THE FOREST ACT, 2002

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SCHEDULES

No. ~~14~~ OF 2002
14

I ASSENT,
Benjamin W. Mkapa
President
4th June, 2002.

An Act to provide for the Management of forests, to repeal certain laws relating to forests and for related matters.

[.....]

ENACTED by the Parliament of the United Republic of Tanzania

PART I

PRELIMINARY PROVISIONS

Short title and commencement

1.-(1) This Act may be cited as the Forest Act, 2002.

(2) This Act shall come into operation on such date as the Minister may, by notice published in the *Gazette* appoint.

(3) The Minister may appoint different dates for the commencement of different parts or provisions of this Act.

Interpretation

2. In this Act, unless the context requires otherwise -

"authorised officer" means any forest officer or other officers or person authorised in writing by the Minister or Director to exercise any power or to discharge any duty under this Act or any subsidiary legislation made under this Act;

"chief executive officer" means the chief officer of the administrative, professional and technical services of a local authority by whatever name called;

"Committee" means the National Forestry Advisory Committee;

"community forest reserve" means a forest reserve established as a community forest reserve under the provisions of Part V of this Act;

"declared village land forest reserve" means an area of village land declared to be a village land forest reserve under subsection (2) of section 32 or section 33 of this Act;

"Director" means the person for the time being exercising the functions of the Director of Forestry;

"Division" means the Division responsible for Forestry matters;

"domestic user permit" means a permit granted to a villager by a village council managing a village land forest to enter the village forest and take away and use timber and other forest produce for domestic purposes;

Act No. 30 of 1997

"Executive Agency" has the meaning ascribed to it by the Executive Agencies Act, 1997;

"existing rights" means the rights determined by the Minister or a local authority to be existing rights under subsection (9) of section 24 of this Act and shall be taken to include all such incidental, ancillary, subsidiary and derivative rights and interests as are necessary to enable the existing rights to be enjoyed and exercised;

"export certificate" means an export certificate issued under section 58 of this Act;

"firewood" includes parts of trees made up into bundles or loads, or cut up in a manner in which it is usual to cut wood for burning and refuse wood generally, but does not include sound straight timber logs or poles of any kind;

"forest" means an area of land with at least 10% tree crown cover, naturally grown or planted and or 50% or more shrub and tree regeneration cover and includes all forest reserves of whatever kind declared or gazetted under this Act and all plantations;

"forestry dedication covenant" means the covenant referred to in section 19 of this Act;

"forest management plan" means the plans referred to in section 11 of this Act;

"forest produce" means anything which is produced by or from trees or grows in a forest or is naturally found in a forest and includes bam

boos, bark, bast, branchwood, canes, charcoal, earth, fibres, firewood, fruits, galls, gums, honey, latex, laths, leaves, litter, natural varnish, peat, plants. Poles, reads, resin, roots, rushes, sap, sawdust, seeds, slabs, timber, trees, thatch, wattles, wax, wild silk, withies, wood shes, wood oil, and any other living or inanimate object declared by notice in the *Gazette* to be forest produce for purposes of this Act;

"forest resources" means forest and forest produce;

"forestry officer" means an officer appointed under this Act to exercise any of the functions allocated to a forestry officer by this Act;

"Fund" means the Tanzania Forest Fund established by section 80 of this Act;

"gazetted village land forest reserve" means a declared village land forest reserve gazetted under section 35 of this Act;

"general land" has the meaning ascribed to it by the Land Act, 1999;"

"grader" means a person authorised by the Director to be a grader under section 62 of this Act;

"graded timber" means timber graded and marked or passed unmarked in accordance with the provisions of this Act and any regulations made thereunder;

"Group" means a community forest management group established under section 42 or recognised under section 43 of this Act;

"holder of a right of occupancy" means holder of a right of occupancy described under the Village Land Act, 1999 and the Land Act, 1999.

"inspector" means a person authorised by the Director to be an inspector under section 60 of this Act;

"investigator" means an investigator appointed under section 24 of this Act;

"joint management agreement" means the agreement referred to in section 13 of this Act;

"livestock" means cattle, horses, donkeys, mules, pigs, sheep, goats and camels;

"Licensing officer" means an officer empowered to issue licence under this Act;

"local authority" means a district authority or an urban authority;

"local authority forest reserve" means a forest reserve declared under section 22 of this Act to be a local authority forest reserve;

"local user zone" means the local user zones referred to in paragraph (d) of section 11 of this Act;

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

"Minister" means the minister for the time being responsible for forests;

"Ministry" means the ministry for the time being responsible for forests;

"national forest reserve" means a forest reserve declared under section 22 of this Act to be a national forest reserve;

"new right" means a right declared to be a new right under section 25 of this Act;

"notice of intention" means a notice referred to in section 23;

"permit" means a permit issued pursuant to the provisions of Part VII of this Act;

"plantation" means a forest of not less than five hectares which has been planted and is developed and managed by human agency;

"private forests" means the forests referred to in Part IV of this Act and includes a plantation;

"research permit" means a research permit issued under the provisions of this Act to undertake research in a forest reserve or in connection with protected wild plants and protected wild animals;

"reserved tree" means a tree reserved under section 65 of this Act;

"right of occupancy" means a title to the use and occupation of land and includes the title of a Tanzanian citizen of African descent or a community of Tanzanian citizens of African descent using or occupying land in accordance with customary law;

"sensitive area" means
(a) catchment area;
(b) an area reknown for its high bio-diversity;
(c) mangrove area;

"stop order" means an order made under section 57 of this Act;

"timber" means any wood or tree which has falled or has been felled or cut off and all wood whether unsawn, hewn, sawn or machined, split, or otherwise cut up or fashioned and shall include lumber, flooring strips, shingles, and sleepers but does not include any article manufactured from such wood or firewood;

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

"Trustees" means the Trustees of the Tanzania Forest Fund appointed under section 79 of this Act;

"village assembly" means in relation to a village, the village assembly of that village;

"village council" means in relation to a village, the village council of that village;

"village forest management area" means the area established in accordance with the provisions of section 39 of this Act;

"village land forest reserve" means a forest reserve declared under sections 32 and 23 or gazetted under section 35 of this Act;

PART II

THE OBJECTIVES OF THIS ACT AND ITS ADMINISTRATION

The objectives

3. The objectives of this Act are -

(a) to promote, to enhance the contribution of the forest sector to the sustainable development of Tanzania and the conservation and management of natural resources for the benefit of present and future generations.

(b) to encourage and facilitate the active participation of the citizen in the sustainable planning, management, use and conservation of forest resources through the development of individual

and community rights, whether derived from customary law or under this Act, to use and manage forest resources;

(c) to ensure ecosystem stability through conservation of forest biodiversity, water catchments and soil fertility;

(d) to delegate responsibility for management of forest resources to the lowest possible level of local management consistent with the furtherance of national policies;

(e) to ensure the sustainable supply of forest products and services by maintaining sufficient forest area under efficient, effective and economical management;

(f) to enhance the quality and improve the marketability of forest products and regulate their export;

(g) to promote coordination and cooperation between the forest sector and other agencies and bodies in the public and private sectors in respect of the management of the natural resources of Tanzania;

(h) to facilitate greater public awareness of the cultural, economic and social benefits for conserving and increasing sustainable forest cover by developing programmes in training, research and public education;

(i) to enable Tanzania to pay, fully in contributing towards and benefiting from international efforts and measures to protect and enhance global bio-diversity.

Types of forests

4. There are hereby classified types of forests as follows -

(a) National forests reserve which consists of:

(i) forest reserves; or

(ii) nature forests reserves;

which are designated in accordance with the provisions of Part VI; and

(iii) forests on general land;

(b) local authority forests reserve which consist of :

(i) local authority forest reserves;

(ii) forests on general land;

(c) village forests which consist of :

(i) village land forest reserves;

(ii) community forest reserves created out of village forests;

(iii) forests which are not reserved which are on village land and of which the management is vested in the village council;

(d) private forests which are:

(i) forests on village land held by one or more individuals under a customary right of occupancy;

(ii) forests on general or village land of which the rights of occupancy or a lease has been granted to a person or persons or a partnership or a corporate body or a Non-Governmental Organisation or any other body or organisation for the purpose of managing the forest which is required to be carried out in accordance with this Act.

Responsibilities of the Minister and functions of the Director

5.–(1) The Minister shall be responsible for policy formulation and for ensuring the execution by officials in the Ministry such functions connected with the implementation of this Act.

(2) There shall be appointed by the President a Director of Forestry who shall be an officer in the public service.

(3) The Director shall be the adviser to the Government on all matters of management of forests.

(4) Where the Director is required or empowered by this Act to make a determination affecting or likely to affect the rights of any person or the opportunity for any person to undertake any activities shall, give that person reasons for such decision.

Appointment and functions of officers

6.–(1) There shall be appointed such officers who shall have the duty to ensure the efficient, effective and economical management and supervision of forests in accordance with the provisions of this Act.

(2) Officers appointed under this section shall be allocated or delegated such functions and shall be located in such offices or institutions as the Director shall consider that will contribute to the proper management of forests.

(3) Subject to the provisions of subsection (2) the Director shall appoint the following -

(a) licensing and registration officers;
(b) enforcement officers;
(c) inspectors exercising such functions of inspection as may be provided by this Act or as specified by the director.

(3) Officers appointed under this section shall be answerable to the Director.

(4) The Director may, by notice published in the *Gazette,* designate any person to be an authorised officer for the purpose of all or any provisions of this Act.

(5) The Director shall, by order published in the *Gazette* and subject to such qualifications or exemptions as may be prescribed therein, delegate to such public officer, local authority officer, the exercise or performance of any of the functions conferred or imposed on him by this Act.

(6) Nothing in this section shall be taken to prevent any local authority from appointing such qualified officers as it considers necessary to enable it to discharge such functions as are vested in it or allocated to it by and under this Act.

