

FOREST ACT 1998

AN ACT to provide for the maintenance and development of the forest resources of The Gambia with a view to enhancing the contribution of Forestry to the socio-economic development of The Gambia and for matters connected therewith.

ENACTED by the President and the National Assembly.

Part I. – PRELIMINARY

Short title and commencement

1. This Act may be cited as the Forest Act 1998 and shall come into effect on such date as the Secretary of State may by Order publish in the Gazette appoint.

Interpretation

2. In this Act unless the context otherwise requires:

"agroforestry" means the combination of forestry and agricultural practices in an area with a view to increasing agricultural productivity;

"Assistant Director" means the Assistant Director of Forestry in the Forestry Department;

"by-laws" means a set of regulations prepared by a forest committee to administer the said committee and to regulate the management of its community forest where no regulations in the Forest Regulations are available;

"canted timber" means a log which is sawn or hewn on two or more sides and intended for further conversion;

"commercial forest product" is a forest produce harvested for the purpose of making business;

"community" means a village or a town of which the members share benefits and duties in cash, in kind or in any other forms.

"community controlled state forest" is forest designated under section 73 of this Act which is jointly managed by the Forestry Department and a forest committee;

"community Forest" is a forest defined under sub-section 3 of section 9, owned and managed by one or more communities;

"cover" means the ground area covered by a crown, as delimited by the vertical projection of its outermost perimeter;

"diameter at breast height" means the diameter of a tree measured either at a height of 1.3 meter from the ground, or (if the tree is buttressed above that height) measured at 30 centimeters above where the highest buttress merges with the bole;

"Director" means the Director of Forestry in the Forestry Department;

"Divisional Forest Officer" means a Forest Officer heading a forest division as specified under section 14 of this Act;

"export" with its grammatical variations and cognate expressions means to take or cause to be taken out of The Gambia as defined in the Customs Tariff Act;

"forest" means a land area with at least 10% tree cover, naturally grown or planted, and or 50% or more shrub and tree regeneration cover and includes Government forest parks, community forests and protected forests irrespective of their tree and shrub cover; provided that vegetation on fallow land is not a forest except as specified in section 5 of this Act;

"forest clearing" is an opening, over one hundred square metres, made in a forest and where vegetation has been reduced to such a level that it is no longer considered by a forest officer as a forest;

"forest growth" includes anything growing or to be grown within the forest;

"forest inventory" means a survey to determine, on a given area, the constitution, extent and condition of the forests;

"forest management" means the practical application of scientific, economic, legal and social forestry principles to the administration of forests for specific objectives;

"Forest Officer" means any officer of the Forestry Department or any officer appointed under section 20;

"forest operations" covers a variety of activities done for the purpose of managing a forest;

"forest park" means any area constituted or deemed to have been forest park under this Act, which shall not have ceased to be a forest park under any other enactment;

"forest produce" includes -

(a) whether found in or brought from a forest or not, forest trees and other parts or produce of forest trees such as: timber, firewood, charcoal, rubber, posts, poles, latex, wood oil, gum, resin, natural varnish, tanning extracts, tanning barks, fruits, fibres, bark and any other forest trees produces; and

(b) when found and brought from a forest park, protected forest, community forest, state forest, plantation -

(i) plants, including climbers and grasses, creepers and all parts or produce of plants;

(ii) wood ashes;

(iii) peat, surface oil and minerals other than minerals within the meaning of any Act regulating the working of minerals;

(iv) gravel, limestone, rock and laterite;

(v) and any other produces found in the above mentioned forest types;

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

"forest tree" includes all trees growing within a forest, whether planted or not, and all naturally grown trees outside a forest;

"Forestry Guidelines" means the administrative guidelines prepared and regularly updated by the Forestry Department;

"Fund" means the National Forestry Fund;

"Gambian Forest Management Concept" means the forest management concept as approved and implemented by the Secretary of State.

"hand sawing" means the operation of sawing a log of small or large dimension using a one-man or two-man handsaw;

"lands at the disposal of the State" means any lands which the State has acquired or may acquire by agreement or otherwise and includes

lands leased to the State;

"licence" means a document issued on a yearly basis effective from the start of the current financial year by the Forestry Department to exploit or process any forest produce for any commercial purpose;

"livestock" includes cattle, sheep, goats, swine, horses, mules donkeys and camels;

"local fund" means the local community forestry fund;

"mangrove areas" means areas occupied by any mangrove species.

"natural forest" means forest growth, either from local or exotic species, that has come up naturally and which constitute more than or equal to twenty five percent of the total tree cover of a said forest and excludes any plantation area.

"non wood forest produce" means any produce other than wood derived from forests or from forest trees;

"permit" means a document issued by the Forestry Department to exploit on a unit basis any forest produce for commercial purpose as permitted by a licence or for domestic purpose;

"plantation" means a forest crop or stand raised artificially, either by sowing or planting and which constitute more than seventy five percent of tree cover;

"private forest" means a forest privately owned and or leased by an individual or group of individuals as defined in section 9;

"processing equipment" means any machinery, equipment or tools used in processing timber;

"protected forest" includes all mangrove areas and all riverine forests.

"protected tree" or "protected non wood forest produce" mean any tree or any non wood forest produce declared to be such in accordance with regulations to be made under this Act;

"protection forest" means an area, wholly or partly covered with woody growth, managed primarily to regulate stream flow, maintain water quality, minimize erosion, stabilize drifting sand or exert any other beneficial forest influences;

"regeneration" means the renewal of a tree crop, whether by natural or artificial means and includes coppice shoots. Tree regeneration is any tree that is less than ten centimeters diameter at breast height;

"reserved forest" includes any area declared as such, in accordance with the provisions of section 40, 41 and 58;

"riverine forest" means forests growing in the close proximity of permanent and seasonal water courses and up to fifty meter from the waterside or otherwise specified under this Act;

"royalty" means a payment made to the Forestry Department based on a rate per unit of forest produce removed;

"sawmill" includes all premises temporal or permanent where round or canted timber is converted mechanically into sawn timber;

"Secretary of State" means the Secretary of State for the time being responsible for administering this Act;

"shrub" means a woody perennial plant, generally of lower stature, characterized by persistent and woody stems and the general absence of a well-defined main stem and includes bamboo;

"state forest" includes all forests which are administered by the state and exclude community and private forests;

"sustainable use" means to use forest produce in a way and a rate that does not lead to the long-term decline of the forest, thereby maintaining its potential to meet the needs and aspirations of present and future generations.

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

"to take non wood forest produce" includes to cut, collect, gather or remove such produce;

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

"tree" means a woody perennial plant typically large that has the potential of growing to more than three meters and with a single well-defined stem carrying a more or less definite crown, and includes palm;

"users rights" means a legally or customary recognized claim, possessed by a person or a group of persons or a community, to a continuing share in the enjoyment of some or all the benefits of the forest which is the property of another; and

"working plan" means any plan of operations or work on any area whether in a forest or not so decided upon and described as such by the Director.

PART II. - GENERAL PROVISIONS

- | | |
|---|--|
| Power to exempt certain persons or areas. | 3. The Secretary of State may by Notice published in the Gazette, and either for the period mentioned in the notice, or without any period assigned, withdraw from the operation of all or any of the provisions of this Act any class of persons or any areas specified therein. |
| Power to enter land. | 4. Any persons required so to do by the Director with necessary workmen, may enter upon any land for the purpose of erecting beacons or demarcating or cutting any boundary lines within and around any land which it is proposed to constitute a forest park and around any portions of land included as enclaves. |
| Land reverted to forest | 5. Any land which is allowed to regenerate shall be considered a forest if the number of trees per hectare with diameter at breast height of twenty centimeters or more exceed one hundred. |
| Forest tree outside forests | 6. Any forest tree outside a forest shall be under the responsibility of the traditional land user or land owner as the case may be and may be lopped or have its fruits or leaves harvested according to the prescriptions set in any Regulations or By-laws made under this Act; Provided that it shall not be exploited or cut without the prior approval of the Forestry Department. |
| Non-forest tree | 7. Any tree planted outside a forest by any person or a community which together with the already existing vegetation does not constitute a forest shall be owned by that person or community and may be used by the person or community as he or they may wish; Provided that no produce shall be removed without obtaining a permit from the nearest forest officer. |
| Disposal of fees and royalties | 8. All fees, royalties and fines received under this Act shall be paid to the Accountant General and shall be disposed of as follows: |

- (a) fifty percent to the Central Revenue, and
- (b) the remaining fifty percent to the Fund as specified in section 32.

