

THE FOREST ORDINANCE OF TANZANIA  
(1957)

**Principal Legislation – Cap 389 of 1957**

This ordinance may be cited as the Forest Ordinance.

**PART I- Preliminary**

**Interpretation**

**Director of Forestry-** means the person for the time being performing the duties of the Director of Forestry.

**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 Officer-** means any officer of the Forest Division of or above the rank of forest guard and includes an honorary forest officer.

**Forest Produce-** includes:

- (i) trees, timber, firewood, charcoal, sawdust, withies, bark, bast, roots, gums, resins, latex, sap, galls, leaves, fruit and seeds;
- (ii) within forest reserves only, vegetation of any kind, litter, soil, peat, honey, wax, and wild silk;
- (iii) such other things as the Minister responsible for Forests may declare by notice published in the Gazette.

**Forest Reserve** includes a central Government as well as a local authority forest reserve.

**Licence** means a valid licence granted by the Director of Forestry or any person duly authorised by him in that behalf, or by the local authority under section 19.

**Local Authority** includes a county council, municipal council, town council and district council.

**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.

**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 such similar use.

**Produce** 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.

**Timber-** means any tree or part of a tree which has fallen, or has 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.

### **Administration of the Ordinance**

The Director of Forestry and the officers and staff (technical) of the Forest Division are responsible to the administration of the Ordinance.

### **Appointment of Honorary Forest Officers**

The Minister, for the time being, responsible for Forestry matters may appoint honorary Forest Officers by notice published in the gazette. The appointments are made for specified periods of time, and may be revoked by the Minister by notice in the gazette.

## **PART II**

### **Creation of Forest Reserves**

#### **Declaration of Forest Reserve**

- (i) Any area of unserved land may be declared a forest reserve by order of the Minister responsible for Forestry matters. Such order must be published in the official gazette.
- (ii) As soon as the order creating the reserve has been published the boundaries of such declared area shall be demarcated by:
  - (a) The Forest Division for central Government reserves; or
  - (b) The local authority concerned in case of local authority reserves.

#### **Procedure for Gazettement of Forest Reserve**

Before any area of land is declared and gazetted as a forest reserve the following conditions must be met:

- (i) Ninety days must have passed from the date of notification of intention to reserve an area as a forest reserve. The notice must clearly describe the boundaries of the reserve and must be displayed at the District office and at any other places and manner as may be customary in that area.
- (ii) Consideration should be given to any objections or claims as notified in subsection (b) below.
- (iii) All claims to rights of land or forest produce should be thoroughly investigated.
- (iv) All rights so claimed must be recorded in accordance with section 7 or should have been voluntarily surrendered.
- (v) Any rights so surrendered must be assessed to determine compensation (if any) and such compensation must be duly paid.

- (vi) Any person or group of persons who objects to the reservation of such an area or have claims to such area must lodge his or their complaints within 90 days from the date of publication of such notice stating the grounds for his or their objection or the rights so claimed. Any notice claiming rights in relation to that land or forest produce must be investigated by the Area Commissioner or an Officer or persons appointed by the Minister. On completion of the investigation the people concerned with the claims must be notified of the finding immediately.
- (vii) If the complaints are not satisfied with the findings they may appeal to a Resident Magistrate whose ruling is final.
- (viii) Once the rights have been established compensation must be paid after assessment by the Area Commissioner provided no account is taken of any improvements made after the publication of the notice and no rights non-existent at the time of publication of the notice is taken into consideration.
- (ix) All rights lawfully exercisable must be recorded, and the Director of Forestry may grant permit (without charge) to the person(s) involved to exercise those rights on specified terms and conditions.

### **PART III**

#### **Local Authority Forest Reserves**

1. The local authority have the responsibility of managing their reserves and may appoint a Manager for that purpose.
2. The Manager so appointed may be given the powers granted to a forest officer by the Director of Forestry. Such powers must be given in writing and may be revoked at any time.
3. The Director of Forestry has powers over the running and management of the Local Authority forest reserves.
4. The Minister may, after reviewing a report from the Director of Forestry, direct that the Local Authority cease to manage any or all of their forest reserves and that such reserves shall be managed by the Director of Forestry.
5. The Director of Forestry shall manage such forests on behalf of and for the benefit of the said Local Authority and any profits occurring, after deducting management costs shall be given to the Local Authority concerned as revenue.

### **PART IV**

#### **Forestry Dedication Covenants**

Any owner or owners of land may enter into covenant with the Director of Forestry to the effect that such land shall be used for the purposes of good forestry practices in growing trees for commercial purposes or for the conservation of water. Such covenant will be binding to the Covenantor and his successors unless otherwise stated in the covenant.

