

## CHAPTER 323

### THE FORESTS ACT

[PRINCIPAL LEGISLATION]

#### ARRANGEMENT OF SECTIONS

Section

Title

#### PART I

##### PRELIMINARY PROVISIONS

1. Short title.
2. Interpretation.
3. Administration of Act.
4. Minister may appoint honorary forest officers.

#### PART II

##### CREATION OF FOREST RESERVES

5. Declaration of forest reserve.

6. Requirements for declaration of area as forest reserve.
7. Recording of rights in relation to land or forest produce.
8. Grant of permits to take forest produce.
9. Restriction on creation of new rights in area of intended reserve.

### PART III

#### LOCAL AUTHORITY FOREST RESERVES

10. Local authorities to manage local authority forest reserves.
11. Local authority may appoint manager.
12. Control of Chief Conservator over management of local authority forest reserves.
13. Cancellation of declaration in respect of local authority forest reserves.

### PART IV

#### FORESTRY DEDICATION COVENANTS

14. Forestry dedication covenants.

## PART V

### PROTECTION OF FORESTS AND FOREST PRODUCE

15. Restrictions and prohibitions within forest reserves.
16. Public to assist in protecting forest reserve from fire.
17. Reserved trees.
18. Restrictions over the use of trees in unreserved land.

## PART VI

### LICENCES

19. Grant of licences.

## PART VII

### POWER OF OFFICERS

20. Power to demand licence or authority for acts done of seizure and arrest.
21. Power to compound offences.

## PART VIII

### MISCELLANEOUS OFFENCES

- 22. Unlawful receiving or possession of forest produce.
- 23. Failure to comply with certain provisions of licences.
- 24. Counterfeiting and similar offences.
- 25. Interference with or obstruction of officers or staff of the Forest Division.

## PART IX

### GENERAL PROVISIONS

- 26. In certain cases trees or forest produce presumed to be the property of the Government and land presumed to be unreserved land.
- 27. Penalties.
- 28. Operation of other laws not barred.
- 29. Saving of Common Law rights.
- 30. Power to reward informers.

## PART X

## RULES, EXEMPTIONS AND SAVING

- 31. Power to make rules.
- 32. Power to grant exemptions.
- 33. Saving of mining rights and amendment of Mining Ordinance.

## PART XI

### REPEAL AND SAVINGS

- 34. [Repeal of R.L. Cap. 132.]

## CHAPTER 323

### THE FORESTS ACT

An Act to provide for the conservation and management of forests and forest produce.

[1st April, 1959]

R.L. Cap. 389

Ord. Nos.

14 of 1959

30 of 1959

G.Ns. Nos.

74 of 1959

76 of 1959

478 of 1962

Acts Nos.

43 of 1963

1 of 1964

51 of 1964

8 of 1979

29 of 1994

18 of 1997

PART I

PRELIMINARY PROVISIONS (ss 1-4)

[PCh323s1]1. Short title

This Act may be cited as the Forests Act.

[PCh323s2]2. Interpretation Act No. 18 of 1997

In this Act unless the context otherwise requires—

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

"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 under 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 section 11;

"forest officer " 1 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—

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

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

(c) such other things as the Minister may 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 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 authorised by him in that behalf, or by a local authority, under section 19;

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

"local authority" includes a district council, municipal council, town council, and urban 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 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, telephone, power transmission or building pole or for similar purposes;

"police officer" means a police officer as defined in section 2 of the Police Force and Auxiliary Services Act \*;

"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;

"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 section 6 of the Land Act \*.

[PCh323s3]3. Administration of Act

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

[PCh323s4]4. Minister may appoint honorary forest officers

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

## PART II

### CREATION OF FOREST RESERVES (ss 5-9)

[PCh323s5]5. Declaration of forest reserve Act No. 29 of 1994

(1) Subject to the provisions of section 6, the Minister may by order published in the Gazette declare any area of unreserved land to be a territorial forest reserve or a local authority forest reserve as from the date specified in the order and may at any time vary or revoke such order:

Provided that before making, varying or revoking any order in respect of a forest reserve situate within the conservation area established under the Ngorongoro Conservation Area Act \*, the Minister shall consult the Ngorongoro Conservation Area Authority.

(2) As soon as practicable after the publication of an order made under 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 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.

[PCh323s6]6. Requirements for declaration of area as forest reserve

(1) Before the Minister makes any order under section 5 declaring any area of land to be or form part of a forest reserve he shall—

(a) ascertain that the Chief Conservator has given not less than ninety days notice in writing of the proposed declaration of the said area as a forest reserve, which notice shall describe the proposed 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 that—

(i) 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) 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) in the case of voluntary surrender such compensation, (if 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—

(a) objects to the declaration of such an area as a forest reserve; or

(b) 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 of 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 District 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 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 thereof.

(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 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 to 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.

(7) 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.

(8) 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.

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

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

(11) 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.

(12) Any compensation payable in respect of rights to land or forest produce within any area within a proposed forest reserve which have been voluntarily surrendered shall be assessed by the District Commissioner within whose jurisdiction such area is situate or by such other officer, or person as the Minister may appoint in this behalf and such compensation 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.

