shall cease to be managed by such local authority, he may by order published in the *Gazette* direct that such local authority forest reserve shall be managed by the Chief Conservator and thereupon the Chief Conservator shall exercise all and any powers conferred on the local authority under this Ordinance and such local authority shall cease to exercise such powers.

(4) Upon the coming into operation of any order under the provisions of subsection (3) any powers granted under the provisions of subsection (3) of section 11 shall be deemed to be cancelled.

(5) The Chief Conservator shall manage any local authority forest reserve which he is directed *Forests CAP. 323 [R.E. 1993]* 19

to manage under the provisions of subsection (3) on behalf of and for the benefit of the local authority concerned and the net profits of management (if any) shall, after deduction of the costs of management and development, be deemed to be part of the revenue of the said local authority, which shall likewise bear any loss incurred.

(6) For the purposes of the preceding subsection the net profits of management and the costs of management and development shall be such sums as the Chief Conservator, with the prior approval of the Minister, shall notify in writing to the local authority.

Cancellation 13. From the date of any order in the *Gazette* of declar- cancelling a declaration of a local authority forest tion in reserve such reserve shall cease to be managed by the respect of local authority specified in the declaration and all local other powers and

privileges of such local authority shall not, as of right, be entitled to any forest compensation, but the Minister may, in his reserves discretion, grant to such local authority such G.N.No. 478 compensation as he may consider just and reasonable of 1962 having regard to all the circumstances.

PART IV

FOREST DEDICATION COVENANTS

Forestry 14.-(1) Where the owner of any land enters dedication into a covenant with the Chief Conservation to the covenants effect that such land or any part thereof shall not, without the previous consent in writing of the Chief Conservator be used otherwise than for the growing, in accordance with the rules or practice of good forestry, of trees for the commercial production of forest produce, or for water conservation, such *Forests CAP. 323 [R.E. 1993]* 20

covenant shall, subject to the provisions of subsection (3), be enforceable against the covenantor and, subject to any contrary intention expressed in such covenant, against his successors in title and all persons deriving title under him or them.

(2) As respects the enforcement of any such covenant against persons other than the covenantor, the Chief Conservator shall have the like rights as if he had at all material times been the absolute owner in possession of ascertained land adjacent to the land in respect of which the covenant is sought to be enforced and capable of being benefited by the covenant, and the covenant had been expressed to be for the benefit of that adjacement land.

(3) Nothing in this section shall render enforceable any covenant entered into under subsection (1) where the use of such land in accordance with such covenant contravenes the provisions of any law for the time being in force or is inconsistent with any other prior covenant relating to the use of such land and binding on such owner and his successors in title and persons deriving title under him or them.

PART V

PROTECTION OF FORESTS AND FOREST PRODUCE

Forests Reserves

Restrictions 15.-(1) Any person who in any forest reserve and phohibi- without a licence or other

lawful authority:-

tions within (i) cuts, removes, has in his possession, forest sets fire to
or damages any forest reserves produce; or
(ii) clears, cultivates or breaks up for cultivation
or any other purpose, any land; or

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(iii) constructs or re-opens any saw-pit or work
place; or
(iv) occupies or resides on any land; or
(v) erects any building, shelter or livestock
enclosure; or
(vi) grazes or depastures livestock, or permits
livestock to enter therein; or
(vii) collects any honey, or beeswax, or hangs or
places on any tree or elsewhere any honey barrel, hive or other
receptacle for the purpose of collecting honey or
beeswax; or
(viii) constructs any road, path, water course,
tramway, or fence, or obstructs any existing road, path,
tramway or water course; or
(ix) covers any tree stump with brushwood or
earth or by any other means whatsoever conceals, destroys or
removes such tree stump or any part thereof; or
(x) damages, defaces, alters, shifts, removes,
or in any way whatsoever interferes with, any beacon, fence,
notice or notice board,

shall be guilty of an offence against this Act.

(2) If any person, without lawful excuse, the burden of proof of
which shall be on him, within, possession any
or in the vicinity of, any forest reserve has in his
implement for cutting, taking, working or rendering any forest produce, he shall be guilty
of an offence against this Act.

(3) The Chief Conservator may be notice published in the
Gazette exempt the whole or any part of any forest reserve from the application of the

provisions of any of the paragraphs of subsection (1), or of subsection (2), subject to such conditions and limitations as he may think fit.

(4) If any livestock are found grazing, or depastured in, or entering any forest reserve such livestock shall be presumed, unless the contrary is shown, to have been grazed, depastured or allowed to enter by the authority of the owner and of the person, if any, actually in charge of such livestock.