## **PART V**

### **The Protection of Forests and Forest Produce (Sections 15-18)**

#### **(a) Forest Reserves**

15. (1) Any person who in any forest reserve, and without a licence or permit carries out the following acts is guilty of an offence against the ordinance:

- (i) Cuts, removes, has in possession, sets fire or damages any forest produce.
- (ii) Constructs or reopens any sawpit.
- (iii) Clears, cultivates or breaks up for cultivation or any other purpose, any land.
- (iv) Occupies or resides on any land.
- (v) Erects any building or livestock enclosure.
- (vi) Grazes or depastures livestock or permits livestock to enter therein.
- (vii) Collects honey, beeswax, hangs or places on any tree or elsewhere any honey barrel, hive or other receptacle for the purpose of collecting honey or beeswax.
- (viii) Constructs any road, path, water course, tramway or fence, obstructs any existing road, path, tramway or water course.
- (ix) Covers any tree stump, conceals, destroys or removes any tree stump.
- (x) Damages, defaces, alters, shifts, removes or in any way interferes with, any beacon, fence, notice or notice board.

(2) Any person within or in the vicinity of a Forest reserve in possession of any implement for cutting, taking, working or rendering any forest produce shall be guilty of an offence against the ordinance. The burden of proof shall be on him to prove that he had lawful excuse.

(3) The Director of Forestry, by notice in the Gazette may waive any or all of the provisions of subsection (1) and (2) above.

(4) Any livestock found in the reserve shall be presumed to have been grazed or depastured on the owner's or herdsman's authority unless he can prove to the contrary.

16. Any person within a reasonable distance of a forest reserve shall be required by any forest officer, forest manager or administrative officer to help in extinguishing any fire. The person so called upon to fight the fire should not be required to risk his life, but he should be paid reasonably for his services.

#### **Unreserved Land**

17. The Minister may declare any tree on unreserved land to be a reserved tree.

18.- (1) Any person who without a licence or other lawful authority cuts, fells, damages or removes any tree on unreserved land for the purpose of sale, barter, or for

use in any trade, industry or commercial undertaking shall be guilty of an offence under the Ordinance.

**Exceptions:**

- (a) Any person who is not prohibited by his local authority may cut and remove trees other than reserved trees for the purpose of:
  - (i) for use in domestic art and craft including domestic furniture and fittings;
  - (ii) for the preparation of charcoal to be used in local art and craft;
  - (iii) clearing land for cultivation provided cultivation is not prohibited in any other law or regulation.
- (b) The exceptions do not include the removal of edible fruit from any tree, not being a reserved tree planted or cultivated by such person.

**PART VI**

**Licences**

19. –(1) The Director of Forestry or any person authorised by him may issue licences under this ordinance and cause fees, as may be described, to be paid for such produce.

(2) Similarly (see 19 (1)) the Local Authority concerned will issue licences or permits in respect of the forest reserves under its control.

(3) The authorities under 19 (1) and 19 (2) above may cancel or suspend any licence granted by them if there is any infringement on any of the conditions of the licence.

**PART VII**

**Powers of Officers**

20. Any administrative officer, forest officer or police officer may:

- (a) demand from any person proof of authority for any act committed by him for which authority is required under the ordinance;
- (b) require any person suspected of possessing produce unlawfully obtained to account for his possession of such produce. And outside a township or municipality the said officers may without warrant search the person and or his property in which such produce may be contained or stored. The search in domestic buildings must be done in the presence of at least two independent witnesses;
- (c) seize and detain any produce, livestock, boats, vehicles, machinery, tools or implements used or likely to have been used to commit an offence under the ordinance. The seizure must forthwith be reported to a magistrate;
- (d) arrest without a warrant any suspected person of an offence if

- (i) there is reason to believe that such person may abscond;
- (ii) such person refuses to give his name and address or gives a name and address which is reasonably believed to be false.

- (1) Such arrests under this section must immediately be taken to a magistrate.
- (2) A senior Forest Officer may if he is satisfied that a person has committed an offence against the ordinance, 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 for such produce under paragraph (2) of sub-section (i) 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 be exercised where the person admits 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 the sum of money receipt thereof in the prescribed form and immediately report such exercise of power to the Director of Forestry and the administrative officer in-charge of the area in which the offence has been committed.
- (v) Should proceedings be brought against such person concerning the same offence his having been compounded under this section shall be a defence in his favour.
- (vi) Any sum of money received under this section shall be dealt with as if it were a fine imposed by a court.

## **PART VIII**

### **Miscellaneous Offences**

22. Any person 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 in respect of which an offence against this ordinance, 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 the ordinance.