(13) 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, 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 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.

(14) If the Minister has ordered the payment or reimbursement of compensation by the local authority under the provisions of subsection (13) 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 United Republic.

[PCh323s7]7. Recording of rights in relation to land or forest produce

(1) Any rights in relation to land or forest produce which have been determined under section 6 to be lawfully exercisable within any area declared to be a forest reserve, shall, if they are not voluntarily surrendered, 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 under subsection (1) 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.

[PCh323s8]8. Grant of permits to take forest produce

(1) Where any person or group of persons possesses any rights in relation to forest produce which have been determined under section 6 to be 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.

(2) The Chief Conservator, if he is satisfied that a 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 extent, for such period, in such manner and subject 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.

[PCh323s9]9. Restriction on creation of new rights in area of intended reserve

(1) The provisions of this section shall apply to any area of unreserved land in respect of which notice has been given in accordance with paragraph (a) of subsection (1) of section 6, with effect from the date of publication of such notice (hereinafter referred to in this section as the 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) in such a way that no right in relation to land in such area shall be capable of being created or 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, it 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) in such a way that 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 customary law immediately before the effective date; or

(c) the right of any native or native community who or which lawfully succeeds under customary law to the use and occupation of land to which paragraph (b) of this subsection applies:

Provided that—

(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 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—

(a) the boundaries of every such area to be beacons; and

(b) 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 neighbourhood.

(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 266 PROJECT GUIDELINES: INDUSTRY SECTOR GUIDELINES (ss 10-13)

[PCh323s10]10. Local authorities to manage local authority forest reserves Act No. 8 of 1979

(1) The Minister shall, in an order under section 5 declaring any area to be a local authority forest reserve, specify the local authority which shall be responsible for the maintenance and control of such local authority forest reserve, and that local authority shall upon the coming into operation of such order have the duty of managing that local authority forest reserve, and meeting the costs of management, and any revenue derived from fees for forest

produce and licences charged or issued in respect of such local authority forest reserve shall 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 provided under subsection (1) nothing in this section shall be deemed to transfer to or vest in a local authority any right, title or interest in or over any land declared to be a local authority forest reserve.

[PCh323s11]11. Local authority may appoint manager

(1) A local authority specified in any order made under subsection (1) of section 10 may appoint a forest 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 office, the powers of a forest officer in respect of a local authority forest reserve for such period as may be specified in the notice, and may in his discretion at any time revoke such grant.

[PCh323s12]12. Control of Chief Conservator over management of local authority forest reserves

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

(2) The Chief Conservator shall be entitled to make such written representations as he thinks fit to the local authority concerned regarding the 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 Act 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 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 subsection (5) 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.

[PCh323s13]13. Cancellation of declaration in respect of local authority forest reserves

From the date of any order in the Gazette cancelling a declaration of a local authority forest reserve such reserve shall cease to be managed by the local authority specified in the declaration and all other powers and privileges of such local authority in respect of such forest reserve shall cease and such local authority shall not, as of right, be entitled to any compensation, but the Minister may, in his discretion, grant to such local authority such compensation as he may consider just and reasonable having regard to all the circumstances.

#### PART IV

#### FORESTRY DEDICATION COVENANTS (s 14)

[PCh323s14]14. Forestry dedication covenants

(1) Where the owner of any land enters into a covenant with the Chief Conservator to the 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 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 adjacent 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 (ss 15-18)

[PCh323s15]15. Restrictions and prohibitions within forest reserves

(1) Any person who in any forest reserve without a licence or other lawful authority—

(a) cuts, removes, has in his possession, sets fire to or damages any forest produce;

(b) clears, cultivates or breaks up for cultivation or any other purpose, any land;

- (c) constructs or re-opens any saw-pit or workplace;
  - (d) occupies or resides on any land;
  - (e) erects any building, shelter or livestock enclosure;
  - (f) grazes or depastures livestock, permits livestock to enter therein;
  - (g) 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;
  - (h) constructs any road, path, water course, tramway, or fence, or obstructs any existing road, path, tramway or water course;
  - (i) covers any tree stump with brushwood or earth or by any other means conceals, destroys or removes such tree stump or any part thereof; or
  - (j) damages, defaces, alters, shifts, removes, or in any way interferes with, any beacon, fence, notice or notice board,
- commits an offence under this Act.

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

(3) The Chief Conservator may by 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.

[PCh323s16]16. Public to assist in protecting forest reserve from fire

(1) It shall be lawful for any forest officer, police officer, administrative officer, forest manager, or any local authority fire brigade officer to require any person who is within a reasonable distance of any forest reserve to assist 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 commits an offence under 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.

[PCh323s17]17.       Reserved trees

(1) The Minister may by order published in 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.