Information to members of the public

7. The Director and all officers appointed under this Act may, where it is appropriate to do so, provide and disseminate information and guidance, in writing by order or notice to members of the public in connection with the implementation of this Act.

Relations between the Ministry, local authorities and forest management authorities

8.–(1) The Director shall use his best endeavours to ensure that all local government authorities and associations of local authorities and other forest management authorities are consulted and kept informed about the management of forests under this Act and any other written laws related to the management of forests.

(2) Where there is any conflict between the local authority management plan applicable to a local authority forest reserve or other local authority policy applicable to any forest managed by that local authority, the Director and the relevant officers and members of that local

authority shall consult together and use their best endeavours to reconcile any such variances, but where after such consultations, any variances remain, the management plan or other local policy shall prevail over any such directive or circular.

(3) Where the Director is of the opinion that an officer exercising functions under this Act is failing to exercise those functions in accordance with an approved forest management plan made for a local authority forest reserve, or in accordance with the terms and conditions of any joint management or other agreement under which that local authority or other forest management authority is managing that forest or, where such national criteria and indicators or any such agreement is not in existence, in accordance with accepted principles of good forest management or good administration, the Director may -

(a) serve a notice on that local authority or other forest management authority requiring that local authority or other forest management authority to take the steps specified in that notice within the time specified in the notice to rectify and improve its management of the forest under its jurisdiction; or

(b) serve a notice on that local authority or other forest management authority requiring that local authority or other forest management authority to show cause, within the time specified in that notice, as to why the Director should not:

(i) take over and exercise such functions of management of the forest for such period of time as may be specified in the notice; or

(ii) transfer such functions of management of the forest to some other authority or person for such period of time as may be specified in the notice; and

(c) request that local authority or other forest management authority, to appear before such local authority or other forest management authority personally or by his representative for the purpose of making representations; and

(d) where, in this opinion, the local authority or other forest management authority has failed to show cause as required under paragraph (b) prepared and submit a report with recommendations to the Minister on the mismanagement of forest management functions by such local authority or other forest management authority and what action should be taken thereon.

(4) Where the Minister after considering the report from the Director referred to in paragraph (d) of subsection (3) is satisfied that, owing to the mismanagement, as described by any local authority or other forest management authority of any of its functions in relation to a forest where it is exercising any management functions and it is in the public interest that such local authority or other forest management authority shall cease to exercise all or any management functions within the said forest the Minister shall consult with the Minister responsible for local authorities.

(5) The Minister responsible for local authorities after considering the report submitted to him, shall-

Act No.7 of 1982 and 8 of 1982

(a) invoke his powers provided under section 169 of the Local Government (District Authorities) Act, 1982 or section 71 of the Local Government (Urban Authorities) Act, 1982;

(b) direct the Director, other local authority or any person after consultation with the Minister to manage such forest.

(6) The Director or other authority or person shall manage any local authority reserve which he or it is directed to manage under the provisions of subsection (4) on behalf of and for the benefit of the people within the jurisdiction of the local authority whose functions have been taken over by the Director or transferred to some other authority or person and the net profits of management (if any) shall, after deduction of the costs of management and development, be deemed to be part of the revenue of the said local authority, which shall likewise bear any loss incurred.

(7) For purposes of this section, a local authority shall be taken to include a village council and any committee established or charged with the duty by a village council to manage a village land forest reserve.

Conflict of interest

9.-(1) Where any matter concerning the management of a forest in which any officer exercising functions under this Act or any member of his immediate family has an interest is allocated to, referred to or otherwise comes to that officer for his advice, assistance or decision, that officer shall not exercise any functions under this Act in respect of that forest.

(2) Where the officer referred to in subsection (1) is the Director, he shall declare his interest in writing to the Minister, and where the officer referred to in subsection (1) is an officer appointed under section 6, shall declare his interest in writing to the Director.

(3) Where any forest is advertised or offered for a concessin the functions of management and exploitation of a forest are advertised and tenders are invited in pursuance of any provision of this Act or of any other written laws, any officer exercising functions under this Act who wishes to apply for a concession or bid or submit a tender or who has notice that any member of his immediate family wishes to apply or submit a tender shall forthwith, inform the Minister, and if he is any officer appointed under section 6, inform the Director.

Establishment of the National Forestry Advisory Committee

10.–(1) There is hereby established a National Forestry Advisory Committee, whose members shall be appointed by the Minister.

(2) In appointing members to the Committee, the Minister shall -

(a) appoint persons who possess the necessary expertise, qualifications and interest in all aspects of forest management and the marketing of forest produce;

(b) ensure gender balance;

(c) include persons who are not in the public service, one of them shall be a person representing local authorities.

(3) The procedures of the committee shall be as provided for in the First Schedule to this Act.

(4) The functions of the Committee shall be to advise the Minister on–

(a) matters relating to issuance of concession and conditions as provided for under section 20(11) of this Act;

(b) matters relating to declaration of a forest reserve as provided under section 23(6) of this Act;

(c) matters relating to the management of forest reserve as provided under section 27(5) of this Act;

(d) review of the forest policy;

(e) any other matter, which the Minister may specify.

(5) Any report by the Committee shall be made available to the public.

(6) The Minister shall include in a report, a committee's implementation report which shall be included in an annual performance report on the work of the Ministry taking into account:

(a) a statement on the number of matters which have been referred to the Committee;

(b) the number of issues which he is required to submit to the Committee; and

(c) the number of matters which he has acted upon in accordance with the provisions of this Act.

PART III

MANAGEMENT PLANS

Forest management plans

11.–(1) A forest management plan shall be either of-

(a) an outline of forest management plan;

(b) a detailed forest management plan;

(c) a village forest management plan; or

(d) a private forest management plan.

(2) A forest management plan shall define the management objectives by which the forest manager shall use its best endeavours to achieve the sustainable management of the forest resources over the period for which the plan has been prepared.

(3) Without prejudice to the generality of the foregoing, and having regard to the nature and status of the forest and the resources available and subject to subsection (1) the forest management plan may contain-

(a) a description, to the best of existing knowledge, of the biological, environmental, economic geological and cultural resources of the forest, the uses made of those resources;

(b) a statement of the economic, environmental and social objectives to be achieved in the management of the forest;

(c) a description of the surrounding areas and villages therein and their interaction with the forest;

(d) a description of the areas of land within the forest reserve in which it is proposed to establish local user zones to facilitate local communities who obtains benefits from the forest reserve;

(e) any existing user rights such local communities may have set out the manner and form in which it is proposed to establish any such zones.

(f) a description of the local communities residing in the vicinity of the forest and their relationship to the forest, including their practices and customs regulating and governing their use of the resources of the forest;

(g) in respect of forests other than village land forest reserves, an outline of the manner, form and content of a scheme for the involvement of the communities described in paragraph (d) in the use and management of the communities described in (d) in the use of the resources of the forest and of any local user zone, including any benefits that may be made available to such communities where direct involvement in use and management may not be appropriate;

(h) provisions regulating the commercial exploitation of the resources of the forest including any provisions regarding afforestation and reforestation;

(i) provisions directed to the conservation and preservation of the resources of the forest, including wild animals and wild plants;

(j) proposals for the zoning of the forest to facilitate the use of specific parts of the forest for specific purposes and a description of those purposes and how it is proposed that the zones will be managed;

(k) an outline of the estimates of the financial and human resources needed to implement the management plan and the proposals for charges and fees which may be made for access to or use of the forest and the produce of the forest and for the division of the resources so generated by such charges and fees between the various authorities and persons likely to be involved in the management of the forest;

(l) such other matters as may be prescribed.

(4) A forest management plan shall be prepared in respect of each forest reserve and private forest.

Outline of the forest management plans

12.–(1) Where, the Minister is minded to declare an area of forest to be a national forest reserve or, as the case may be, a local authority forest reserve, there shall be prepared an outline forest management plan which shall contain a brief statement that shall assist the Minister to make an informed judgement on whether a national or, as the case may be, a local authority forest reserve shall be declared.

(2) In the preparation of an outline forest management plan, regard shall be taken from the views of:

(a) the local authorities in the vicinity of the forest;

(b) users and organisations of users of the forest from the private sector;

(c) the local communities;

(d) such other persons and organisations as may be prescribed.

(3) In the case of a new national or local authority forest reserve, until such time as a detailed forest management plan has been prepared and approved, that forest reserve shall be managed in accordance with the outline forest management plan referred to in subsection (2) subject to such modifications, if any, or as the Minister may declare.

Detailed forest management plans

13.–(1) In the preparation of a detailed forest management plan, the following shall be consulted:

(a) relevant government officials as the Director may direct.

(b) the local authorities in the vicinity of the forest;

(c) users and organisations of users of the forest from the private sector;

(d) the local communities referred to in paragraph (d) of subsection (3) of section 11; and

(e) such other persons and organisations as may be prescribed.

(2) A draft of a detailed forest management plan shall be made available for not less than sixty days for public inspection and comment at the offices of the District Council nearest to the forest reserve for which the plan is being prepared and at the office of all village councils in the vicinity of the forest reserve.

(3) The Director or any authorized officer shall, within the period referred to in subsection (2), and after giving reasonable notice and appropriate publicity to the matter, hold one or more villages assembly meetings within villages in the vicinity of the forest for which the forest management plan is being prepared to explain the plan to the people of the vicinity and take account of any comments such people may make on the plan.

(4) After revising the plan in the light of comments received under subsections (2) and (3), the Manager shall -

(a) Where the Director is the Manager, adopt the plan and thereafter manage the forest in accordance with the adopted detailed plan;

(b) where a local authority is the manager, adopt the plan by resolution of the council and thereafter manage the forest in accordance with the adopted detailed plan and forward a copy of the plan to the Director;

(c) where an executive agency, a private person or organisation or a non-governmental organisation is the manager, submit the plan to the Director; and

(d) where the Director does not within two months request the manager referred to in paragraph (b) to delay adopting the plan pending its further consideration by the Director, adopt the plan and thereafter manage the forest in accordance with the adopted plan.