Public to 16.-(1) It shall be lawful for any forest assist in officer, police officer, administrative officer, protecting forest manager, or any local authority fire brigade forest officer to require any person who is within a reserve reasonable distance of any forest reserve to assist from fire in averting or extinguishing any fire in or threatening to enter or affect such forest reserve, or in securing any property within the forest reserve from loss or damage arising from fire:

Provided that no such person shall be required to do anything which may reasonably be expected to expose him to the risk of death or serious injury.

(2) Any person who fails to comply with any lawful requirement made under this section shall be guilty of an offence against this Act.

(3) Any person other than a Government officer or an employee of a local authority who has been required by one of the persons mentioned in subsection (1) to assist in averting or extinguishing any fire, or in securing any property from loss or damage by fire, shall be entitled to receive payment

for such work at such rates as the District Commissioner in whose district the forest reserve is situated considers adequate, regard being had in the case of unskilled labour to the rates for such labour customarily prevailing at the time in the district

within which such forest reserve is situated.

Unreserved Land

Reserved 17.-(1) The Minister may by order published in trees the *Gazette* declare in respect of any unreserved land that any tree or class of trees shall be reserved.

(2) If any unreserved land referred to in any order made under subsection (1) ceases to be unreserved land the provisions of such order shall

cease to apply in respect of such land.

Restrictions 18.-(1) Any person who without a licence or over the other lawful authority fells, cuts, damages, or use of trees removes any reserved tree on any unreserved land in unreserved land shall be guilty of an offence against this Act.

(2) Any person who without a licence or other lawful authority cuts, fells, damages or removes any tree on any unreserved land for the purpose of sale, barter or profit or for use in any trade, industry or commercial undertaking shall be guilty of an offence against this Ordinance:

Provided that-

(a) any African who is not lawfully prohibited from so doing by the local authority in whose area any unreserved land is situated, may without a licence cut and remove from such land trees, not being reserved trees, for any of the following purposes-

(i) for use in connection with any African domestic art or craft, which expression shall include the manufacture of domestic furniture and fittings and agricultural implements for sale to Africans *Forests CAP. 323 [R.E. 1993] 24*

(ii) living in the neighborhood; for the preparation of charcoal for use in connection with any African domestic art or craft;

(iii) for clearing land for African cultivation in localities where cultivation is not prohibited under any local rules or orders for the control of grazing or the prevention of soil erosion;

(b) the provisions of this subsection shall not apply to the removal by any person of any edible fruit from any tree, not being a reserved tree, planted or cultivated by such person.

PART VI LICENCES

Grant of 19.-(1) The Chief Conservator or any person licences Ord. authority by him in that behalf may grant licences No.14 of 1959 for all or any of the purposes of this Act. Every s. 21(2) Acts.

such licence shall be subject to such conditions as No.43 of 1963 may be specified therein, and there shall be payable s.24 No. 51 in respect thereof such fee as may be prescribed.

of 1964 (2) A local authority may grant licences for 3rd Sch. all or any of the purposes of this Act in respect of any local authority forest reserve which it maintains as may be specified therein, and there shall be payable in respect thereof such fee as may be prescribed.

(3) The Chief Conservator, or any person authorized by him in that behalf, or a local authority, as the case may be, may at any time cancel or suspend any licence granted by or on behalf of the Chief Conservator or such local authority, the holder of which has infringed any of the conditions

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upon or subject to which the said licence has been granted, and may at any time by agreement with the licensee vary the conditions of any such licence.

Cap. 284 (4) No person or authority shall issue any licence in respect of a forest reserve situate within Cap. 144 the Conservation Area established under the Ngorongoro Conservation Area Act or within any range development area declared by or under the Range Development and management Act, 1964, without the consent of the Conservator of the Ngorongoro Conservation Area, or the Commission established for such range development area, as the case may be.