PART III. – FORESTS

Forest categories

9. (1) The forests of The Gambia are classified into the following categories -

- (a) state forest which includes:
 - (i) forest parks; and
 - (ii) forest reserves;
- (b) community forest;
- (c) private forest which includes:
 - (i) private natural forests; and
 - (ii) private plantations.

(2) Forest parks are forests designated as such in accordance with section 49 and which are solely managed by the Forestry Department for the purpose of forest production, demonstration of forest management techniques, training of forestry staff and other persons involved in forestry activities, for applied research and for conservation;

(3) Community forests are forests designated as such in accordance with section 68 and which are owned and managed by the designated communities for the purpose of timber, firewood and non wood forest produce production, forest grazing, protection and conservation;

(4) Private forests are forests growing or planted on lands privately owned and or leased in accordance with the relevant land legislation and whose management is subjected to conditions as specified in sections 74 and 76;

(5) Forest reserves are all other forests not defined in sub-sections 3, 4 and 5 of this section which are managed by the Forestry Department except where they exist in national parks and or in nature reserves and are managed by the Department of Parks and Wildlife Conservation.

(6) Any state forest, community forest or private natural forest may be a protection forest or a protected forest.

(7) Protection forests are forests designated as such in accordance with section 78 and which are managed for the main purpose of maintaining or improving the local environment;

(8) Protected forests are all mangroves and riverine forests managed for the main purpose of protecting and conserving the natural forest cover and its associated biodiversity;

Minimum percentage to be classified

10. The forests of The Gambia as defined in section 9 of this Act shall cover a minimum of thirty percent of the total land area.

PART IV. - FORESTRY ADMINISTRATION

Management and protection of forests

11. To prevent their destruction, to ensure their improvement and to promote their sustainable use, all forest shall be managed and protected in one of the following ways -

(a) by the Forestry Department for the state forests;

(b) by the community or the communities with the support and under the supervision of the Forestry Department for the community forests;

(c) by the owner or owners under the supervision of the Forestry Department for the private natural forests;

Measures to ensure the management and the protection of forests

12. (1) Notwithstanding section 87, the Forestry Department shall take all necessary actions to ensure the sustainable use and the protection of all forests excluding private plantations.

(2) The Forestry Department shall ensure the management and the protection of all forests as indicated in paragraph (a) of section 11 by implementing measures such as forest inventories, management plans and regeneration standards.

Power to review the national forest policy

13. (1) The Secretary of State shall empower a multi sectoral working group under the leadership of the Forestry Department to prepare forest policy proposals which shall be submitted for the approval of Cabinet after which the proposals shall constitute the national forest policy.

(2) The Secretary of State may review the national forest policy at any time but not later than ten years after its approval by Cabinet.

(3) The Secretary of State may amend the national forest policy for minor adjustments any time he finds it necessary.

Gambian territory divided into forest divisions

14. For the purpose of forestry administration the Gambian territory is divided into forest divisions the boundaries of which shall correspond with the divisional boundaries of The Gambia and each division shall be managed by a Forest Officer as assigned by the Director.

Forest division divided into administrative circles

15. The forest division shall be further subdivided into administrative circles which shall be managed from a Forest Station.

Power to monitor all forestry operations

16. (1) Any person, group, establishment or organization involved in forestry activities shall submit to the Director, upon his request, any document that the Director may find necessary, to monitor the concerned activity for the purpose of sound forest management.

(2) The Director, or any Forest Officer he may designate, may at any time visit and inspect the operation site of the forestry activities specified under subsection (1) of this section.

(3) The Director may, upon conclusion of an evaluation conducted by the Forestry Department, suspend such forest activities if they are found to be a threat to the forests or in contradiction with the Gambian Forest Management Concept.

Establishment and Implementation of a comprehensive monitoring and evaluation system

17. (1) The Director shall establish and implement a comprehensive monitoring and evaluation system on forests, forest resources, utilization of forest resources and forests revenues, and such a system as detailed in the Forestry Guidelines, shall consists of -

(a) annual plans of operations at forest station and division levels; and

(b) reports at administrative circle and division levels;

(2) The Director shall ensure the continuous updating of the Forestry Guidelines.

Liaison with national

18. The Forestry Department shall be responsible for co-operating and liaising with national and international organizations and bodies

and international organizations

all over the world on matters of forestry.

Appointment of the Director

19. The Director shall be appointed by the Public Service Commission.

Appointment of officers.

20. The Public Service Commission in consultation with the Director, may appoint such officers as they may consider necessary for giving effect to the provisions of this Act.

Basic forestry training facilities

21. (1) A Forestry Training Center shall be instituted for the purpose of providing basic forestry training to forestry staff and trainees from other departments, organizations or communities.

(2) The Forestry Training Center shall provide a minimum of one year practical and theoretical training for Forest Guards upon successful completion of which a certificate is awarded.

Essential forest research

22. The Director shall ensure that essential applied forestry research and studies are conducted in the appropriate institutions.

Other functions

23. The Forestry Department shall carry out any other forestry related functions that the Secretary of State may assign to it.

Duties of officers

24. (1) It is the duty of the Director to ensure -

(a) that all forestry related activities are carried out according to the provisions of this Act and any Regulations made hereunder; and

(b) that every Forest Officer is fully acquainted with the provisions of this Act and any Regulations made hereunder.

(2) It is the duty of a Forest Officer to impartially enforce this Act and any Regulations made hereunder and report any offence to his superior officer and in this respect shall acquaint himself with the provisions of this Act and its Regulations.

Disciplinary actions

25. (1) Failure to comply with sub-section 2 of section 24 shall be considered just cause for disciplinary action.

(2) Where the Director is satisfied that any Forest Officer has aided or condoned the commission of or connived with another to commit any offence under this Act and its Regulations, he may order or recommend that such Forest Officer be summarily dismissed in accordance with the Public Service Commission Regulations.

26. A Forest Officer shall not:

Prohibitions of Forest Officers to be involved in forest produce dealings

(a) obtain any licence or permit which is issued under this Act;

(b) have shares or partnership with any person operating a business or industry on the basis of licence or permit issued under this Act;

except where such a licence or permit is granted for forest produce which are for domestic use or where such produce has been generated from a private forest.

Forest Officers to carry marks

27. A Forest Officer shall in the exercise of his official duties carry at all times his official identification card, which shall be issued by the Director, bearing the photograph and showing the rank of the Forest Officer.

Removal of trees causing a threat

28. Any Divisional Forest Officer or any Forest Officer above the rank of a Divisional Forest Officer or any Forest Officer mandated by him may enter upon any land and may cut out or destroy any diseased, dead or dying tree or any tree likely to cause damage to life or property.

Prevention of offences.

29. It shall be lawful for any Forest Officer, police officer, forest committee member or local authority to prevent the commission of any forestry offence.

PART V. - FORESTRY FUNDS

Establishment of Fund

30. There is hereby established a fund called the National Forestry Fund.

Purpose of the Fund

31. The proceeds of the Fund shall be used to promote the protection, the development and the sustainable use of forest resources and, to promote community forestry.

The Fund

32. (1) The Fund shall consist of -

(a) proceeds of the sale of timber and forest produce extracted from forest parks;

(b) all proceeds of the contribution of community forestry committees as specified in section 36 of this Act;

- (c) fifty percent of all fees and royalties received under this Act;
- (d) monies earned by any project financed from the Fund;
- (e) subvention from Government; and
- (f) grants, donations and endowments that may be received from sources within and outside the Gambia.

(2) The Fund shall be kept in a separate account with the Accountant General and shall be administered by the Director and the Permanent Secretary of the Ministry responsible for Forestry.

National Forestry Fund
committee

33. (1) The Director may establish a National Forestry Fund committee to review once yearly the proposed estimates of the income and expenditure before its submission to the Secretary of State responsible for Finance.