(5) Where a local authority is the forest manager, the Director, may within sixty days of the receipt of the detailed plan from the authority or persons referred to in paragraphs (b) and (c) of subsection (4) and after consulting with the forest manager concerned, request that authority or those persons to make such alterations and amendments to the detailed plan as the Director may specify in the request and any such request shall be given full and proper consideration by the authority or persons to whom it is sent and where any such alterations or amendments are not accepted, reasons shall be given for their non-acceptance.

(6) A detailed forest management plan shall be kept under continuous review and shall be adjusted and updated as and when necessary and any adjustment or updating shall take into account any guidelines issued by the Director concerning forest management plans.

(7) Not less than once every five years or such other period as may be prescribed, a detailed forest management plan shall be subject to a full review and any such review shall comply with the procedures set out in the provisions of this section.

Village land forest management plans

14.–(1) In the preparation of a village land forest management plan, the village council shall undertake such consultations as will assist it to prepare a plan having broad and general support from -

(a) the local authorities in the vicinity of the forest;

(b) users and users organisations of the forest;

(c) the local communities referred to in paragraph (d) of subsection (1) of section 13; and

(d) such other persons and organisations as may be prescribed.

(2) The village council shall submit the proposed village land forest management plan to the district council having jurisdiction on that particular area and the district council may within sixty days of the receipt of the plan or after consulting with relevant persons and authorities may consider such a plan.

(3) The proposed forest management plan prepared under this section shall be forwarded to the Director for his comments and consideration.

(4) The village council shall, after giving not less than twenty-one days notice and appropriate publicity to the matter, hold one or more village assembly meetings in the vicinity of the forest for which the village land forest management plan is being prepared to explain the plan to the village assembly and to hear and take account of any comments the members of the village assembly may make on the proposed plan.

(5) After revising the plan in the light of comments received under subsections (1) and (2), the village council shall submit the plan to the village assembly for its approval.

(6) The village assembly shall, on being satisfied with the draft village land forest management plan, by resolution adopt the plan.

(7) The village council shall manage the forest in accordance with the adopted plan and send a copy of the adopted village land forest management plan to the district council having jurisdiction in the area of the village council.

Private forest management plans

15.–(1) This section shall apply to all private forests held for a right of occupancy or a lease in general land or village land in excess of fifty hectares or such area as may be prescribed and different areas may be prescribed for different types of private forests.

(2) A forest management plan shall, in accordance with the provisions of this section, be prepared in respect of each private forest to which this section applies.

(3) In the preparation of a forest management plan, regard shall be on the views of -

(a) the relevant government officials;
(b) the local authorities in the vicinity of the forest;
(c) the local communities referred to in paragraph (d) of subsection (3) of section 11;

(d) such other persons and organisations as may be prescribed.

(4) A forest management plan prepared under this section shall be sent to the Director.

(5) The Director shall, within ninety days, send comments on a forest management plan sent to him by the forest manager and the forest manager shall have regard to any such comments as may be sent to him by the Director.

(6) A private forest shall be managed in accordance with a forest management plan applicable to that forest.

Joint management agreements

16.-(1) A joint management agreement for the management of a forest may be made between:

(a) the Director and any person or organisation in the public or private sector providing for the management within the vicinity of that national forest reserve, community groups or other groups of persons living adjacent to and deriving the whole or a part of their livelihood from that national forest reserve;

(b) a district council and a village council, a community group or any person or organisation in the public or private sector providing for the management by that village council, or community group or organisation in the public or private sector within a local authority forest reserve;

(c) a village council and a community group providing management within a village land forest reserve;

(d) the manager of a private forest and community groups or other groups of persons living adjacent to and deriving the whole or a part of their livelihood from or adjacent to the private forest.

(2) A joint management agreement shall include the following -

(a) a description of the forest reserve or the area of the forest reserve covered by the agreement;

(b) a description of the matters which are the subject of the agreement;

(c) a statement of the objectives of the agreement;

(d) the names of and the officers of the organisations that are making the agreement and a brief statement of the powers and authority of the organisations to make any such agreement;

(e) a description of the management activities agreed to be undertaken by the manager;

(f) the rules governing and regulating the use of, access to the forest reserve and the resources of the rules concerning the powers and duties of persons from a local community appointed to act as guardians of the reserve;

(g) a description of the existing rights of right-holders within the forest reserve who are not parties to the agreement and procedures for resolving any disputes between them and the parties to the agreement;

(h) rules regulating access to, use and division of, and management and audit of any funds which may be made available for, or are generated by, the implementation of the agreement;

(i) procedures for resolving disputes which may arise between the parties to the agreement;

(j) the duration of the agreement;

(k) revision of the agreement;

(l) Penalties on violation of rules, expulsion from occupation or limiting or preventing use of or access to the forest reserve or produce therein;

(m) such other matters as may be prescribed or as the parties to the agreement consider necessary and desirable to include in the agreement.

(3) In the case of a joint management agreement referred to in paragraph (c) of subsection (1), there shall be deemed to be included in any such agreement the basic rights and duties of the parties to the agreement.

(4) When an agreement has been negotiated between two or more parties, it shall be signed by one or more persons from each such party to the agreement.

(5) The Director may, at the request of the parties referred to in paragraphs (b), (c) and (d) of subsection (1):

(a) participate in the negotiations of any agreement referred to in paragraphs (b), (c) and (d) of subsection (1);

(b) issue guidance on joint management agreements both generally and to the parties to which all such parties shall have regard;

(c) prepare model joint management agreements.

(6) Nothing in this section shall prevent the Director or any person or authority or organisation in the public or private sector from making any arrangement or agreement with any other person, authority or organisation in the public or private sector which may give rise to rights and duties and which may be recorded in writing.

Removal of trees in specified circumstances

17.–(1) Notwithstanding any other provision to the contrary, it shall be lawful for an authorised officer, either of his own motion or at the request of an occupier of land and on being satisfied of the facts, to enter on land and cause to be cut down and destroyed or removed any tree, whether a reserved tree or not and whether within a reserve or not which is deceased or which is a result of natural causes or human activity on or near the tree or on land nearby the tree is in condition which is a danger to persons living, working or passing near to the tree or to the property adjacent to it.

(2) Where an authorised officer takes action under subsection (1) in respect of a tree on land which is occupied as a place of residence or for commercial or industrial purposes, whether the occupation is by a person or organisation in the public or private sector, it shall be lawful for the employer of that authorised officer to charge a reasonable fee to the occupier of that land for the performance of that action.

(3) Nothing in this section shall absolve any person who by his actions has contributed to or caused the condition of the tree which

necessitates action under subsection (1) from any civil or criminal liability arising out of those actions.

Environmental Impact Assessment required for certain developments

18.–(1) In any proposed development in a forest reserve, private forest or sensitive forest area including watersheds to which this section applies, whether that development is proposed by, or is to be implemented by, a person or organisation in the public or private sector, the proposer of the development shall prepare and submit to the Director an Environmental Impact Assessment of the proposed development from independent consultants selected from a list approved by the Government of the United Republic and, notwithstanding any other law to the contrary, no development to which this section applies shall be commenced unless and until an Environmental Impact Assessment has been completed to the satisfaction of the Director.

(2) The developments in a forest reserve, private forest sensitive forest area to which this section applies include:

(a) commercial logging and forest industry and developments necessarily connected with commercial logging and forest industry where the development exceeds five hectares or such area as may be prescribed;

(b) mining developments;

(c) road construction or the laying of pipelines;

(d) the construction of dams, power stations, electrical or telecommunication installations;

(e) the construction of a building or group of buildings for purposes other than the management of a forest reserve on an area of land exceeding one hectare or such area as may be prescribed;

(f) agricultural, aqua-cultural or horticultural development on an area of land exceeding five hectares or such area as may be prescribed;

(g) such other like developments as may be prescribed.

(3) The modalities and substance of an Environmental Impact Assessment to which this section applies shall be such as may be set out in guidelines by authorities and organisations responsible for the protection of the environment in Tanzania and where no such guidelines have been issued, shall have regard to and take account of best international practice.

(4) In exercising his functions under this section, the Director shall:

(a) consult with authorities and organisations responsible for the protection of the environment within Tanzania; and

(b) have regard to and coordinate with the functions of any other Ministry in respect of the production of an Environmental Impact Assessment relates, and where, after consideration and approval of the Environmental Impact Assessment, that development is permitted, the developer shall be under a duty to incorporate that environmental management plan into the forest management plan and comply with it in carrying out that development.

PART IV

PRIVATE FORESTS

Forestry dedication covenants

19.–(1) The holder of a right of occupancy may enter into a covenant with the Director to the effect that the land or any part thereof which is subject to the right of occupancy shall not, without the previous consent in writing of the Director be used otherwise than for the growing of good forestry for the commercial production of forest produce or for water or soil conservation or for the preservation of wild plants.

(2) Any such covenant as is referred to in subsection (1) shall, subject to the provisions of subsection (4), be enforceable against the covenantor and, subject to any contrary intention expressed in any such covenant, against his successors in title all persons deriving title under him or them in respect of the whole and each and every part of the land to which the covenant relates,

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

(4) Nothing in this section shall render enforceable any covenant entered into under subsection (1) where the use of such land or any part thereof in accordance with the covenant contravenes the provisions of any law for the time being in force or is inconsistent with any other prior covenant relating to the use of such land or any part thereof.

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(5) For purposes of this section a holder of a right of occupancy may be an individual, a group of individuals holding a right of occupancy communally or in common, an unincorporated or an incorporated association and the right of occupancy may be held in accordance with customary law or under the provisions of the Land Act, 1999 or the Village Land Act, 1999;

Application for concession

20.-(1) A person applying for a concession of forest land shall submit an application to the Minister using the prescribed form and paying the prescribed fee.