PART VII

POWER OF OFFICERS

Power to 20. Any administrative officers, forest officer demand or police officer may-

licence or (a) demand from any person the production of authority any licence authority for any act for acts committed by such person for which a done; of licence or authority is, under the seizure provisions of this Act or any other law, and arrest required;

(b) require any person whom he has reasonable grounds to suspect of being in possession of any forest produce unlawfully obtained to stop and give account of his possession of such forest produce and, except within a municipality or township,

without warrant, search such person or any
baggage, package, parcel, vehicle, boat, tent or building in the
possession or under the control may reasonably be
suspected of being contained or stored:

Provided that the powers conferred under this *Forests CAP. 323*
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paragraph upon forest rangers, forest guards and upon police officers
below the rank of inspector shall not extend to the search of domestic buildings:

Provided further that the power of search of domestic buildings
without a warrant conferred upon other officers under this paragraph shall only be
exercised in the presence of two independent witnesses;

(c) seize and detain any forest produce or
livestock in respect of which there is reason to believe that an
offence has recently been committed against this Act
together with any boats, vehicles, machinery, tools or
implements used or likely to have been used in the
commission of such offence:

Provided that the person seizing such property shall forthwith
report such seizure to the nearest magistrate;

(d) arrest without warrant any person whom he
reasonably suspects has committed or has been concerned in an offence
against this Act where-

(a) such person refuses to give his
name and address or gives a name and address which
there is reason to believe to be false; or

(b) there is reason to believe that
such person will abscond:

Provided that every officer making an arrest under this
paragraph shall ensure that the person so arrested is taken without delay before the nearest
magistrate.

Power to 21. A senior forest officer may, if he is compound satisfied that a
person has committed an offence *Forests CAP. 323 [R.E. 1993] 27*

offences against this Act, compound such offence by accepting from such person a
sum of money together with the forest produce, if any, in respect of which the

offence has been committed:

Provided that-

(i) such sum of money shall not exceed five times the amount of the fee prescribed as being payable for such forest produce under paragraph (g) of subsection (1) of section 30, or the damage caused by the offence, or the sum of two hundred shillings, whichever is the least, in respect of each offence;

(ii) the power conferred by this section shall only be exercised where the value of the forest produce in respect of which the offence has been committed, or the damage caused by the offence, does not exceed one thousand shillings;

(iii) the power conferred by this section shall only be exercised where the person admits that he has committed the offence and agrees in writing in the prescribed form to the offence being dealt with under this section:

(iv) the officer exercising the power conferred by this section shall give to the person from whom he receives such sum of money a receipt therefor in the prescribed form, and shall as soon as is practicable thereafter report the exercise of such power to the Chief Conservator and to the administrative officer in charge of the area in which the offence was committed;

(v) if any proceedings are brought against *Forests CAP. 323*

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any such person for an offence against this Act it shall be a good defence if such person proves that the offence with which he is charged has been compounded under this section;

(vi) any sum of money received under this section shall be dealt with in the same manner as if it were a fine imposed by a court.

PART VIII

MISCELLANEOUS OFFENCES

Unlawful 22. Any person who without lawful authority or receiving excuse, the burden of proof of which shall be on him, or possession receives or is found in possession of any forest of forest produce with respect to which an offence against this produce Act has been committed, unless he can account for such possession or can show that he came by such produce innocently, shall be guilty of an offence against this Act.

Failure to 22A. Any person to whom a licence has been comply with granted under section 19 of this Act who, in certain contravention of the conditions thereof-

provisions (a) fails to take to a place which is of licences specified in the licence as being a place Act No.1 of for the measuring of forest produce, any 1964 forest produce which he has obtained

s. 2 under the terms of his licence; or

(b) (i) having taken forest produce to such specified place, carries away the same therefrom before it has been measured by a forest officer; or

(ii) in the case of forest produce *Forests CAP. 323*

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consisting of a tree, timber or a pole, carries away such tree, timber or pole before a forest officer has both measured and marked the same with a prescribed mark, shall be guilty of an offence against this Act.

Counter- 23. Any person who-

feiting and (a) counterfeits, alters, obliterates or similar defaces any stamp, mark, sign, licence, offences permit, authority or receipt used or issued under this Act, or any rules, orders or notices made thereunder;

(b) fraudulently or without due authority uses or issues any stamp, mark, sign, licence, permit, authority or receipt intended to be used or issued under this Act, or any rules, orders or notices made thereunder;

(c) without due authority alters, moves, destroys or defaces any boundary mark of a forest reserve, shall be guilty of an offence against this Act and shall be liable on conviction to a fine not exceeding five thousand shillings or to imprisonment for a period not exceeding two years, or to both such fine and imprisonment.

Interference 24. Any person who-
with or (a) without lawful authority or excuse, the obstruction proof of which lies on him, wears any uniform or part of a uniform, or any etc., of the badge or other mark issued by the Forest Forest Division to be worn by officers or staff Division of the Forest Division; or

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(b) has in his possession any stamp or mark used or intended to be used by the Forest Division for marking forest produce, or anything having the appearance of such stamp or mark; or

(c) without lawful authority or excuse fails to comply with any lawful demand or requirement made under section 20; or

(d) obstructs any person in the execution of his powers or duties under the provisions of this Act, or any rules, orders or notices made thereunder, shall be guilty of an offence against this Act.