The Forest Ordinance is hereby amended by adding, immediately below section 22, the following new paragraph to be numbered 22A

22A. Any person to whom a licence has been granted under section 19 of this Ordinance who, in contravention of the condition 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)
  - (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 consisting of a tree, timber or a pole carried 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 Ordinance.

Passed in the National Assembly on the eighteenth day of February, 1964.

P. Musekwa  
Clerk of the National Assembly

23. Any person who:

- (a) Counterfeits, alters, obliterates or defaces any stamp, mark, sign, licence, permit, authority or receipt used or unused.

Under this Ordinance, or any other rules, orders, or notices made thereunder.

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 ordinance or any rules, orders, or notice made thereunder.

Without due authority, alters, moves, destroys, or defaces any boundary mark of a forest reserve,

Shall be guilty of an offence against this Ordinance 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 both such fine and imprisonment.

24. 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, or
- (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 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 Ordinance, or any rules, orders, or notices made thereunder,

Shall be guilty of an offence against this Ordinance.

## **PART IX**

### **General Provisions**

25. When in any proceedings under this Ordinance a question arises as to whether any tree or forest 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.

26. Penalties:

- (i) Unless any other fine is provided an offender under this Ordinance 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 issued or any forest produce unlawfully obtained, and to disqualification from holding further licences.
- (ii) Where forest produce has been damaged or removed the court may, in addition to any other penalty, order the offender to pay compensation to the Director of Forestry.
- (iii) In any conviction involving residence, cultivation or grazing offence, the offender may be ordered, in addition to any other penalty or compensation, to remove any buildings, crops and livestock within a certain time limit, on expiry of which the property shall be deemed to be Government property.
- (iv) Any produce forfeited shall be sold or disposed of according to instructions from the Director of Forestry.

27. The Provisions of this ordinance shall not prevent the enforcement of any other law provided no person shall be punished twice for the same offence.

28. The provisions of this Ordinance shall not affect the rights of Government or any person to recover, compensation under the Common Law or otherwise, for damages or injury caused by the offence.

29. The court may award an amount not exceeding one-half of any fine imposed for an offence against this Ordinance to the person, who may have supplied information leading to conviction.

## **PART X**

### **Rules, Exemptions and Saving**

30. Power of Government to make rules in respect of forest reserves or forest produce for the following purposes:

- (a) Regulating the felling, working and removal of forest produce.
- (b) Regulating the removal or use of forest produce in unreserved land.
- (c) Regulating the use of land in forest reserves.
- (d) Regulating camping or similar uses in forest reserves.
- (e) Prescribing the time and manner of recording or publishing rights to land or produce in forest reserves.
- (f) Regulating the issue of licences, terms, fees or exemptions.
- (g) Regulating the sale, methods of sale, remission of fees, etc. of forest produce.
- (h) Prohibiting or regulating entry of any person, animals or vehicles into forest reserves.
- (i) Prohibiting any act liable to cause damage to forests or forest produce.
- (j) Declaring and taking measures to control insects and fungal pests.
- (k) Prescribing names to be applied to forest produce in order to promote its better utilisation and marketing.
- (l) Providing for compulsory use of property marks by timber dealers.
- (m) Providing for compulsory property marks by local authorities and private woodland owners.
- (n) Prohibiting the use of unregistered marks.
- (o) Regulating the use of roads, other than public highways, in forest reserves.
- (p) Prohibiting the lighting or use of fires in forest reserves.
- (q) Providing for the registration of FD marks for control of forest produce.
- (r) Providing for the registration of FD brands and tags for marking livestock licensed to graze in forest reserves.
- (s) Regulating the export of timber.
- (t) Prescribing the form of a forestry dedication covenant.
- (u) Providing for the furtherance of the provisions of this Ordinance.

31. The Minister by notice in the gazette, may exempt any person, class of persons, land or class of land from the provisions of this Ordinance.

32. The provisions of this Ordinance shall not detract from the rights or claims lawfully exercisable under the Minerals and Mining Ordinance as amended by subsection (2) of section (32) of the Forest Ordinance.

## **PART XI**

### **Repeal and Saving**

6. The Forest Ordinance (Cap. 132) has been repealed except that:

- (a) All forest reserves existing should be construed as being declared forest reserves under this Ordinance.

- (b) All lawful authority under the repealed Ordinance should be deemed similarly under this Ordinance.
- (c) All rules so repealed under the provisions of this Ordinance shall remain in force and be deemed to have been made under this Ordinance.
- (d) All licences, permits and rules issued under the repealed Ordinance shall remain in force as issued until the expiration date of such licence or permit or until cancelled or revoked.