(2) The National Forestry Fund Committee shall be constituted of representatives of: -

- (a) the ministry responsible for finance;
- (b) the ministry responsible for forests;
- (c) the ministry responsible for local governments;
- (d) local authorities;
- (e) forest committees;
- (f) non governmental organizations; and
- (g) any other organizations the Director may think fit to participate.

Account and audit

34. (1) The Director shall within a period of three months before the end of each financial year, make and submit to the Secretary of State responsible for Finance, for his approval, estimates of the income and expenditure of the Fund for the ensuing year.

(2) No expenditure shall be made out of the Fund unless the expenditure has been approved by the Secretary of State responsible for Forestry under the estimates for the year in which such expenditure is made, or in any other estimates supplementary thereto.

(3) The Director shall prepare in respect of each financial year, a statement of account which shall include -

(a) a balance sheet, a statement of income and a statement of surplus or deficit; and

(b) such other information in respect of the financial affairs of the Fund as the Secretary of State responsible for Finance may require.

(4) The accounts of the Fund shall, in respect of each financial year, be audited by the Auditor General.

Power to make regulations

35. The Secretary of State may make regulations prescribing the mode of collection of monies paid into the Fund under section 32 and the manner in which payments shall be made from the Fund.

Establishment of local funds

36. After the approval of each Community Forest Management Agreement in accordance with the provisions of section 67 of this Act, there shall be established a local fund for the concerned community forest which shall consist of the following monies-

(a) eighty five percent of all proceeds of the sale of all forest produce extracted from the community forest, while the remaining fifteen percent shall be paid into the Fund as a contribution to national forest management and as a compensation for the technical services rendered by the Forestry Department in managing community forests;

(b) fifty percent of fines collected under section 112;

(c) a percentage as determined by the Secretary of State of all proceeds, except of licence fees, of the sale of all forest produce extracted from community controlled state forest;

(d) monies earned by any project financed from the local fund; and

(e) such voluntary contributions as may be made to the local fund from whatever source.

37. The proceeds of the local funds shall be used to promote the protection and the development of community forests and the sustainable use of the forest resources as well as general community development.

Purpose of local funds

Administration of local fund

38. (1) Each local fund shall be kept in a separate account with an established bank in The Gambia and shall be administered by three members, elected from the forest committee who shall be the administrators of the local fund.

(2) Withdrawals from a local fund shall be decided by not less than two third of the committee members.

(3) The administrators may make such withdrawals as may be necessary to finance the activities identified under section 37.

(4) The amounts spent from any local fund shall be shared between the funding of forestry activities and other community development activities as follows -

(a) monies spent for forestry activities shall not be less than forty percent of the deposits into the account; and

(b) monies spent for other community development activities shall not exceed sixty percent of the deposits into the account;

(5) Accounts of the local fund shall be accounted and audited as follows-

(a) the treasurer shall keep proper records in relation to the local fund and shall for each financial year not later than 30 days following the end of the financial year prepare and forward to the Director a statement of accounts in such form as the Director may direct;

(b) the local funds shall be audited by the Director, or any Forest Officer he may designate; and

(c) the local funds may be audited by the Auditor General upon the request of the Director.

PART VI. – DECLARATION OF RESERVED FOREST. CREATION OF FOREST PARKS

Secretary of State may

39. (1) The Secretary of State may designate as forest parks, any

designate forest parks
and reserved forests

of the following lands -

(a) land at the disposal of the Government;

(b) any lands in respect of which it appears to the Secretary of State that the forest growth on such lands should be protected or reserved or forest growth be established.

(2) The Secretary of State may, by Notice published in the Gazette, declare any such lands to be reserved forest.

Preliminary
notification
of intention to create
forest park and
appointment of
Reserve Settlement
Committee.

40. (1) Before designating any lands as forest park, the Secretary of State shall publish in the Gazette, a Notice , -

(a) specifying, as nearly as may be, the situation and the limit of the lands;

(b) declaring that the lands now form a reserved forest;

(c) declaring whether the lands are at the disposal of the Government or are lands falling within paragraph (b) of subsection (1) of section 39;

(d) declaring that it is intended to designate the lands a forest park, either for the general purposes of the Government or for the particular use and benefit wholly or in part of any class of persons or for the benefit of any community;

(e) appointing a committee (hereinafter referred to as a "Reserve Settlement Committee") which shall consist of

(i) the Attorney General or his designated representative,

(ii) the Divisional Commissioner,

(iii) the District Chief,

(iv) the heads of concerned villages,

(v) a member of the area council

(vi) the Divisional Forest Officer; and

any co-opted technical expert where the need arises.

(2) The Reserve Settlement Committee shall inquire into and determine the existence, nature and extent of any rights, claimed by or alleged to exist in favour of any person or community or brought to the knowledge of the said committee affecting the land or any other rights in or over the land which is proposed to be designated a forest park;

(3) The Reserve Settlement Committee shall be chaired by the Attorney General or his representative.

(4) If, for any reason, the Reserve Settlement Committee appointed under this section is unable to perform its duties, the Secretary of State may, by Notice published in the Gazette appoint another committee to act on its behalf or as its successor.

41. (1) The Secretary of State may, by Notice published in the Gazette, revoke any Notice under section 39, or section 40.

(2) Upon publication of a Notice under section 40 of this Act, the Reserve Settlement Committee shall -

Notice of enquiry

(a) immediately cause the particulars contained therein to be made known in the areas under the jurisdiction of the Area Councils or local authorities in which the land is situated by causing the same to be read and interpreted in the local vernacular in every court in the said areas under the jurisdiction of the Area Councils or local authorities, and also as far as it considers essential, by informing in writing, the Chiefs of the communities dwelling on, and the Area Councils or local authorities having jurisdiction over, the land aforesaid; and

(b) fix, and in the manner aforesaid, make known a period within which, and a place to or at which, any person or community claiming any right in or over or affecting the land which is proposed to be designated a forest park shall either send in a written statement of claims to the committee or appear before it and state orally the nature and extent of his or its alleged right.

42. (1) As soon as possible after the period fixed by the Reserve Settlement Committee under subsection (2) of section 41, it shall -

(a) inquire into and determine the limits of the land specified in the Notice published under section 40; and

(b) determine the nature and extent of any claim or alleged right affecting the land which has been preferred or brought to its notice.

Duty of Reserve Settlement Committee at enquiry.

(2) The Reserve Settlement Committee shall keep a record in writing of -

(a) any claim or alleged right;

(b) all objections which may be made to such a claim or alleged right; and

(c) any evidence in support of or in opposition to any claim or alleged right.

43. For the purpose of the inquiry, the Reserve Settlement Committee shall have all the powers conferred by law upon a Magistrate.

44. The Reserve Settlement Committee may at any time during the inquiry, join any number of claims or sever any claims joined and, in its findings, may join any number of claims or sever any claims which were formerly joined.

Reserve Settlement Committee to have judicial powers.

45. Upon the completion of the inquiry, the Reserve Settlement Committee shall submit to the Director for the consideration of the Secretary of State its findings, describing the limits of the land specified in the Notice published under section 40 and setting out all such particulars as may be necessary to define the nature, duration, incidence and extent, of any claim and alleged right referred or brought to its knowledge in respect of the land and admitting or rejecting the same wholly or in part.

Reserve Settlement Committee may join or settle claims.

Submission of Reserve Settlement Committee's findings on completion of inquiry.

46. Where the Reserve Settlement Committee has admitted wholly, or in part any right or claim and, in the opinion of the Director, the exercise of such right or claim or any part thereof would -

(i) stultify the objects of the proposed forest park;

(ii) seriously hinder the efficient working of the proposed forest park; or

(iii) cause any damage to the proposed forest park;

Rights may be extinguished or modified by the Secretary of State.

the Secretary of State may -

(a) extinguish any such rights or claims and may either give monetary compensation or grant in exchange similar rights on other similarly situated land either within or outside the final boundaries of the forest park;

(b) confine or restrict any such right or claim to certain areas either within or outside the final boundaries of the forest park or the exercise of such right to certain times of the year;

(c) make any enclave or so amend the boundaries of the proposed forest park so as to exclude from the forest park, any area over which such right or claim has been admitted;

(d) add such additional rights as he shall consider just and equitable to allow, notwithstanding that the Reserve Settlement Committee has not admitted such rights; or

(e) adopt wholly, or in part, any one or any combination of the above methods of dealing with the matter:

Provided that, in altering the external boundaries of the proposed forest park, the Secretary of State shall not include any area which lies outside the original limits set out in the Notice published in accordance with the provisions of section 40.