[PCh323s18]18.       Restrictions over the use of trees in unreserved land

(1) Any person who without a licence or other lawful authority fells, cuts, damages, or removes any reserved tree on any unreserved land commits an offence under 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 commits an offence under this Act:

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 living in the neighbourhood;

(ii) 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 by-laws, 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 (s 19)

#### [PCh323s19]19. Grant of licences

(1) The Chief Conservator or any person authorised by him in that behalf may grant licences for all or any of the purposes of this Act and every such licence shall be subject to such conditions as may be specified therein, and there shall be payable in respect thereof such fee as may be prescribed.

(2) A local authority may grant licences for 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 authorised 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 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.

(4) No person or authority shall issue any licence in respect of a forest reserve situate within 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 \*, 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 (ss 20-21)

[PCh323s20]20. Power to demand licence or authority for acts done of seizure and arrest  
Act No. 18 of 1997 Sch.

Any administrative officer, forest officer or police officer may—

(a) demand from any person the production of any licence authority for any act committed by such person for which a licence or authority is, under the provisions of this Act or any other law, 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 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 under 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 under this Act where—

(i) 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

(ii) 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.

[PCh323s21]21. Power to compound offences Act No. 18 of 1997 Sch.

A senior forest officer may, if he is satisfied that a person has committed an offence under 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—

(a) 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 31, or the damage caused by the offence, or the sum of two hundred shillings, whichever is the least, in respect of each offence;

(b) 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;

(c) 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;

(d) 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;

(e) if any proceedings are brought against any such person for an offence under 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;

(f) 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 (ss 22-25)

#### [PCh323s22]22. Unlawful receiving or possession of forest produce

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

[PCh323s23]23. Failure to comply with certain provisions of licences Act No. 1 of 1964

Any person to whom a licence has been granted under section 19 of this Act who, in contravention of the conditions thereof—

(a) fails to take to a place which is specified in the licence as being a place for the measuring of forest produce, any forest produce which he has obtained under the terms of his licence; or

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

(c) in the case of forest produce 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,

commits an offence under this Act.

[s. 22A]

[PCh323s24]24. Counterfeiting and similar offences Act No. 18 of 1992 Sch.

Any person who—

(a) counterfeits, alters, obliterates or defaces any stamp, mark, sign, licence, 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,

commits an offence under this Act and is liable upon 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.

[s. 23]

[PCh323s25]25. Interference with or obstruction of officers or staff of the Forest Division

Any person who—

(a) without lawful authority or excuse, the proof of which lies on him, wears any uniform or part of a uniform, or any badge or other mark issued by the Forest Division to be worn by officers or staff of the Forest Division;

(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;

(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, commits an offence under this Act.

[s. 24]

## PART IX

### GENERAL PROVISIONS (ss 26-30)

[PCh323s26]26. In certain cases trees or forest produce presumed to be the property of the Government and land presumed to be unreserved land

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

[s. 25]

[PCh323s27]27. Penalties Act No. 18 of 1997 Sch.

(1) Except where any other penalty is provided any person who is convicted of any offence under 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 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 property of the Government, and may be disposed of by the Chief 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.

[s. 26]

[PCh323s28]28.      Operation of other laws not barred

Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which also constitutes an offence under this Act or from being 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 offence.

[s. 27]

[PCh323s29]29. Saving of Common Law rights

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

[s. 28]

[PCh323s30]30. Power to reward informers Act No. 18 of 1997 Sch.

The court may award any amount not exceeding one half of any fine imposed for an offence under this Act to the person, not being a person in the service of the Government, who may have supplied such information as may have led to the conviction of an offender.

[s. 29]

## PART X

### RULES, EXEMPTIONS AND SAVING (ss 31-33)

[PCh323s31]31. Power to make rules Act No. 18 of 1997 Sch.

(1) The Minister may from time to time makes rules either of general application or in respect of any particular territorial forest reserve or in 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 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 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 utilisation 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 local authority forest reserves and private woodland;

(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 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.

(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 imprisonment.

[s. 30]

[PCh323s32]32. Power to grant exemptions

The Minister may, by notice in the Gazette, exempt any person or class of persons or any land or class of lands from any or all of the provisions of this Act or any rules, orders or notices made thereunder, subject to such conditions and limitations as may be specified in such notice.

[s. 31]

[PCh323s33]33. Saving of mining rights and amendment of Mining Ordinance

(1) Nothing in this Act shall derogate from a mining claim, prospecting right or exclusive prospecting licence registered, issued or granted under the provisions of the Mining Ordinance \* or an exploration right or exclusive prospecting licence issued under the provisions of the Petroleum Exploration and Production Act,\* or adversely affect 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 Ordinance \* (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.]

[s. 32]

## PART XI

### REPEAL AND SAVINGS (s 34)

[PCh323s34]34. Repeal of R.L. Cap. 132

(1) [Omitted.]

Notwithstanding such repeal—

(a) 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;

(b) all native authority forest reserves existing at the commencement of this Act shall be deemed to have been declared as local Authority forests reserves under the provisions of this Act;

(c) 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 provisions of this Act, to be responsible for the maintenance and control of the same as local authority forest reserves;

(d) all licences granted under the provisions of the ordinance so repealed shall be deemed to have been made or granted under this Act.

(2) 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.

[s. 33]