(2) Where the application is for:

(a) a concession of land from a national forest reserve; or

(b) a concession of forest land from general land;

it shall be submitted to the Minister for decision and approval.

(3) Where the application is for a concession of land:

(a) of more than two hundred hectares from a local authority forest reserve, a village land forest reserve or forest land under the jurisdiction of a village council, it shall be submitted to the Minister for decision and approval.

(b) of two hundred hectares or less from a local authority forest reserve, a village land forest reserve, or forest land under the jurisdiction of a village council, it shall be submitted to that responsible local authority or as the case may be the village council.

(4) The Minister shall refer any application submitted to him under paragraph (a) of subsection (3) to the local authority forest reserve, or forest land or as the case may be, the village land forest reserve or forest land for their comments and recommendations.

(5) Where the Minister decides not to follow the recommendations of the local authority or the village council forwarded or given to him under subsection (4), he shall -

(a) give reasons for his decision in writing to the local authority or village council;

(b) provide a period of not less than thirty days for the local authority or the village council to respond to those reasons;

(c) give full and thorough consideration to any response forwarded to him; and

(d) give reasons in writing to the local authority or the village council for his final decision.

(6) No action shall be takes on a decision of the Minister given under paragraph (d) of subsection (5) until a period of thirty days has elapsed from the date of the decision.

(7) An applicant for a concession of forest land shall be published in one or more newspaper circulating widely in the country and in such other forms of media as are likely to draw the matter to the attention of persons in the area where the said forest land is situated and in that application the following shall be included -

(a) the location of the forest land;

(b) the boundaries and area of the forest land;

(c) the uses to which the applicant proposes to put the forest land.

(8) In determining whether to approve an application for a concession of forest land, the Minister in the case of an application to which paragraph (a) of subsection (3) applies and the local authority or as the case may be the village council which paragraph (b) of subsection (3) applies, responsible for the decision shall have regard to:

(a) the uses to which the applicant is proposing to put the forest land and the manner in which he is proposing to undertake those uses and the compatibility of those proposed uses to the provisions of section 3 of this Act and any forest management plan applicable to the said forest land;

(b) the resources available to the applicant and likely to be applied to the said forest land;

(c) the current use and management arrangements of the forest land;

(d) the record, if any, of the applicant in managing or exploiting any other forest land whether in Tanzania or elsewhere;

(e) the attention the applicant has paid and is proposing to pay to associating the local community, if any, with his uses and management of the forest land;

(f) the duration of the concession which the applicant is proposing including any proposed renewal of the concession;

(g) the contents and conclusions of any environmental impact assessment which has been undertaken in respect of the proposals of the applicant;

(h) the economic and social benefits and costs, both national and local, which might flow from the grant of a concession, including the implications for employment in such the forest land;

(i) such representations as may be received on the proposal from any person;

(j) such other matters as may be considered relevant to making an informed and responsible decision.

(9) Where a concession of forest land is to be granted out of land declared to be a forest reserve, the provisions of any forest management plan applicable to that forest reserve shall, subject to any amendments which may be made by the Minister, the local authority or as the case may be, the village council, be deemed to be a condition of that concession.

(10) The Minister, the local authority, or as the case may be, the village council shall attach such conditions to a concession of forest land ensure that the provisions of section 3 are adhered to and that in all cases, a programme of reforestation is implemented and without prejudice to the generality of the foregoing, a concession of forest land may include conditions on:

(a) arrangements for and methods of felling trees, including the rates of extraction of timber;

(b) construction of roads, bridges, buildings airdromes airstrips, air ports schools and other structures on the forest land and the use to be made of all the aforesaid;

(c) arrangements for and methods of transporting timber within and out of such forest land;

(d) gathering and utilisation of forest products from the concession forest land;

(e) afforestation and reforestation;

(f) disposal of waste;

(g) avoidance of pollution;

(h) conservation of flora and fauna within the forest land;

(i) modes of consultation with persons living near to and deriving some or all of their livelihood from the land;

(j) cooperation with right holders in respect of existing rights;

(k) the duration of the concession and any arrangements for its renewal;

(l) payment of rent, fees, royalties and other imports;

(m) rendering of reports to the Division, the local authority or as the case may be the village council on compliance with the terms and conditions of the concession;

(n) arrangements for the settling of disputes arising out of the concession between the grantor and the grantee;

(o) such other matters as may be prescribed or as may be required by any law applicable to concession of land.

(11) Where any concession of forest land is to exceed one thousand hectares in extent, the Minister shall before reaching any final determination on that concession refer the matter to the Committee for its opinion and shall take into account the views and comments of the Committee in making his determination.

(12) Where the Minister or local authority has determined the person who is to receive a concession of forest land and terms and conditions of any such concession of forest land, he shall incorporate the name and details of the said person and all those terms and conditions into such concession.

Use of land as private forest land and for concession

21.–(1) Nothing in this Part shall be taken to limit the right of any person to use any land which he is occupying lawfully as forest land or to apply to the commissioner of lands or, as the case may be, to a village council for a right of occupancy or, to use an existing right of occupancy or other interest in land for the purposes of the development and use of the land comprised in the right of occupancy or other interest in land for forest land.

(2) A person applying for a concession of forest land shall submit an application using the prescribed form and paying the prescribed fee.

(3) Where the application is for:-

(a) a concession of land from a national fore reserve; or

(b) a concession of forest land from general land,

it shall be submitted to the Minister for his decission.

(4) Where the application is for a concession of land:–

(a) of more than two hundred hectares from a local authority forest reserve, forest land under the jurisdiction of a local authority, a village land forest reserve or forest land under the jurisdiction of a village council, it shall be submitted to and, subject to subsection (5) decided by the Minister;

(b) of two hundred hectares or less from a local authority forest reserve forest land under the jurisdiction of a local authority, a village land forest reserve, or forest land under the jurisdiction of a village council, it shall be submitted to and decided by the local authority or village council responsible for that local authority forest reserve or forest land or as the case may be, that village land forest reserve or forest land.

(5) The Minister shall refer any application submitted to him under paragraph (a) of subsection (4) to the local authority or village council responsible for the local authority forest reserve, or forest land or as the case may be, the village land forest reserve or forest land for their comments and recommendation.

(6) Where the Minister decides not to follow the recommendations of the local authority or as the case may be the village council sent or given to him under subsection (5), he shall–

(a) give reasons for his decision in writing to the local authority or as the case may be to the village council;

(b) provide a period of not less than thirty days for the local authority or as the case may be the village council to respond to those reasons;

(c) give full and thorough consideration to any response sent to him; and

(d) give reasons in writing to the local authority or as the case may be the village council for his final decision.

(7) No action shall be taken on a decision of the Minister given under paragraph (d) of subsection (6) until a period of thirty days has elapsed from the date of the decision.

(8) An applicant for a concession of forest land shall be published in one or more newspapers widdy circulating with a country and in such other forms of media as are likely to draw the matter to the attention of persons in the area where the said forest land is situate–

(a) the location of the forest land;

(b) the boundaries and area of the forest land;

(c) the uses to which the applicant proposes to put the forest land.

(9) In determining whether to approve an application for a concession of forest land, the Minister in the case of an application to which paragraph (a) of subsection (4) applies and the local authority or as the case may be the village council in the case of an application to which paragaph (b) of subsection (4) applies, responsible for the decission shall have regard to:

(a) the uses to which the applicant is proposing to put the forest land and the manner in which he is proposing to undertake those uses and the compatibility of those proposed uses to the provisions of section 3 of this Act and any forest management plan applicable to the said forest land;

(b) the resources available to the applicant and likely to be applied to the siad forest land;

(c) the current use and management arrangements of the forest land;

(d) the record, if any, of the applicant in managing or exploiting any other forest land whether in Tanzania or elsewhere;

(e) the attention the applicant has paid and is proposing to pay to associating the local community, if any, with his uses and management of the forest land;

(f) the duration of the lease which the applicant is proposing including any proposed renewal of the concession;

(g) the contents and conclusions of any environmental impact assessment which has been undertaken in respect of the proposals of the applicant;

(h) the economic and social benefits and costs, both national and local, which might flow from the grant of a concession, including the implications for employment in and about the said forest land;

(i) such representations as may be received on the proposal from any person;

(j) such other matters as may be considered relevant to making an informed and responsible decission.

(10) Where concession of forest land is to be granted out of land declared to be a forest reserve, the provisions of any forest management plan applicable to that forest reserve shall, subject to any amendments which may be made by the Minister, the local authority or as the case may be, the village council, be deemed to be a condition of that concession.

(11) The Minister, the local authority, or as the case may be, the village council shall attach such conditions to a concession of forest land as will ensure that the provisions of section 3 and where the concession is to be granted out of land declared to be a forest reserve, the objectives of the forest reserve and the forest management plan applicable to that forest reserve, are adhered to and that in all cases, a programme of reforestation is implemented and without prejudice to the generality of the foregoing, a concession forest land may include conditions on:–

(a) arrangements for and methods of felling trees, including the rates of extraction of timber;

(b) construction of roads, bridges, buildings and other structures on the forest land and the use to be made of all the aforesaid;

(c) arrangements for and methods of transporting timber within and out of the such forest land;

(d) gathering and utilisation of forest products from such forest land;

(e) afforestation and reforestation;

(f) disposal of waste;

(g) avoidance of pollution;

(h) conservation of flora and fauna within such forest land;

(i) modes of consultation with persons living near to and deriving some or all of their livelihood from such forest land;

(j) cooperation with right holders in respect of existing rights;

(k) the duration of the concession and any arrangements for its renewal;

(l) payment of fees, royalties and other imposts;

(m) rendering of reports to the Division, the local authority or as the case may be the village council on compliance with the terms and conditions of the concession;

(n) arrangements for the settling of disputes arising out of the concession between the grantor and the grantee;

(o) such other matters as may be prescribed or as may be required by any law applicable to such forest land.