47. (1) The Secretary of State shall thereupon publish a Notice in the Gazette specifying -

(a) the land which is finally intended to be designated a forest park;

(b) the rights which may be exercised within the proposed forest park; and

(c) any other special conditions affecting the proposed forest park.

Notification of lands to be reserved as forest parks and rights admitted.

(2) The Notice shall be made known in the same manner as the Notice published under section 40 and to every person who, and the representative of any community which, referred any claim or in respect of which any claim was brought to the knowledge of the Reserve Settlement Committee.

48. (1) Any person who has made a claim on his own behalf or, where a claim has been made on behalf of a community, such person or the representative of that community, may, within three months of the date of publication of the Notice under section 47, appeal to the Supreme Court against that portion of the Notice which affects his claim or the claim made on behalf of the community which he represents.

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

(2) The Supreme Court may make rules in respect of appeals and may, in the rules, prescribe fees to be paid in respect of such appeals.

49. (1) After the time limit specified under section 48 for appealing to the Supreme Court has elapsed or, if there has been an appeal, after the determination of the appeal, the Secretary of State may, after taking into consideration the decision on appeal, make an Order designating as a forest park the lands in respect of which an inquiry was held.

(2) The Order shall set out: -

(a) the limits of the lands which constitute the forest park; and

Order of the Secretary of State constituting a forest park.

(b) all rights affecting the same as set out in the Notice published under section 47 or established by the court upon appeal against such Notice.

(3) The Order shall be published in the Gazette and made known in the same manner as the Notice published under section 40.

(4) From the date of the publication of the Order in the Gazette, such lands shall be a forest park.

50. (1) Any Order made under section 49 may be revised or modified by the Secretary of State and such revision or modification may be given retrospective effect.

(2) In any revision or modification made under this section, the Secretary of State may, after further inquiry if such be deemed necessary:

Revision or Modification of orders constituting a forest park.

(a) exercise the rights conferred on him under section 46;

(b) add such additional rights as he shall consider just and equitable to allow notwithstanding that such rights had not been admitted in the Notice published under section 47;

(c) provide for any two or more contiguous forest parks to be joined to form one forest park.

51. (1) Privileges in forest parks may be admitted if a written permission specifying the quantity of a defined produce is obtained from the responsible Forest Officer who shall determine the method

of harvest and the sustainable exploitation of such produces in accordance with this section;

(2) Privileges in forest parks are limited to non commercial harvest of non wood forest produce;

(3) Privileges can only be granted to persons residing in the immediate surrounding of a forest park;

Privileges admitted in forest parks

(4) Any person who fails to comply with this provision commits an offence.

52. Every right in or over land in respect of which no claim shall have been made to the Reserve Settlement Committee or of which no knowledge shall have been acquired by that Committee, shall be extinguished:

Provided that if any person shall, within one year of the date of the publication in the Gazette of the Notice under section 40, claim, and satisfy the Secretary of State that he was possessed of, a right in respect of which he might have made a claim and that, through ignorance of the fact than an inquiry was being held or for other sufficient reason, he failed to make such claim, the Secretary of State may direct that such rights -

Extinguishment and revival of rights.

(i) shall be revived;

(ii) shall be modified; or

(iii) be extinguished in accordance with the provisions of section 46 of this Act.

53. During the period between the dates of the publication under section 40 of the intention to create a forest park and of the order under section 49 designating the forest park -

no rights shall be acquired in or over the lands comprised within such Notice otherwise than by succession or under a grant or contract in writing entered into with the approval of the Secretary of State; and

No new rights to be acquired in lands to be constituted a forest

(b) no act or thing shall be done in contravention of section 111 of this Act, except that any right admitted in the Notice published under section 49 may be exercised, to the extent and in the manner described therein, by the communities or persons to whom it was admitted, without prejudice to any subsequent revision or modification as provided for in this Act.

park without approval.

54. (1) Without the consent of the Secretary of State having been first obtained, it shall be unlawful for any person or community to alienate, by sale, mortgage or transfer, any right admitted in an Order made under section 49.

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

55. (1) Any right in a forest park admitted in an Order made under section 49 and not exercised for a period of ten years shall be deemed to have been extinguished.

(2) Where another right of way is available, the Secretary of State may, by Notice in the Gazette close any right of way in a forest park.

Rights in forest parks may not be alienated without approval.

56. Notwithstanding any native law or custom to the contrary, any person, any family and the Chief or head of any community on behalf of the community, shall be entitled to enter into any agreement to grant and convey absolutely to the State any lands, and any rights in and over any lands, owned by him or it, which is proposed to designate a forest park under the provisions of this Act.

Non-exercise of rights.

57. The Secretary of State may, by Notice published in the Gazette, direct that from a date named therein, any lands or any part thereof, designated a forest park under section 49, shall cease to be a forest park or part of that park and thereupon from that date such lands shall cease to be a forest park or part of such park:

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

Lands and rights may be granted absolutely to Government.

Power to de-reserve a forest park.

PART VII. DECLARATION OF RESERVED FOREST.
CREATION OF COMMUNITY FOREST. DESIGNATION OF
COMMUNITY CONTROLLED STATE FOREST.

Secretary of State may designate community forests

58. (1) Upon a request from a community or a group of communities made under section 60, the Secretary of State may designate as a community forest, any of the following lands -

(a) forest reserves, and or;

(b) any non-forest lands in respect of which it appears to the forest committee that the forest growth on such lands should be established.

(2) The Secretary of State may, by Notice published in the Gazette, declare any such lands to be reserved forest.

Constitution of a forest committee

59. (1) Any community or communities that wishes to administer and manage a proposed community forest, shall constitute a forest committee for this purpose.

(2) The forest committee shall be responsible for: -

(a) carrying out of all the necessary procedures required to be granted ownership rights over a proposed community forest, such as:

(i) application for Preliminary Community Forestry Agreement;

(ii) obtaining the Preliminary Community Forestry Agreement; and

(iii) obtaining a Community Forest Management Agreement;

(b) general administration;

(c) information and communication with the various authorities and within the community or communities;

(d) planning and work organization;

(e) monitoring of activities;

(f) preparing and enforcing by-laws;

(g) operating and accounting for the local fund as specified in section 38 of this Act; and

(h) providing the Forestry Department with an updated list of its executive members on a yearly basis.

(3) The forest committee members shall be drawn from all interest groups forming the community or the communities and among whom, persons shall be elected to take up the responsibility of fulfilling the task specified in sub-section 2 of this section as the need may arise.

(4) The forest committee shall be duly registered with the Forestry Department upon the approval of the Preliminary Community Forest Management Agreement containing the name of the proposed community forest, the date of forest committee registration, the name of each executive member of the forest committee and their respective responsibilities.

(5) Upon compliance with the provisions of this section the Forestry Department shall issue a certificate of registration to the forest committee.

Village application for
community forest

60. (1) Any forest committee, on behalf of a community or a group of communities, may apply to obtain ownership rights over forests located on their customary lands by submitting an Application for a Preliminary Community Forest Management Agreement to the Forestry Department as specified in Schedule I and by attaching all of the following documents -

Schedule I

(a) a village resolution:

(i) authorizing the forest committee to file this application for and on behalf of the community or communities;

(ii) containing a Memorandum of Understanding by the community or communities to communally manage the specified areas and confirming that the said areas are free from any rights in and over the land;

(b) a statement from the District Chief confirming that the lands are under the authority of the said community or communities, and that the forest committee has agreed to the general rules and regulations governing the lands;

(c) a map at a scale of 1:50,000 showing the location of the forested lands and surrounding villages;

(d) a map showing the location of the proposed

community forest at a scale as specified hereunder:

(i) 1:5,000 for any forest less or equal to one hundred hectares,

(ii) 1:10,000 for any forest over one hundred hectares and less or equal to five hundred hectares,

(iii) 1:25,000 for any forest over five hundred hectares;

(e) a work plan detailing forest activities to take place for a period of three years after the approval of the Preliminary Community Forestry Agreement.