PART IX GENERAL PROVISIONS

In certain 25. When in any proceedings under this Act a cases trees question arises as to whether any tree or forest or forest produce is the property of the Government or of a produce pre- local authority or whether any land is unreserved sumed to be land, such tree or forest produce shall be presumed the property to be the property of the Government or of the local of the authority, as the case may be, and such land shall Government be deemed to be unreserved land, until the contrary and land is proved.

presumed to
be unreserved
land

Penalties 26.-(1) Except where any other penalty is provided any
person who is convicted of any offence against this Act shall be liable to a fine not
exceeding three thousand shillings or to a term of imprisonment not
exceeding six months, and if the court so directs, to the forfeiture of any licence

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granted under this Act and of any forest produce unlawfully
obtained and to disqualification from holding any further licences for such period as the
court may direct.

(2) Where any person is convicted of an offence whereby any forest
produce has been damaged or injured or removed the court may, in addition to any
other penalty, order such person to pay to the Chief Conservator by
way of compensation the value of the forest produce so damaged or injured or removed, and
the Chief Conservator shall pay the same into the general revenue.

(3) Where any person is convicted of an offence which consists in
occupying or cultivating or grazing land in any forest reserve without a licence the
court may in addition to any other penalty or compensation imposed,
order the person so convicted to remove any building, enclosures, huts, crops or
livestock within a period to be specified in such order, and if the person so convicted
fails to comply with the order of the court within the period do specified, any such
building, enclosure, hut, crops or livestock remaining shall be deemed to be the
Conservator in such manner as he may think fit.

(4) Any forest produce forfeited under this Act shall be sold or
otherwise disposed of as the Chief Conservator may by general or special order direct,
and any proceeds of sale shall be paid into the general revenue.

Operation 27. Nothing in this Act shall be deemed to
of other prevent any person from being prosecuted under any laws not other law for any
act or omission Act or from being barred liable under such other law to any greater punishment
or penalty than that provided by this Act, provided that no person shall
be punished twice for the same *Forests* CAP. 323 [R.E. 1993] 32

offence.

Saving of 28. Nothing in this Act shall affect the right Common of the Government
or of any person to sue for and
Law rights recover at Common Law, or otherwise, compensation for or in respect of
damage or injury caused by an offence against this Act.

Power to 29. The court may award any amount not
make rules exceeding one half of any fine imposed for an G.N.No. 378 offence against
this Act to the person, not being a of 1962 person in the service of the Government, who may have
supplied such information as may have led to the conviction of an offender.

PART X

RULES, EXEMPTIONS AND SAVING

Power to 30.-(1) The Minister may from time to time
make rules makes rules either general application or in respect G.N. No. of any particular
territorial forest reserve or in 478 of 1962 respect of any forest produce for any or all of the
following purposes:-

- (a) regulating the felling, working and
removal of forest produce;
- (b) prescribing any areas of unreserved land in
which all or any forest produce may or may not be cut or removed;
- (c) prohibiting or regulating the use and
occupation of land in forest reserves for residential, cultivation,
commercial or industrial purposes or grazing;
- (d) prohibiting or regulating the use of land in
forest reserves for camping or any other purpose of such nature;
- (e) prescribing the time and manner of *Forests CAP. 323*

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recording and publicising rights in
relation to land or forest produce within forest reserves;

- (f) regulating the manner and circumstances in
which licences or permits may be applied for, granted, varied, refused
or cancelled, providing for the conditions
and terms subject to which they may be granted, prescribing the
fees payable for any licence or authority and providing

for the exemption of any conditions and limitations relating to exemption;

(g) regulating the sale and disposal of forest produce by tender, public auction, private treaty or otherwise, and matters incidental thereto, fixing the price of forest produce, by assessment within prescribed limits by specified persons or otherwise, prescribing the fees to be paid for the cutting or removal of forest produce and providing for the remission of all or any part of any such fee, either generally or in individual cases;

(h) prohibiting or regulating any act liable to cause damage to forests or forest produce;

(i) prohibiting or controlling the entry of persons, animals or vehicles into any forest reserve or part thereof, and regulating the period during which such persons, animals or vehicles may remain therein, and providing for the conditions subject to which they may do so;