(12) Where any concession of forest land is to exceed one thousand hectares the Minister shall before reaching any decission on that concession refer the full circumstances to the Committee for its opinion and shall take into account the views and comments of the Committee in making his decission.

(13) Where the Minister or local authority has determined the person who is to receive a cancession of forest land and terms and conditions of any such concession of forest land, he shall, register that person and all the particulars and issue such terms and conditions to such person.

PART V

FOREST RESERVES

Forest Reserves other than Village and Community Forest Reserves

Declaration of forest reserve

22.–(1) Subject to the provisions of this Act, the Minister may declare, by order published in the Gazette, any area of land to be:

(a) a national forest reserve; or

(b) a local authority forest reserve.

(2) A national forest reserve may be–

(a) an area of land covered by forest reserved or used principally for purposes of sustainable production of timber and other forest produce known as production forest reserve;

(b) an area of land covered by forest reserved or used principally for the purposes of protection of water sheds, soil conservation and the protection of wild plants, known as protection forest reserve; or

(c) an area of land covered by forest reserve, used principally to protect nature and scenic areas of national or international significance and to maintain and enhance bio-diversity and genetic resources in an undisturbed, dynamic and evolutionary state known as a nature forest reserve.

(3) A national forest reserve may consist of a production forest reserve, a protection forest reserve, and a nature forest reserve for the purposes of production, protection and a nature forest reserve.

(4) A local authority forest reserve shall be an area of land covered by forest reserved or used principally for purposes of the -

(a) sustainable production of timber and other forest, produce;

(b) protection of watersheds, soil conservation and the protection of wild plants, known as a local authority protection of forest reserve; or

(c) an area of land covered by forest reserved for the local authority.

(5) Where any reclassification as is referred to in subsections (3) affects the existing rights of any stake-holders within that local authority forest reserve, such reclassification stake holders shall be entitled to be paid full and fair compensation by the Minister in respect of a reclassification referred to in subsection (3) and by local authority in respect of a reclassification referred to in subsection (5) for the loss or diminution in value of their existing rights.

(6) Any person who is aggrieved by the decision made under this section may appeal to the High Court.

Procedures for declaration of national and local authority forest reserve

23.-(1) Where the Minister is minded to declare an area of land to become a national forest reserve, a local authority forest reserve, he shall cause a notice to be -

(a) published in the *Gazette* of the proposed declaration of an area, the notice shall describe the proposed boundaries of the forest reserve and the purpose for which the land is declared a forest reserve in one or more newspapers circulating widely in the area of the proposed reserve;

(b) placed in a conspicuous place in the offices of all local authorities within whose area of jurisdiction any part of the proposed reserve is situated

(c) given publicity to in such manner as is customary in the area or as is otherwise calculated to bring it to the attention of all persons living in the vicinity of the proposed reserve.

(2) The notice of intention shall include -

(a) a description of the boundaries of the proposed reserve;

(b) a statement of the purposes for which the land is proposed to be declared a reserve;

(c) a statement of the reasons for the choice of either a national forest reserve or a local authority forest reserve;

(d) the period of time, being not less than ninety days within which any person or group of persons or a representative thereof may in writing:

(i) object to;

(ii) make representations; or

(iii) claim any rights based on and arising out of customary law

in relation to land or forest produce or any rights based on any other law within the area the subject of the proposed declaration of a reserve;

(e) the person or persons to whom any such statements as are referred to in paragraph (d) may be made and the places and times at which any such persons will be available to receive any such statements;

(f) the times, being not less than thirty days from the date of the notice, and places at which any village assembly or other public meetings will be held to explain and receive comments on the proposed declaration of a reserve;

(g) such other matters as may be prescribed.

(3) The Director, or in the case of a proposed local authority forest reserve, the Chief Executive Officer, shall be responsible for -

(a) collecting and classifying any objections and representations received under subparagraphs (i) and (ii) of paragraph (d) of subsection (2);

(b) organising and ensuring the accurate recording of comments and representations made the village assembly meetings as a reserve, or other public meetings held during the period referred;

(c) undertaking such consultations with organisations and persons in the public and private sector as will enable him to advise the Minister on the proposed declaration of a reserve;

(d) submitting a report, together with his observations and recommendations thereon.

(5) At the village assembly or other public meetings referred to in paragraph (b) of subsection (3), the Director or, as the case may be, the Chief Executive Officer shall explain the purpose and scope of the proposed forest reserve and the proposed management arrangements and shall encourage the participants at the meetings to express their views about the proposals.

(6) On receipt of the report referred to in paragraph (d) of subsection (3), the Minister shall refer that report and the proposal to declare a forest reserve to the Committee for its consideration.

(7) The Committee shall within ninety days of the receipt of the report from the Minister under subsection (6), submit a report with

recommendations on the matter of the proposed reserve to the Minister.

(8) The Minister shall after taking account of the report of the Committee submitted under subsection (7) and the report submitted by the Director or , the Chief Executive Officer under subsection (3), and the report of the investigator submitted in accordance with the provisions of subsection (8) of section 24, shall, in writing declared an area of land to be a national or a local authority forest reserve.

(9) Where the Minister does not make a declaration as is provided for under subsection (8) within ninety days of the receipt of the reports referred to in subsection (7), it shall be presumed that he has refused to make the order.

(10) Where the Minister does not make an order to declare a forest reserve, he shall specify in writing what further considerations, consultations or investigations are to take place in respect of that proposed forest reserve.

Investigation of claims to rights in proposed forest reserve

24.–(1) Where there is any claim arising out of customary law to rights to land, forest produce or any claim to rights based on or arising out of any other written laws, the Minister shall appoint an investigator to investigate and record the extent, the nature, the incidents and the validity of any and all such rights which have been claimed.

(2) The investigator shall:

(a) use his best knowledge and endeavours to facilitate and assist persons living in or deriving a livelihood from the forest which is proposed to be declared a reserve;

(b) give any person or group of persons or a representative who has made a claim under subsection (1) and any other person or group of persons who for good cause did not make any claim in any of the opportunity of being head;

(c) make such investigations within the area and elsewhere and consult such persons as he considers likely to be able to assist him, and on so doing he shall not be bound by the rules of evidence or procedure applicable in a court of law but must observe the rules of natural justice in relation to any such information which he obtains that appears to be prejudicial to any claims which he is investigating;

(d) prepare a report on the claims that have been made together

with recommendations as to the manner in which and the extent to which any such rights, shall be treated in the proposed forest reserve.

(3) In preparing his report and recommendations, the investigator shall have regard to the following principles:

(a) where any such right as he is satisfied exists can continue to be used in the proposed forest reserve without any significant adverse effect on the purposes for which it is proposed to declare the area a forest reserve or could continue to exist if minor changes were to be made either to the proposed boundaries of the forest reserve or to the purposes for which it is proposed to establish the reserve;

(b) where the continued exercise of any such right as he is satisfied exists would seriously jeopardise the purpose of the proposed forest reserve or the proposed management arrangements for that reserve, he shall recommend either -

(i) to modify the right to enable such right to continue to exist within the proposed reserve; or

(ii) to modify the purposes, boundaries or management arrangements of the proposed reserve, including the creation of a zone within the proposed reserve where any such rights may be exercised;

(iii) to establish a village land or community forest reserve in preference to the establishment of a national or local authority forest reserve as the most efficient, effective and equitable way to balance the maintenance of existing rights with the protection and sustainable use of forest resources;

(iv) to terminate any proceedings in order to declare the area to be a forest reserve on the grounds that the continuation of the rights of the persons within the area of the proposed reserve are so important to their livelihood;

(v) to declare a forest reserve of the type proposed in the area is of such high national and international significance that rights which are incompatible with or would adversely affect the pursuit of the purposes for which the reserve is to be declared.

(4) Where the investigator is minded to recommend that such rights as he is satisfied exist shall continue to be exercisable within a forest reserve, whether with or without modification;

(5) A copy of the report in draft form shall be made available at the offices of local authorities within or next or close to the area in which the proposed reserve is situated for not less than thirty days for inspection and commencement by all those persons and groups of persons who made their claims .

(6) After revising the report in the light of any comments received during the period referred to in subsection (5), the investigator shall submit the revised report to the Minister or, as the case may be, the local authority for his or its consideration.

(7) Subject to the provisions of subsection (6) after considering the report of the investigator, the Minister or, as the case may be, the local authority shall, within one hundred and eighty days or such longer period as may be agreed upon with the investigator, determine whether to accept the report with or without amendments or modifications.

(8) Where the Minister or local authority referred to in subsection (7) is minded to amend or modify any recommendation in the report of the investigator in any way which has the effect of prejudicing or limiting or reducing the rights, including the right to compensation on extinguishment of a right, he shall not make any final decision on the matter until when he has referred the proposals to those persons likely to be affected.

(9) Notwithstanding any other provision of this section, no claim in respect of any rights to which this section refers arising subsequent to the publication of the notice of intention to declare an area to be a forest reserve, shall be investigated under this section and the investigator shall have jurisdiction to determine whether any right that is claimed is a right which comes within the provisions of this subsection.

(10) At the end of the process of investigating and determining the future status of rights to land or trees or forest produce within a national forest reserve to which this section refers, any right to which this

section refers which has not been the subject of a claim shall, subject to the provisions of this subsection, be extinguished except that if, within one year of the date of any determination made under section 23, a person shall claim any right based on or arising out of customary law and satisfy the Minister that for good and sufficient reason, he failed to make a claim to such right within the time allowed, the Minister may refer the claim to the investigator and the procedures set out in this section shall thereafter be followed in respect of such claim.

(11) Nothing in this section shall operate or be construed to prevent any person or group of persons whose claim to rights have been determined under this section to be valid and effectual subject to the payment of full and fair compensation.