(e) the map provided under sub-section (d) of this section shall bear the stamp and signature of the district head;

61. (1) All Applications for a Preliminary Community Forest Management Agreement shall be submitted in two original copies to the Director who may approve it provided that -

(a) all the information given in the application are found to be correct;

(b) the proposed community forest boundaries are not encroaching any other reserved land or forest park;

(c) the community or group of communities are in a position to realistically manage the entire proposed community forest.

(2) Upon approval of the Application for a Preliminary Community Forest Management Agreement the Director shall retain one original copy and forward the second original to the forest committee and make copies available to the divisional commissioner, the district chief and the Divisional Forest Officer.

(3) Thereupon the Secretary of State may, by Notice published in the Gazette, declare the proposed community forest to be reserved land as specified in section 58 of this Act.

62. After the fulfillment of the provisions of sections 60 and 61 the Application for a Preliminary Community Forest Management Agreement shall be considered as a Preliminary Community Forest Management Agreement and shall immediately constitute the binding document between the forest committee of a said proposed community forest and the Government.

Submission of village application

Preliminary
Community Forest
Management
Agreement

63. (1) A Preliminary Community Forest Management Agreement shall be granted for a period of three years after which a Community Forest Management Agreement may be granted under the provisions of section 67, if the Director is satisfied that the community or communities have fulfilled the requirements stipulated in the Preliminary Community Forest Management Agreement.

Conditions under a
Preliminary
Community Forestry
Agreement

(2) Notwithstanding sub-section (1), an extension of the Preliminary Community Forest Management Agreement not exceeding two years may be granted and -

(a) within such period a Community Forest Management Agreement may be granted under the provisions of section 67, if the Director is satisfied that the community or communities have fulfilled the requirements specified in the Preliminary Community Forest Management Agreement;

(b) after such period of time and if the community or communities have not fulfilled the conditions specified in the Preliminary Community Forest Management Agreement, the Director shall withdraw the Preliminary Community Forest Management Agreement and the proposed community forest shall revert to state forest without compensation being paid to the community or communities.

64. (1) Any revenue generated by the sale of forest produce harvested in the course of forestry operations foreseen in the Preliminary Community Forest Management Agreement shall be kept entirely by the concerned forest committee.

(2) Such revenues shall be administered in accordance with section 38.

Revenues under a
Preliminary
Community Forest
Management
Agreement

65. Not later than two years after the implementation of the Preliminary Forestry Agreement, the forest committee shall clearly define the boundaries of the proposed community forest and shall, with the assistance of the Forestry Department or any qualified surveyor, redemarcate, setup visible boundary marks and produce a map at a scale as defined in paragraph (d) of section 60 of the said proposed community forest.

Demarcation of
proposed community
forest

66. (1) After due compliance with the provision of this part of the Act the Secretary of State shall thereupon publish a Notice in the Gazette specifying -

(a) the land which is finally intended to be designated a community forest;

Notification of lands to be reserved as community forests

(b) any special conditions affecting the proposed community forest.

(2) The Notice shall be made known to the concerned forest committee.

(3) Any person who is aggrieved with the contents of a notice published under sub-section (1), may within three months of the date of publication of the Notice appeal to the Supreme Court against that portion of the Notice which affects him or the community which he represents.

(4) The Supreme Court may make rules in respect of appeals and may, in the rules, prescribe fees to be paid in respect of such appeals.

67. (1) The Community Forest Management Agreement shall be signed in two original copies by the Secretary of State or the Director on behalf of the Secretary of State and the concerned forest committee.

(2) The Community Forest Management Agreement shall be in the form prescribed in Schedule II.

Community Forest Management Agreement

(3) The Director shall retain one original copy of the Community Forest Management Agreement and forward the second original to the forest committee and make copies available to the Divisional Commissioner, District Chief and the Divisional Forest Officer.

Schedule II

(4) The Community Forest Management Agreement confers on the concerned community or communities rights as specified in section 69 of this Act over the forest resources of the proposed community forest.

(5) The Community Forest Management Agreement confers on the concerned community or communities ownership rights over the designated community forest for an indefinite period of time except as provided for in section 72.

68. (1) After the time limit specified under section 66 for appealing to the Supreme Court has elapsed or, if there has been an appeal, after the determination of the appeal and after the signing of a Community Forest Management Agreement, the Secretary of State may, after taking into consideration the decision on appeal, make an Order designating as a community forest the lands in respect of which a Community Forest Management Agreement is signed.

Order of the Secretary of State constituting a community forest

(2) The Order shall set out the limits of the lands which constitute the community forest.

(3) The Order shall be published in the Gazette and made known to all the concerned communities.

(4) From the date of publication of the Order in the Gazette, such lands shall be a community forest.

(5) Every right in and over a community forest land, as defined in the Order and published in the Gazette, in respect of which no appeal shall have been made to the Supreme Court shall be extinguished.

69. Rights in community forests are those stipulated in the Community Forest Management Agreement.

70. Revenue from community forests shall be collected provided that a local fund has been previously set up as specified in sections, 36 and 38 of this Act.

Rights admitted in community forests

71. (1) Any Order made under section 68 may be revised or modified by the Secretary of State and such revision or modification may be given retrospective effect.

Local revenue collection

(2) In any revision or modification made under this section, the Secretary of State may, by publishing a Notice in the Gazette, share a community forest among the participating communities, upon the unanimous request of the committee managing this community forest, provided that: -

Power to share a community forest

(a) the following documents are submitted to the Director who may advise the Secretary of State:

(i) a resolution by the communities requesting to share the community forest among themselves and endorsed by the District Chief;

(ii) a map at a scale as specified in paragraph (d) of section 60 of this Act of the new community forests showing that their external boundaries do not alter the boundaries of the original community forest;

(iii) an area calculation showing that the cumulative

size of the newly created community forests remains equal to the original community forest;

(b) forest committees are constituted for each new community forests as specified in section 59 of this Act;

(c) the dissolution of the former forest committee has been registered with the Forestry Department.

72. The Secretary of State may, by Notice published in the Gazette, direct that from a date named therein, any lands or any part thereof, designated a community forest under section 68 shall cease to be a community forest or part of that community forest and thereupon from that date such lands shall cease to be a community forest or part of such community forest provided that: -

(a) an evaluation, as specified and foreseen in section 114, conducted by the Director, is given that the forest resources of the community forest are being depleted or endangered or not sustainably used due to inappropriate forest management by the forest committee;

Power to de-reserve a community forest

(b) such rights, if any, which may have been extinguished therein, shall not revive in consequence of the cessation;

(c) such de-reserve lands shall become state forest.

73. (1) The Director may, by a notice sent to the commissioner and the local authorities, designate a state forest to be controlled by a community or a group of communities provided that such community or group of communities are managing a community forest under a Community Forest Management Agreement and upon the submission by the concerned committee of an application.

(2) State forest controlled by communities shall be subjected to the conditions set in section 85 and 117.

Director may designate state forests Neighbouring community forests to be controlled

by communities

PART VIII. - PRIVATE FORESTS

Private plantations 74. (1) Any plantation located on privately occupied land shall be a private plantation.

(2) The forest produce and non wood forest produce found in or brought from private plantations shall be owned in full by the owner and used as he may wish provided that for the removal of such produce a permit is obtained from the nearest Forest Officer.

Procedure to acquire private natural forests 75. (1) No lands supporting a natural forest cover shall be privately occupied or leased without the prior approval of the Director.

(2) A map at a scale of 1:5,000 or 1:10,000 or any other scale as felt appropriate by the Director showing the boundary of the proposed private natural forest shall be attached to the proposal submitted to the Director.

(3) Notwithstanding the provision in any lease, customary laws and sales agreements, natural forest existing on any lands shall remain governed by the provisions of this Act.

(4) As from the date of enactment of this Act, no compensation shall be paid for any development done on any land supporting a natural forest cover which was acquired in contradiction with this Act.

Private natural forests 76. (1) Any natural forest located on privately occupied or leased land shall be a private natural forest.

(2) The forest produce and non forest produce extracted from a private natural forest under the provisions of sub-section 3 and 4 of this section shall be owned in full by the owner and used as he may wish provided that for the removal of such produce a permit is obtained from the nearest Forest Officer.