(j) providing for the declaration of insect and fungal pests dangerous to forest *Forests CAP. 323 [R.E. 1993]* 34

produce and prescribing measures to be taken to control or eradicate such notified pests;

(k) prescribing the names to be applied to forest produce in order to promote its better utilization and marketing and providing for the manner in which any list of names made hereunder may be from time to time amended or varied;

(l) providing for the compulsory use of property marks by timber dealers licensed to take timber under this Act or any rules made thereunder, and the registration of such marks;

(m) providing for the compulsory use of property marks by local authorities and owners of private woodland for the purpose of identifying timber sold from private woodland; local authority forest reserves and

(n) providing for the prohibition of the use of marks not registered under the provisions of rules made under this

section;

(o) prohibiting or regulating the use of roads or paths other than public highways within forest reserves and providing for the repair of roads, tracks or bridges in a forest reserve by any person damaging the same;

(p) prohibiting or regulating within forest reserves the lighting of fires, smoking, or the carrying, kindling or throwing of any fire or light or inflammable material;

(q) providing for the registration of stamps *Forests CAP. 323*

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and marks for use by the Forest Division for marking forest produce or indicating forest reserves;

(r) providing for the registration and use of such Forest Division brands, tags, or other devices for marking livestock as may be necessary to identify livestock licensed to graze in forest reserves;

(s) prohibiting or regulating the export from Tanzania or from any area of Tanzania of forest produce;

(t) prescribing the form of forestry dedication covenants;

(u) providing generally for the carrying out of the purposes and provisions of this Act or prescribing anything which may be prescribed under this Act.

(2) Any rules made under the provisions of this section may require acts or things to be performed or done to the satisfaction of a prescribed person, and may empower a prescribed person to issue orders to any other person requiring acts or things to be performed or done, imposing conditions and prescribing periods and dates upon, within or before which, such acts or things shall be performed or done or such conditions shall be fulfilled.

(3) A local authority may, with the approval of the Minister responsible for Local Government, make rules applicable to any local authority forest reserve which it maintains and controls prescribing for such reserve any or all of the matters which the Minister may prescribe or regulate under the provisions of paragraphs (a),(c), (d), (f), (g), (h), (i), (o) and (p) of

subsection (1) and specifying the officers who may act on its behalf in administering the provisions of this Act.

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(4) The Minister or a local authority may in making a rule under this section prescribe for a breach thereof a fine not exceeding three thousand shillings or imprisonment for a term not exceeding six months or both such fine and such imprisonment.

Power to 31. The Minister may, by notice in the *Gazette*, grant exempt any person or class of persons or any land or exemptions class of lands from any or all of the provisions of G.N. No. this Act or any rules, orders or notices made 478 of 1962 thereunder, subject to such conditions and limitations as may be specified in such notice.

Saving of 32. -(1) Nothing in this Act shall derogate mining from a mining claim, prospecting right or exclusive rights and prospecting licence registered, issued or granted amendment under the provisions of the Mining Act or an of Mining exploration right or exclusive prospecting licence Ordinance issued under the provisions of the Petroleum Cap. 123 Exploration and Production Act, or adversely affect Cap. 328 the enjoyment by the holder of any such claim, right or licence of any right conferred thereby in relation to land, minerals or forest produce:

Provided that nothing in this subsection shall be read as exempting any such holder from complying with any provision of the Mining Act (as amended by subsection (2) of this section) or any condition of a licence granted under the Petroleum Exploration and Production Act, which relates to forest reserves or forest produce.

(2) [Omitted: Incorporated in sections 15 and 57 of Cap. 123 as revised in 1958].

PART XI

REPEAL AND SAVINGS

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Repeal of 33. The Forests is hereby repealed:

Cap.132
G.N.No.76
of 1959

Provided that, notwithstanding such repeal-

(a) (i) all forest reserves other than native authority forest reserves existing at the commencement of this Act; shall be deemed to have been declared as territorial forest reserves under the provisions of this Act;

(ii) all native authority forest reserves existing at the commencement of this Act shall be deemed under the provisions of this Act;

(iii) all native authorities who have been nominated under the provisions of the Ordinance so repealed to exercise control over such native authority forest reserves shall be deemed respectively to have been declared under the maintenance and control of the same as local authority forest reserves;

(iv) all licences granted under the provisions of the Act repealed shall be deemed to have been made or granted under this Act;

(b) all such declarations, licences and rules as are referred to in paragraph (a) of this proviso, may be varied or amended in accordance with the provisions of this Act and, if not previously expired, shall remain in force until cancelled or revoked hereunder.