(12) Any person who claims a right to which this section refers who is aggrieved by the decision of the Minister or, as the case may be, the local authority, may appeal to the High Court.

25.–(1) On and after the declaration of a national or local authority forest reserve as provided under the provisions of section 23, the rights to land, trees or forest produce which may be exercised within that national or local authority forest reserve are those rights and only those rights which have been determined to be exercisable in that forest reserve by the Minister.

(2) Subject to the provisions of subsection (1) no granted right of occupancy shall be granted over any area of land declared to be a national forest reserve.

(3) Where a person or group of persons, under this section as "right-holders", wish to exercise an additional right or extend or alter the scope of the forest reserve in which such right has not hitherto been exercisable such right-holders may apply to the Minister or, in the case of a local authority forest reserve, the Chief Executive officer for approval for the exercise of any such right or the assignment or transfer of such existing right.

(4) Where the Director or, as the case may be, the Chief Executive Officer is of the opinion that any existing right-holder exercising existing rights within a national forest reserve has begun to exercise a new right or has created a new right by the assignment or transfer of an existing right without the approval of the Minister or as the case may be, the local authority, he shall report that matter to the Minister.

(5) Where an application or report is made to the Minister or, the Chief Executive Officer, the Minister or the Chief Executive Officer shall appoint an investigator to inquire into and report the matter.

(6) In addition to the functions of the investigator referred to in subsection (5), the investigator may recommend that:

(a) the proposed new right be rejected; or

(b) in any case where he finds that a new right has been exercised without the approval of the Minister or the local authority, that -

(i) such new right shall cease to be exercised by the persons who are exercising it; and

(ii) compensation shall be paid by the person or group of persons exercising the new right without approval in respect of any damage done to the forest reserve by the exercise of such new right; and

(iii) where he considers that it is likely that the person or group of persons will continue to exercise the new right notwithstanding the recommendation that it shall cease to be exercisable the Minister or the local authority shall apply to the court for an injunction to prevent the exercise of such new right.

(7) A contract to assign or transfer an existing right which is made without the approval of the Minister or, the local authority, shall be void.

(8) Notwithstanding any other provision in this section, where the unapproved exercise of a new right consists of or includes cutting down, felling, damaging, digging up or removing any tree or protected wild plant for purposes of sale, barter or profit or for use in any trade, industry, commercial or research undertaking, the Director shall issue a stop order, and serve a copy of such order on the person or group of persons carrying on any of the activities to which this section refers directing those persons to stop that activity forthwith.

(9) As top order shall contain such information and be made known in such manner as will enable the person or group of persons on whom it is served to understand and comply with the order as may be prescribed.

Activities prohibited within forest reserve without permission

26. On and after the coming into force of a declaration of a national or local authority forest reserve, no person, other than an existing right-holder exercising an existing right within such forest reserve in respect of which the existing right has been determined shall do any of the following acts in any such forest reserve unless and until such a person has been granted a concession or a licence or a permit in accordance with the provisions of this Act -

(a) cut done, fell, dig up or remove any tree;

(b) dig up or remove any protected wild plant;

(c) subject to the provisions of the Beekeeping Act, 2002, harvest, take or remove any other forest produce;

(d) enter, perambulate for purposes of tourism or camp within a forest reserve;

(e) take and remove any rock, stones, sand, shells or soil;

(f) undertake any mining activities;

(g) occupy or reside on any land;

(h) clear, cultivate, or break up for cultivation or any other purpose, any land;

(i) cut, burn, uproot, damage or destroy any vegetation;

(j) sow or plant any crops, trees or other vegetation;

(k) cut or re-open any saw-pit or work place;

(l) erect any buildings or other structures;

(m) construct any roads, paths, bridges, railways, waterways or runways;

(n) allow any livestock to enter or graze or depasture in any national or local authority forest reserve;

(o) hunt, fish, use or be in possession of any trap, snare, net, bow and arrow, gun, poison or explosive substance used or capable of being used for the purposes of hunting or fishing;

(p) use any buildings or other structures for any purpose other than a purpose for which it was being used at the time of the declaration of the reserve;

(q) carry out any research for which a research permit is required;

(r) subject to the provisions of the Beekeeping Act, 2002, collect any honey barrel, hive or other receptacle for the purpose of collecting honey or beeswax;

(s) undertake any other activities within a national or local authority forest reserve that is prohibited by regulations applicable to all national forest reserves or any rules applicable to a specific national forest reserve or any by-laws applicable to a specific local authority forest reserve.

Allocation of management responsibilities in forest reserve

27.–(1) The functions of managing a national forest reserve or a local authority forest reserve may be undertaken by either:

(a) the Division;
(b) an Executive Agency;
(c) a local authority;
(d) a village council;
(e) a community group;
(f) a person holding a concession of the whole or a part of the forest reserve;
(g) a company, co-operative or other organisation in the private sector; or
(h) a Non-Governmental Organisation, and different parts of or activities within a national forest reserve may be managed by the different persons or bodies listed in paragraphs (a) to (h).

(2) Before the Director determines which of the persons or bodies listed in paragraphs (a) to (h) of subsection (1), shall manage the national forest reserve or any part thereof or any activity therein, shall consult the Minister.

(3) Unless it determines that one of the persons or bodies listed in paragraphs (a), (b), and (d) to (h) shall manage a local authority forest reserve on its behalf, the local authority having jurisdiction in the area where a local authority forest reserve has been declared shall manage that local authority forest reserve.

(4) The Director or a local authority, may invite any person or body listed in paragraphs (a) to (h) of subsection (1) to submit a proposal to manage a national forest reserve, a local authority forest reserve or any part of either such reserve or any activity in either such reserve and any such proposal that is submitted shall include :

(a) how the proposed system of management will ensure that due

regard is paid to section 3;

(b) the timing of the preparation of a forest management plan;

(c) the envisaged structure and modalities of cooperation and consultation with:

(i) the stake-holders within the forest reserve;

(ii) any other person or body having management functions within the forest reserve;

(iii) any other person or body with interests in the forest reserve;

(d) the type of activities which it is envisaged will be permitted in forest reserve;

(e) the resources likely to be available to enable any management plan to be executed, how those resources will be collected, allocated and divided between the bodies with responsibilities for managing the forest;

(f) such other matters as may be prescribed.

(5) Prior to making any determination under subsection (2), the Director shall submit a report on the matter to the Committee and shall thereafter take into account any comments the Committee shall make on the matter.

(6) Where the Director, a local authority has determined that a person or body other than the Division or the local authority shall manage a national forest reserve, a local authority forest reserve, may require that, that person or body make a joint management or other agreement with the Director, the local authority and such other persons as have existing rights and interests in that forest reserve and in any case where it is determined that a concession holder of land within a forest reserve shall be the manager of that part of the forest reserve which is comprised within the concession, any joint management or other agreement shall be deemed to be one of the conditions on which the concession held.

Boundaries of forest reserves

28.–(1) As soon as practicable after the publication of an order and in any event not later than one year after such publication, the Director shall cause the boundaries of the forest reserve to be visibly demarcated

on the ground.

(2) The Director shall cause a map or plan of each forest reserve to be prepared, copies of which shall be maintained and made available for inspection by members of the public during office hours at -

(a) the head office of the Division;

(b) the office of the Division in the area where the forest reserve is situate;

(c) the offices of the local authorities within the area where each forest reserve is situate;

(d) such other places as may be prescribed.

(3) The Director or a local authority may from time to time and subject to the approval of the Minister make minor changes to the boundaries of any national forest reserve or local authority forest reserve to accommodate changes in the environmental circumstances of any such forest reserve.

(4) During a period of not less than ninety days prior to proposing any minor change as is referred to in subsection (3), the Director or the Chief Executive Officer of the local authority referred to in subsection (3) shall -

(a) give publicity to the proposal within the area where the forest reserve is situated by -

(i) causing a notice of the change to be posted in conspicuous place in the offices of all local authorities within the area where the forest reserve is situate; and

(ii) giving such other publicity to the change as is traditional in the area or as is otherwise calculated to bring the proposed change to the attention of right-holders of existing rights and other persons having interests in the forest reserve; and

(b) invite comments from all such persons as are referred to in subparagraph (ii) of paragraph (a) on the proposed change;

(c) take into account all such comments as are made; and

(d) prepare a report on the proposed change for the Ministers consideration.

(5) For the purposes of this section, a minor change is a change that does not affect in any significant way the existing rights of any right-

holders within the forest reserve or the rights of any persons on land which will be incorporated into the forest reserve through the proposed changes to the boundaries thereof and does not increase the size of the forest reserve by more than such area as may be prescribed.

Power to alter and de-reserve a forest reserve

29.–(1) Subject to the provisions of this section, the Minister may, by order published in the *Gazette,* revoke the declaration of all, a part of any forest reserve, alter the status of a production, protection forest reserve or any part to a nature forest reserve, or any part thereof to a production, protection forest reserve, a national forest reserve or any part thereof to a local authority, village land or community forest reserve.

(2) The procedures set out in section 23 shall apply with such modifications and adaptations as the Minister may consider necessary to the exercise of the power to alter the status of de-reserve a forest reserve, or any part thereof but no such modification, or adaptation shall reduce the time available for comments to be made on the proposed alteration, de-reservation or the responsibilities of the Director or the Chief Executive Officer set out in subsection (3) or the duties of the Minister set out in subsections (8)and (10) of section 23.

(3) No alteration or de-reservation of a forest reserve shall alter so as to affect in a deleterious way the existing rights of any right-holders within such forest reserve unless and until those right-holders have been consulted on the matter during the period provided for the submission of comments on the proposed alteration or de-reservation and they have either:

(a) agreed to the alteration to their existing rights together with an amount of compensation in respect of any loss of or diminution in value of their existing rights caused by such alteration;

(b) or where it has not been possible to reach agreement but the Minister is satisfied that an alteration in existing rights is necessary in all the circumstances of the case, they have been paid full and fair compensation for the involuntary loss of or diminution in the value of any such existing rights.