(3) The owner of a natural forest which is smaller than twenty-five hectares shall prepare a management plan at his own expense and in accordance with any Regulations made under this Act which shall be submitted to the Director for his approval.

(4) The owner of a natural forest which is larger than twenty-five hectares shall prepare at his own expense a forest inventory and a management plan in accordance with any Regulations made under this Act which shall be submitted to the Director for his

approval.

(5) No exploitation of forest produce shall be made out of a private natural forest unless the exploitation is part of an approved management plan, or of an approved amendment to the management plan thereto.

(6) No private natural forest can be converted to non-forest land without the approval of the Secretary of State.

PART IX. - DECLARATION OF WATER AND WIND EROSION AREAS AND PROTECTION FORESTS

Secretary of State may declare water or wind erosion areas.

77. The Secretary of State may, by Notice published in the Gazette, declare any lands to be water or wind erosion areas.

Secretary of State may declare protection forests

78. The Secretary of State may, by Notice published in the Gazette, declare any forest to be protection forest.

Power to make regulations

79. In relation to the lands so declared, the Secretary of State may make regulations for all or any of the following purposes -

(a) the formation of wind breaks;

(b) the retention of trees;

(c) generally for the purposes of preventing water and wind erosion.

Compensation for private plantation

80. Where such regulations as specified in section 79 affect a private plantation, adequate compensation shall be paid to any person so affected.

PART X. - ADMINISTRATION OF FORESTS

Forestry impact assessment of farming, industrial, projects and other activities in forest areas

81. (1) Where farming, industrial projects or other activities in forest areas are not assessed for their environmental impact as provided in the National Environment Management Act 1994, the developer of such activity shall be required to submit a project brief to the Director stating:

(a) the nature of the project;

- (b) the activities that shall be undertaken;
- (c) the area of forest land that may be affected;
- (d) the use of the standing trees and shrubs;
- (e) the possible products and by-products of the activities anticipated; and
- (f) any other matters that may affect the shrub and tree cover.

(2) If after considering the project brief, the Director is of the view that the proposed project will not have any adverse impact on the concerned forest or on the minimum percentage of forest specified in Section 10 of this Act, he may approve the project.

(3) If pursuant to the consideration in sub-section 2, the Director determines that the project may have an adverse impact on the concerned forest or on the minimum percentage of forest specified in Section 10, he shall -

(a) require that the developer redesign the project taking into account the recommendations of the Director;

(b) reject the proposed project if it is found incompatible with the forest policy, the forest management objectives, or the provisions of this Act and any regulations made pursuant to this Act.

(4) Failure to comply with sub-section 1 of this section shall constitute a forest offence.

Control of state, community, private natural forests.

82. The protection, control and management of state, community and private natural forests shall be directed by the Secretary of State.

Support and control of community forests

83. (1) Where required the Forestry Department shall provide technical services to forest committees for the preparation of: -

- (a) surveys and forest inventories;
- (b) management plans; and
- (c) any other forest activities as the Director may find necessary.

(2) The Forestry Department shall control and monitor the

implementation of forest management plans and forestry activities for the purpose of ensuring the conservation of the associated biodiversity and the sustainable use of community forests.

Resolution of conflicts between communities

84. (1) Any dispute arising between two or more communities about the management of a community forest shall be arbitrated by the District Chief if all communities belong to the same District or by the Commissioner if the communities belong to different districts or by the Secretary of State for Local Government if the villages belong to different Divisions and the decision of such arbitration shall be forwarded to the Director.

(2) A Forest Officer designated by the Director shall assist the authority arbitrating any conflict resolution over a community forest.

(3) Any community which is aggrieved by the outcome of an arbitration, may within three months of the date of the arbitration appeal to a magistrate and any decision made by the magistrate shall be final.

Roles of forest committees in the administration of state forests

85. Any forest committee empowered under section 73 to control a state forest, shall:

(a) protect the forest from fire;

(b) decide in collaboration with the Forestry Department the type and number of licences and permits to be issued in the said state forest;

(c) monitor the licence and permit holders during their activities in the said forest;

(d) prevent any illegal action in the said forest;

(e) administer the revenues collected from the state forest utilization as specified in section 36.

Support and control of state forests

86. (1) The Forestry Department shall provide technical advice to forest committees controlling state forests in the field of forest protection and exploitation.

(2) The Forestry Department shall control and monitor the performances of forest committees controlling state forests.

87. (1) The Forestry Department shall control and monitor any private natural forests at least once in every year.

Control of private forests

(2) Private plantations shall not be controlled or monitored by the Forestry Department except if they are likely to cause damage to any neighbouring forest or to the local environment.

Power to make regulations and prescribe penalties for contravention thereof.

88. The Secretary of State may make regulations for all or any of the following and may specify the area or areas to which all or any regulations shall apply -

(a) prohibiting or regulating the taking of forest produce or of any specified kind of forest produce on lands at the disposal of the State or on Provinces' lands or on lands under customary tenure or on free holdings;

prohibiting the sale and purchase of forest produce or any specified kind of forest produce by any persons other than the holders of licences and permits granted under this Act, or by any other persons or by any classes of persons specified in the regulations;

(c) prohibiting the sale, purchase and possession of forest produce taken, collected or prepared in contravention of this Act;

(d) prohibiting the destruction of, or any act which may tend to the destruction of or cause injury to, any forest produce or forest growth or forest property or wildlife in any forest park or on lands at the disposal of the Government or on Provinces' lands or communal lands;

(e) regulating the kindling of fires for any purpose within a protected forest or a reserved forest or a forest park, and prescribing the person who may declare the period during which fires may or may not be allowed for any purpose;

(f) regulating the kindling and suppression of bush fires in all lands and prescribing the persons who may declare the period during which fires may or may not be allowed;

(g) regulating the grant, issue of and prescribing the form that any licence or permits may take in any particular case -

to take forest produce in forest parks or lands at the disposal of the Government;

(ii) to sell or purchase forest produce;

(iii) to erect or operate sawmills or other manufacturing plant using wood as a raw material;

(h) prescribing the procedure for fixing and making known to the public the fees to be paid on the application for, and the grant of, any licence or permit and the royalties and fees to be paid by the holders thereof;

(i) prescribing the persons who may declare any specified kind of tree to be a protected tree and any specified kind of non wood forest produce to be protected non wood forest produce under this Act, and the procedure thereof;

(j) providing for, and imposing conditions in respect of the collection, payment and disposal of fees, royalties, tools and costs of survey and demarcation;

(k) providing for the cancellation, forfeiture, termination or revocation of licences and permits;

(l) providing for the remission or reduction by a forest officer of any royalty, fees or tolls charged or payable under the provision of this Act;

(m) requiring the holders of licences and permits to render returns and accounts and to submit their books for inspection;

(n) regulating the collection, preparation and taking of forest produce;

(o) prescribing the procedures for the sale of forest produce from community forests;

(p) regulating the transit of forest produce by land and water or by different means and classes of transport;

(q) providing for the examination, marking, reporting or stoppage of timber or other forest produce in transit;

(r) providing for the establishment, management or control of checking stations to which timber or other forest produce shall be taken for examination by those in charge of it; and the conditions under which such timber or other forest produce shall be brought to, stored at or removed from the checking stations;

providing for the inventories, management, utilization and protection of all forests except private plantations;

prescribing the powers and duties of forest officers and providing for the maintenance of discipline;

regulating the export and the import of forest produce or of any specified kind of forest produce;

generally for the more effectual carrying out of all or any of the provisions of this Act.

(2) The Secretary of State may make Regulations amending the Schedules to this Act.

89. (1) Forest committees may make by-laws for their respective community forest.

(2) By-laws shall not be in contradiction with the provisions of this Act or of any Regulations made hereunder.

Where by-laws are made a copy of the by-laws shall be made available to the District Chief.

90. Forest committees and private forest owners shall be exempted from paying fees for licences or permits for forest produce collected from their own community forest or private forest.

Forest committees to
make by-laws

Exemption of licence
and permit fees

PART XI. - MANAGEMENT OF FORESTS

National forest
inventory

91. (1) The Forestry Department shall prepare and conduct a national forest inventory every ten years according to the modalities set by the Secretary of State.

The realization of the inventory is the responsibility of the Director who can however subcontract the work to a specialized and competent organization.

| | |
|--|--|
| National Forestry Action Program | 92. The Director shall prepare a ten year national forestry action program to conserve and develop forest resources which shall be based on the results of the National Forest Inventory. |
| Inventory in forest parks | 93. For the management of a forest park a forest inventory shall be conducted by the Forestry Department in accordance with any Regulations made under this Act. |
| Inventory in community forests | 94. A forest inventory shall be realized in each community forest by a forest committee as specified in any Regulations made under this Act and with the technical support of the Forestry Department. |
| Inventory in private natural forests | 95. A forest inventory shall be realized in a private natural forest which is larger than twenty-five hectares by the owner who may hire the services of the Forestry Department or an organization approved by the Forestry Department as may be specified in any Regulations to be made under this Act. |
| Management plans for forest parks | 96. (1) The Forestry Department shall establish a forest management plan for each forest park as specified in any Regulations made under this Act. (2) Any modification or amendments to a management plan shall be submitted for approval to the Director. |
| Management plans for community forests | 97. (1) A forest committee shall establish a management plan for the community forest for which it is responsible, and may in so doing seek technical assistance from the Forestry Department or any other organization approved by the Forestry Department. (2) No felling of live trees or commercial utilization of forest produces shall take place unless they are foreseen in a management plan approved by the Director. |
| Management of forest reserves | 98. Management activities in forest reserves, and in the community controlled state forests, shall be in accordance with a plan of operations which shall be prepared annually by each forest division for all forest reserves under their jurisdiction. |
| Management plans for private natural forests | 99. (1) The owner of a private natural forest which is larger than twenty five hectares shall prepare a management plan for his forest and may in so doing, seek technical assistance from the Forestry Department or any other organization approved by the Forestry Department. |

(2) The owner of a private natural forest shall not fell live trees or engage in any commercial utilization of forest produce unless these activities are provided for in a management plan approved by the Director.

Exploited areas to be regenerated

100. Any forest clearing made in any forest, except in a private plantation, shall be satisfactorily regenerated according to the criteria set in any Regulations made under this Act either naturally or artificially, within a period of two years after the clearing.

Conversion of natural forests into plantations

101. (1) Any proposed conversion of a natural forest into a plantation shall be assessed under the provisions specified in section 81.

(2) The Secretary of State may authorize the conversion if the Director, after having ordered a forestry impact assessment, finds that such conversion will have no adverse impact on the forestry sector and on biodiversity.

(3) Any conversion realized without the approval of the Secretary of State shall constitute a forest offence.

PART XII. - OFFENCES AND LEGAL PROCEEDINGS

Penalty Classes
Schedule III

102. (1) There shall be five penalty classes under this Act which are prescribed in schedule III and any person who is found guilty of an offence under this Act or any Regulations made hereunder shall, unless otherwise provided be punished in accordance with the penalties prescribed in Schedule III.

(2) Notwithstanding subsection (1), any person who is found guilty of an offence under this Act or any Regulations made hereunder for which no penalty or class of penalty is prescribed shall be liable to a fine not exceeding a penalty of class V or to a term of imprisonment not exceeding three years or to both such fine and imprisonment.

Inspection of forest produce.

103. A Forest Officer, Divisional Commissioner, or police officer may stop any vehicle, vessel or craft engaged in transporting or moving any forest produce on any road or inland waterway for the

purpose of inspecting the produce.

Seizure of forest produce.

104. (1) Any Forest Officer, Divisional Commissioner or police officer not below the rank of a Sergeant may himself, or by any person acting under his directions, seize any forest produce suspected of having been unlawfully obtained or being unlawfully removed and any instrument or thing reasonably suspected of having been used in the commission of any offence under this Act.

(2) No action shall be brought against any person, in respect of any deterioration in quality or value of any forest produce, instrument, processing equipment or vehicle seized in accordance with the provisions of subsection (1) of this section.

Where the forest produce is abandoned or where the person suspected of having committed the offence in respect of which forest produce has been seized has absconded after the seizure, the forest produce should be handed over to the Divisional Forest Officer who, after obtaining an order of a Magistrate, may -

(a) sell such forest produce and pay the proceeds as specified in section 8 after deducting the expenses of the sale and payment of compensation under the provisions of paragraph (f) of section 119;

(b) allocate such forest produce to the use of the Government; or

destroy such forest produce when necessary.

Burden of proof

105. The burden of proving that any forest produce has not been taken in contravention of this Act shall lie upon the person in whose possession it is found.

Arrest of suspected person.

106. Any Forest Officer, Divisional Commissioner or police officer may arrest any person who may be reasonably suspected of having committed any offence under this Act, if such person refuses to give his name or address or gives a name or address which is believed to be false, or if there is reason to believe that he will abscond:

Provided that any person so arrested shall be taken to the nearest Police Station without unnecessary delay and shall be taken before a court within forty-eight hours.

Offences in respect of property and boundary marks.

107. Any person who:

(a) forges or fraudulently uses, or aids or abets any person to forge or fraudulently use, any registered hammer or hammer mark or any mark used for denoting the ownership of any forest produce, or any other mark used by the Forestry Department in connection with the administration of the provisions of this Act; or

(b) alters, removes, destroys or defaces any such mark placed on forest produce or any boundary mark of a forest or of any lands proposed to be included in a forest, shall be liable to a penalty of class II.

Charcoal production prohibited.

108. (1) The production of charcoal in any part of The Gambia is prohibited.

(2) Any person who acts in contravention of subsection (1) commits an offence and shall be liable to a penalty of class IV.

Offences in forest park.

109. (1) Whoever, in a forest park, except with the authority in writing of an officer not below the rank of Divisional Forest Officer or a Forest Officer mandated by the Divisional Forest Officer:

(a) takes any forest produce;

(b) uproots, burns, strips off the bark or leaves from or otherwise damages any tree;

(c) sets fire to any grass or herbage, or kindles a fire;

(d) smokes or lights a fire in any part of a forest park within which, or at a time when, smoking or the lighting of fires is prohibited;

(e) pastures cattle or permits cattle to trespass;

(f) digs, cuts, or turns or cultivates the soil or makes a farm or plantation;

(g) trespasses in any part of a forest park;

(h) constructs any dam or weir across any river or stream or otherwise obstructs the channel of any river or stream;

(i) resides in or erects any building;

(j) hunts or fishes;

(k) damages, in any way, or destroys any forest property;

commits an offence and shall be liable to a penalty of class I for offences cited in (b), (e) and (g), of class II for offences cited in (i) and (j), of class III for offences cited in (a) and (h), of class IV for offences cited in (k), and of class V for offences cited in (c), (d) and (f), in addition thereto, may be required by the court to pay a sum equivalent to the fees and royalties payable on any forest produce removed or damaged and also such amount, if any, as the court may consider just as a compensation for any damage done:

Schedule III

Provided that on a second or subsequent conviction, the offender shall be ordered to pay double the fine imposed by this section and to a term of imprisonment not exceeding three years.

(2) The felling of any live trees in a forest park is prohibited except for the establishment of fire breaks and roads or where it has been provided for in an approved management plan.

Exercise of rights in forest parks.

110. Nothing in the preceding section shall prohibit the exercise by any person or community, of any right in a forest park, if such right has been recognized in the Order constituting such forest park, except such right be restricted in accordance with other provisions of this Act.

Offences in protected, protection or in Reserved forest.

111. Whoever, in a protected forest, a protection forest or a reserved forest within forest reserves, except with the authority in writing of a Forest Officer not below the rank of a Divisional Forest Officer, does any act or thing prohibited in a forest park by section 109, shall be liable on summary conviction to the same penalties stipulated under that section.