(4) In the case referred to in paragraph (b) of subsection (3), any right-holder or other person who participated in the process referred to in that paragraph who is aggrieved by the decision of the Minister may appeal to the High Court.

Management of national or local authority forest reserve

30.–(1) Upon the coming into force of an order declaring any area to be a national or local authority forest reserve, the person, body, organisation or local authority designated in the order or who is appointed to be responsible for the management of such forest reserve, shall have the duty of managing that forest reserve, and without prejudice to the generality of the foregoing, such forest manager shall -

(a) not later than sixty days after the coming into force of the order referred to in this subsection, commence the preparation of a detailed forest management plan in respect of forest reserve for which it is responsible;

(b) once the detailed forest management plan has been prepared and approved, manage the forest in accordance with the said detailed forest management plan;

(c) where the forest manager is not an individual appoint an officer or designate an existing officer to be the responsible officer in connection with the management of the forest reserve;

(d) appoint such other persons or designate such other officers as it considers necessary or desirable to perform such other functions connected with the management of forest reserve and the maintenance of the security of the said reserve and the resources therein;

(e) meet all the costs of management of such local authority forest reserve;

(f) collect all revenue from fees, royalties and licences charged or issued in respect of such forest reserve and pay them into the proper accounts;

(g) undertake such other specific management functions as may be prescribed or as it considers necessary or desirable.

(2) A local authority exercising management functions in respect of a local authority forest reserve may determine that some or all of those management functions shall be undertaken by any one or more of the persons or bodies referred to in paragraphs (b) and (d) to (h) of subsection (1) of section 27 and in any such case the provisions of subsections (3) and (5) of section 27 shall apply.

(3) A person appointed or designated as the manager of a local authority forest reserve under paragraph (b) of subsection (1) shall manage the local authority forest reserve of which he is appointed as agent for and under the direction of the local authority.

(4) The Director may by notice published in the *Gazette,* and after consulting with the Chief Executive Officer of the local authority in respect of a local authority forest reserve, grant any forest manager appointed or designated under subsection (1) and any such other officers or employees of the forest manager appointed or designated under paragraph (d) of subsection (1) as he considers necessary for the proper and effective management of the forest reserve, either by name or by office, such powers of a forest officer in respect of such forest reserve as may be specified in the said notice and may, after consulting with the said forest manager and on giving reasonable notice to the officer concerned, revoke such grant.

(5) In the exercise of its functions of managing a local authority forest reserve, a local authority shall consider and take note any advice given by the Director respecting the management of local authority forest reserve.

(6) It shall be a condition of any management contract or other agreement or arrangement to the management of a forest reserve that a forest manager shall have regard to the advice and guidance which the Director from time to time may give to all ro any particular forest manager concerning the management of forest reserves.

Local authority by-laws in respect of forest reserves Acts No. 7 and 8 of 1982

31.–(1) Notwithstanding any provisions concerning the making of by-laws contained in the Local Government (Urban Authorities Act, 1982 and the Local Government (District Authorities) Act, 1982 a local authority exercising the functions of managing all or part of a national forest reserve or a local authority forest reserve or any forest land under the jurisdiction of a local authority shall, prior to making any by-laws applicable to any such forest reserve or forest land -

(a) submit a draft of any such proposed by-laws to the Director;

(b) consider carefully any comments or recommendations the Director may make on any such draft; and

(c) shall not proceed to make any by-laws until it has received and considered any such comments and recommendations.

(2) Where the Director has been sent or given a draft of any by-

laws referred to in subsection (1), he shall sent his comments and recommendations to the local authority from which the draft by-laws came within sixty days or such longer time as may be agreed upon between the Director and the local authority of the receipt of the said draft by-laws.

(3) Where the comments and recommendations referred to in subsection (2) are not sent within sixty days or such period of time as has been agreed, the local authority may proceed to make the proposed by-laws without further delay.

(4) The Director may prepare and publish model by-laws for forest reserves to be managed by local authorities.

(5) Where a local authority to which this section applies determines to adopt and approve some or all of the model by-laws prepared by the Director under subsection (4), the provisions of subsection (1) shall not apply to those by-laws.

(6) A local authority shall send a copy of any by-laws made in respect of forest reserves or other forest land to the Director.

Village land Forest Reserves

Village land forest reserves

32.–(1) A village land forest reserve shall be either-

(a) a declared village land forest reserve; or

(b) a gazetted village land forest reserve.

(2) All village forest reserves in existence at the commencement of this Act are hereby declared by virtue of this Act to be declared village land forest reserves.

(3) A village land forest reserve, may be owned and managed by one village or more villages which are within one local authority or more local authorities.

Preliminary steps by village council to create and manage village land forest reserve

33.–(1) A village council may be resolution–

(a) declare an area of village land to be a village land forest reserve;

(b) submit an application to the Director through a local government authority for a declared village land forest reserve to be *gazetted* as a village land forest reserve;

(c) negotiate a joint management agreement or other arrangement with the Director, some other person or body with respect to the management of a village land forest reserve;

(d) establish a committee to manage a village land forest reserve or allocate the duties of managing a village land forest reserve to an existing committee of the village council.

(2) Where a village land forest management committee is established, it shall -

(a) be formed from the membership of the village assembly;

(b) be formed with due regard to gender balance;

(c) elect a chairperson annually from amongst its members;

(d) be the principal village body concerned with the management of a village land forest reserve;

(e) report on a regular basis to and take account of the views of the village assembly on its management of the village land forest reserve.

(3) A village forest management committee may co-opt persons on the committee but no person who has been co-opted on to a committee shall vote on any matter coming before the committee.

Declared village land forest reserves

34.-(1) The declaration of a village land forest reserve in accordance with paragraph (a) of subsection (1) of section 38 shall be -

(a) notified to the Chief Executive Officer of the local authority having jurisdiction in the area where the village is situate;

(b) recorded in a register of village land forest reserves in the prescribed manner and form.

(2) All village land forest reserves declared by subsection (2) of section 32 to be declared village land forest reserves shall be recorded in the register of village land forest reserves referred to in paragraph (b) of subsection (1) in the prescribed manner and form.

(3) A declared village land forest reserve shall be managed either -

(a) by a committee established or allocated the responsibility of managing a village land forest reserve under and in accordance with section 33; or

(b) in accordance with such other arrangements as may be proposed by the village council and agreed to by the village assembly.

(4) A declared village land forest reserve shall be managed in accordance with -

(a) the principles set out under this Act;

(b) such policies as may be determined by the village council;

(c) such by-laws and other rules as may be made by the village council, including any model by-laws adopted for use in respect of a declared village land forest reserve by the village council;

(d) the village land forest management plan made in accordance with the provisions of section 14 of this Act;

(e) customary rules and practices applicable to forest use and management within the area;

(f) any agreement as may be made between the village council and some other person or body relating to the management of the declared village land forest reserve, which agreement shall be approved by the village assembly before it shall come into operation;

(g) the general principles and rules of the management of local government affairs applicable to village councils;

(h) such other rules and practices as may, after consultation with the village council, be prescribed.

(5) The Director may, by notice published in the *Gazette,* and after consultation with the Chief Executive Officer of the local authority having jurisdiction in the area where the declared village land forest reserve is situate, grant any person professionally or technically qualified in forest or environmental management or conservation to work alongside the village council to assist in the management of the declared village land forest reserve as he considers necessary or desirable for the proper and effective management of the village forest reserve.

(6) The Director may from time to time issue notes of guidance to villages in respect of the management of declared village land forest reserves and the village councils shall, pay due regard to them.

Application to gazette a declared village land forest reserve

35.-(1) No application to *gazette* a declared village land forest reserve to which this section refers shall be made or if made shall be considered by the Director unless a village council has been managing a declared village land forest reserve for not less than three years from the coming into force of this Act or such longer period as may be prescribed.

(2) An application by a village council to the Director for a declared village forest reserve to be *gazetted* shall include-

(a) a copy of the resolution referred to in paragraph (b) of subsection (1) of section 33;

(b) a list of the names of the members of the village council committee allocated the responsibility of managing the declared village land forest reserve referred to in paragraph (d) subsection (1) of section 33;

(c) as official map of, or other documentary evidence sufficiently clear to identify -

(i) the village land;

(ii) the area to be established as a *gazetted* village land forest reserve within the village land;

(iii) the location of any villages bordering the proposed *gazetted* village land forest reserve;

(d) where the village is already managing a declared village land forest reserve, a copy of the village land forest management plan, any village by-laws, other rules or any agreements under which the declared village land forest reserve is managed;

(e) where the village is already managing part of a forest reserve, a copy of any village by-laws, rules, any forest management plan, any joint management agreement or other arrangement under which that part of the forest reserve is being managed;

(f) a brief statement of the reasons for the application and the proposed objectives to be pursued by the village council in the management of the proposed *gazetted* village land forest reserve;

(g) a brief statement of the financial management arrangements in existence in respect of the declared village land forest reserve and any changes proposed thereto;

(h) a brief statement of the staff employed by the village council;

(i) such other matters as may be prescribed.

(3) The application referred to in subsection (2) shall be sent to the local authority having jurisdiction within the area where the village submitting the application is situate.

(4) The local authority referred to in subsection (3) shall, within sixty days, forward the application referred to in subsection (2) to the Director together with its comments on the said application and the suitability, from the perspective of likely human and financial resources available to the village council and the record of forest management by that village council, to manage a *gazetted* village land forest reserve.

(5) The Director shall, after considering the application referred to in subsection (2) and the comments of the local authority referred to in subsection (4), together with any information on the application and the nature and resources of the forest which is the subject of the application he shall determine whether to agree to the application, agree to it subject to conditions relating to the management of the village land forest reserve, or reject it and where he determines to agree to it subject to conditions or reject it, he shall give reasons for those conditions or that rejection in writing to that village council.