Offences in community forests

112. (1) Whoever, in a community forest, except with the permission of the forest committee and in the cases of paragraphs (f), (g) and (h) with the approval of the Director:

(a) damages, in any way, or destroys any forest property;

(b) takes any forest produce;

(c) uproots, burns, strips off the bark or leaves from or otherwise damages any tree;

(d) sets fire to any grass or herbage, or kindles a fire;

(e) smokes or lights a fire in any part of a community

forest within which, or at a time when, smoking or the lighting of fires is prohibited;

(f) digs, cuts, turns, cultivates the soil or makes a farm or plantation;

(g) constructs any dam or weir across any river or stream or otherwise obstructs the channel of any river or stream;

(h) resides in or erects any building;

commits an offence and shall be liable on summary conviction to a penalty of class I for offences cited in (c), of class II for offences cited in (h), of class III for offences cited in (b) and (g), of class IV for offences cited in (a), and of class V for offences cited in (d), (e) and (f), and in addition thereto, may be required by the court to pay a sum equivalent to the fees specified in the by-laws payable on any forest produce removed or damaged and also such amount, if any, as the court may consider just as a compensation for any damage done:

Provided that on a second or subsequent conviction, the offender shall be ordered to pay double the fine imposed by this section and to a term of imprisonment not exceeding three years.

(2) Notwithstanding sub-section (1) no permission for approval shall be granted by the forest committee or the Director for the purposes of paragraph (a) thereof.

(3) The court may decide that the products which have been unlawfully removed from a community forest shall be sold or handed over to the forest committee.

(4) The proceeds of such fines or sales of confiscated products as provided in sub-sections (1) and (3) of this section shall be paid into the local fund and the Fund under the provisions of section 36 of this Act.

Compensations may be required from communities

113. (1) Notwithstanding section 112 of this Act any forest committee which: -

(a) does not implement the management plan;

sets uncontrolled fires or does not prevent fires from burning the

community forest;

(c) authorizes or tolerates a forest clearing in the community forest;

(d) erects or let erect any building in the community forest;

(e) damages, in any way, or destroy any forest products;

(f) does not administer the local fund in accordance with the provisions of this Act;

commits an offence and shall be liable on summary conviction to pay a sum equivalent to the damages done or to a penalty of a class to be determined by the court, and in addition thereto, may be required by the court to accomplish some forestry work to compensate any damage done.

(2) The proceeds of such fines as provided in sub-section 1 of this section shall be paid in accordance with section 8 of this Act.

(3) The court may require the involved community or communities to reconstitute a new forest committee.

Secretary of State may revoke community forestry rights

114. (1) Where a forest committee has been convicted under section 113 for more than three times within a period of one year or the damages for which it has been convicted are found to deplete or to endanger the community forest, the Secretary of State may instruct the Director to conduct an evaluation of the forest committee.

(2) The Director may order the Divisional Forest Officer or any qualified Forest Officer to conduct the evaluation which shall consist of:

(a) the date of community forest designation;

(b) the location, size of community forest, name of involved communities;

(c) the history of forest committee achievements in forest management;

(d) a list and description of any offences, fines, penalties since the designation of community forest;

(e) a technical report on the present condition of the

community forest;

(f) an evaluation of forest committee responsibilities;

(g) a copy of the order of the District Chief, or of the Commissioner, or of the Secretary of State for Local Government arising from any arbitration under section 84, and

(h) the recommendations.

(3) Upon receipt of the evaluation report, the Secretary of State may revoke fully or partly community forestry rights of a designated community forest under section 68 of this Act by de-reserving a community forest or a part thereof under the provisions of sections 72.

Exercise of rights in
community forest

115. Nothing in the preceding section shall prohibit the exercise by any person or community, of any right in a community forest, if such right has been recognized in the Order constituting such community forest or under the provisions of section 68, except where such rights are restricted in accordance with other provisions of this Act.

Offences in forest
reserves

116. Whoever, in a forest reserve, except with the authority in writing of an officer not below the rank of Divisional Forestry Officer or a Forest Officer mandated by him:

(a) takes any forest produce;

(b) uproots, burns, strips off the bark or leaves from or otherwise damages any tree;

(c) sets fire to any grass or herbage, or kindles a fire;

(d) smokes or lights a fire in any part of a state forest within which, or at a time when, smoking or the lighting of fires is prohibited;

(e) digs, cuts, or turns or cultivates the soil or makes a farm or plantation;

(f) constructs any dam or weir across any river or stream or otherwise obstructs the channel of any river or stream;

(g) resides in or erects any building;

(h) damages, in any way, or destroys any forest property;

commits an offence and shall be liable on summary conviction to a penalty of class I for offences cited in (b), of class II for offences cited in (g), of class III for offences cited in (a) and (f), of class IV for offences cited in (h), and of class V for offences cited in (c), (d) and (e), and in addition thereto, may be required by the court to pay a sum equivalent to the fees and royalties payable on any forest produce removed or damaged and also such amount, if any, as the court may consider just as a compensation for any damage done:

Provided that on a second or subsequent conviction, the offender shall be ordered to pay double the fine imposed by this section and to a term of imprisonment not exceeding three years.

Director may revoke responsibilities and rights in community controlled state forest

117. The Director may, in consultation with the Department of State responsible for Forestry, send a notice to the commissioner and the local authorities, at any time to revoke the responsibilities and the rights of any forest committee over a state forest where the forest committee fails to protect the state forest from fire and illegal activities.

Offences in private natural forest

118. (1) Whoever, in a private natural forest, except with the permission of the owner and in case of paragraphs (f), (g) and (h) with the approval of the Director:

(a) damages, in any way, or destroys any forest property;

(b) takes any forest produce;

(c) uproots, burns, strips off the bark or leaves from or otherwise damages any tree;

(d) sets fire to any grass or herbage, or kindles a fire;

(e) smokes or lights a fire in any part of a private natural forest within which, or at a time when, smoking or the lighting of fires is prohibited;

(f) digs, cuts, or turns or cultivates the soil or makes a farm or plantation;

(g) constructs any dam or weir across any river or stream or otherwise obstructs the channel of any river or stream;

(h) resides in or erects any building;

commits an offence and shall be liable on summary conviction to a penalty of class I for offences cited in (c), of class II for offences cited in (h), of class III for offences cited in (b) and (g), of class IV for offences cited in (a), and of class V for offences cited in (d), (e) and (f), and in addition thereto, may be required by the court to pay to the owner such amount, if any, as the court may consider just as a compensation for any damage done.

(2) Notwithstanding subsection (1) no permission or approval shall be granted by the owner or the Director for the purposes of paragraph (a) thereof.

(3) Any owner of a private natural forest who does any act or thing contrary to the management plan established for such a private natural forest commits an offence and shall be liable on summary conviction to a penalty of class V for the non-observance of the management plan and to a penalty of class IV if the action done on his property has damaged the neighbouring forests and also such amount, if any, as the court may consider just as a compensation for any damage done.

119. In addition to any penalty imposed for an offence against the provisions of this Act or any regulations made hereunder, the court may order -

Additional penalties.

(a) the forfeiture and the disposal by the Forestry Department of any instrument or processing equipment or vehicle with which the offence was committed;

(b) the forfeiture and the disposal by-

(i) the Forestry Department of any forest produce originating from state forests,

(ii) the forest committee of any forest produce originating from a community forest,

(iii) the owner of any forest produce originating from a private forest,

(c) the destruction of any farm or plantation made in contravention of section 109 in a forest park or of section 112 in a community forest or of section 118 in a private natural forest, or, on the application of the Secretary of State, that the produce of the farm or plantation be confiscated and thereafter disposed of in accordance with the discretion of the Secretary of State;

- (d) the cancellation of any licence or permit held under this Act;
- (e) that, where no licence or permit has been taken out and the offender should have taken out a licence or permit, a sum equal to the amount of the fees and royalties that should have been paid in respect of the licence or permit be paid to the authority or person who would otherwise have been entitled to such a fee or royalty; or
- (f) that a portion, not exceeding one half, of any amount realized from the sale of a confiscated produce may be paid to any person or persons on whose information the offence was detected and proved.

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

Presumption of ownership of forest produce.

PART XIII. - REPEAL AND SAVING

121. (1) The Forest Act, 1977, is hereby repealed.

(2) Notwithstanding sub-section (1) all existing forest parks and community forests and all reserved forests at the time of the coming into force of this Act shall be deemed to have been designated under and in accordance with the provisions of this Act.

Repeal of the Forest Act and saving as to existing forest parks and community forests.

122. Where there is any inconsistency or contradiction between this Act and any other enactment relating to the designation, reservation, de-reservation, or the general administration of any forest or forest land, this Act shall prevail.

Act to prevail over all forest matters.