(6) Where the Director agrees to the application, with or without conditions, he shall -

(a) inform the respective village council; and

(b) by order published in the *Gazette* declare the village land forest reserve to be a *gazetted* village land forest reserve.

(7) Where an application has been agreed to by the Director, subject to conditions, the village council may, if it objects to those conditions or any of them, request the Director to reconsider those conditions or any of them and the Director shall thereupon reconsider those conditions that have been objected to.

(8) Where the Director determines not to revise any conditions which have been objected to under subsection (7), the village council may withdraw its application for a declared village land forest reserve to be converted into a *gazetted* village land forest reserve.

(9) Where an application to convert a declared village land forest reserve to a *gazetted* village land forest reserve has been agreed to by the Director, subject to conditions that *gazetted* village land forest reserve shall thereafter be managed in accordance with those conditions.

(10) The Director may develop and publish standard model conditions, all or any of which may be adopted by a village council in its application to convert a declared village land forest reserve to a *gazetted* village land forest reserve.

(11) Where an application for conversion of a declared village land forest reserve to a *gazetted* village land forest reserve has been rejected by the Director under subsection (5) or has been withdrawn by a village council under subsection (8), a village council may not resubmit any such application, until such period as may be prescribed has elapsed from the date of the rejection or withdrawal of the prior application.

Joint management of village land forest reserve by two or more villages

36.-(1) The village council having jurisdiction over the *gazetted* village land forest reserve and the Director and such other persons and bodies as may be considered appropriate by the village council may negotiate and agree a joint management agreement or other arrangement for the management of that *gazetted* village land forest reserve.

(2) A copy of a joint management or other arrangement to which subsection (1) applies shall be kept at the office of the village council and made available for inspection by any member of the village, free of any charge or condition, at all reasonable hours during the working days.

(3) Until a joint management agreement or some other arrangement for the management of the *gazetted* village land forest reserve is made under subsection (1), the *gazetted* village land forest reserve shall be managed in accordance with the village land forest management plan, by-laws and other rules, agreements and practices applicable to that *gazetted* village land forest reserve when it was a declared village land forest reserve.

(4) Where a joint management agreement or other arrangement with a village council with respect to the management of a *gazetted* village forest reserve has been made under subsection (1), the village council committee managing the *gazetted* village land forest reserve shall be responsible for the management of that village land forest reserve in accordance with the terms of the joint management agreement or other arrangement and without prejudice to the generality of the foregoing, the village council committee managing that village land forest reserve shall -

(a) not later than ninety days after the making of the agreement or arrangement referred to in this subsection, review and where necessary revise the existing village land forest management plan in respect of the *gazetted* village land forest reserve for which it is responsible;

(b) manage the *gazetted* village land forest reserve in accordance with the revised village land forest management plan;

(c) review the existing customs, practices and rights of the members of the village to enter or live in the forest and use the forest products with a view to amending, altering, adjusting or abolishing any of those customs, practices and rights which in the opinion of the committee would be likely to impede the management of the *gazetted* village land forest reserve in accordance with the revised village land forest management plan;

(d) made such rules and propose to the village councils such additions to or amendments of village by-laws as it considers necessary or desirable to facilitate the management of the *gazetted* village land forest reserve in accordance with the revised village land forest management plan;

(e) appoint such persons as it considers necessary or desirable to perform such functions connected with the management of the *gazetted* village land forest reserve and the maintenance of the security of the said reserve and the resources therein as it shall from time to time determine to be necessary to facilitate the implementation of the revised village land forest management plan;

(f) meet some of the costs of management of such *gazetted* village land forest reserve as may be agreed in the joint management agreement or other arrangement for the management of that *gazetted* village land forest reserve;

(g) collect some of the revenue from fees, royalties and licences charged or issued in respect of the *gazetted* village land forest reserve as may be agreed in the joint management agreement or other arrangement and pay them into the accounts of the village council or an account specifically set up for forest management and development purposes;

(h) undertake such other specific management functions as may be prescribed.

(5) Where requested by the village council committee managing the *gazetted* village land forest reserve, or where he considers that it is necessary so to do, the Director may provide technical assistance to that committee in connection with the revision of a village land forest man

agement plan.

(6) The Director may by notice published in the *Gazette,* and after consulting with the Chief Executive Officer of the local authority having jurisdiction in the area where the *gazetted* village land forest reserve is situate, grant any person professionally or technically qualified in forest or environmental management or conservation to assist in the management of the village land forest reserve as he considers necessary for the proper and effective management of the village land forest reserve, either by name or by office, such of the powers of a forest officer in respect of such village land forest reserve as may be specified in the said notice and may, after consulting with the said Chief Executive Officer and on giving reasonable notice to the person concerned, revoke such grant.

(7) In the exercise of its functions of managing a *gazetted* village land forest reserve, a village committee managing a *gazetted* village land forest reserve shall not be bound to comply with all and any advice of the Director which is empowered to give to any and all local authorities or villages respecting their management of local authority and *gazetted* village forest reserves.

By-laws in respect of *gazetted* village land forest reserves Act No. 8 of 1982

37.–(1) Notwithstanding any provisions concerning the making of village by-laws contained in the Local Government (District Authorities) Act, 1982, where a village council is managing a *gazetted* village land forest reserve, that village council, prior to making any by-laws on and after the coming into force of this Act the *gazetted* village land forest reserve shall -

(a) submit a draft of any proposed by-laws to the Director through the district council having jurisdiction in the area where the village is situate;

(b) have due regard to but not be bound to accept any comments or recommendations the Director or the district council may make on any such draft; and

(c) not proceed to the making of any such by-laws until it has received and considered any such comments and recommendations.

(2) Where the Director and the district council have been given a draft

of any by-laws referred to in subsection (1), they shall forward their comments and recommendations to the village council from which the draft by-laws came within sixty days, or such period as may be prescribed.

(3) Where the comments and recommendations referred to in subsection (2) are not forwarded within sixty days or the prescribed period, the village council may proceed to make the proposed by-laws without further delay.

(4) The Director may prepare and publish model by-laws for the forest reserves and such by-laws may be adopted by village councils for use.

(5) Where a village council to which this section applies determines to adopt and approve some or all of the model by-laws prepared by the Director under subsection (4), the provisions of subsection (1) shall not apply to those by-laws.

Joint management and other agreements in relation to gazetted village land forest reserves

38.–(1) Two or more villages may, in accordance with the procedures of this section agree to establish and manage a village land forest reserve jointly.

(2) Where two or more villages agree to establish and manage a declared village land forest reserve jointly, the provisions of paragraph (a) of subsection (1) of section 33 and the whole of section 34 shall apply to that jointly managed declared village land forest reserve.

(3) Where two or more villages make an application to the Director for his consent to their managing a *gazetted* village land forest reserve jointly, the village councils of each such village shall determine by a resolution approved in the village assembly in the same terms to -

(a) submit a joint application to the Director to manage the *gazetted* village land forest reserve on the basis of a joint management agreement or other arrangement between the village councils submitting the application or between those village councils and such other persons or bodies as those villages may propose; and

(b) establish a joint village forest management committee composed of not more than five persons elected from each village council.

(4) A joint village forest management committee shall -

(a) be formed with due regard to gender balance;

(b) be the principal body concerned with the management of a joint *gazetted* village land forest reserve under a joint management agreement or other arrangement;

(c) through the members elected from each village council, report on a regular basis to and take account of the views of the village assembly of each participating village.

(5) A joint village forest management committee may -

(a) co-opt members from each village participating in the joint forest management arrangements but any such co-opted members shall not be entitled to vote on any matter before the committee; and

(b) establish such sub-committees as it considers will facilitate the business of managing the joint *gazetted* village land forest reserve.

(6) The provisions of sections 37 to 39 shall apply to the management of a joint gazetted village land forest reserve as they apply to the management of a *gazetted* village land forest reserve.

(7) Nothing in this section shall operate to prevent-

(a) two or more villages agreeing to cooperate together in the management of their respective declared or *gazetted* village land forest reserves which are adjacent to one another through joint arrangements not amounting to a joint management agreement; or

(b) the Director from providing such assistance as he considers necessary and desirable to facilitate the operation of any such joint arrangements.

Management functions in national and local authority fo-rest reserve

39.–(1) A village council of a village may submit an application to the Director or a local authority having jurisdiction in the area where such village is situate for consent to manage the whole or a part of or an activity within a national or local authority forest reserve managed, in the case of a national forest reserve by the division or an Executive Agency established in relation to a department of the Ministry concerned with forestry and in the case of a local authority forest reserve by such local authority on the basis of a joint management agreement or

other arrangement between that village council and the Director, or Executive Agency or that local authority.

(2) A national or local authority forest reserve over which this section applies, shall be known and referred to as a village forest management area.

(3) Prior to submitting an application to the Director or the local authority under subsection (1), a village assembly shall by resolution -

(a) approve the application which is to be submitted; and

(b) where such a committee has not been established -

(i) establish a village forest management committee; or

(ii) allocate the responsibilities of forest management to an existing village council committee.

(4) A village forest management committee established under subsection (3) shall comply with the provisions of subsection (2) of section 33.

(5) An application submitted under subsection (1) shall include -

(a) a copy of the resolution referred to in subsection (1);

(b) a list of the names of the members of the village forest committee;

(c) an official map of, or other documentary evidence sufficiently clear to identify-

(i) the area of the national or local authority forest serve in respect of which the village council is submitting the application;

(ii) the location of any villages bordering the national or local authority forest reserve or part thereof which the village council is applying to manage;

(d) where the village council is already managing a declared village land forest reserve, a copy of the village land forest management plan, all by-laws and other rules under which that declared village forest reserve is managed;

(e) where the village is already managing a forest or part thereof or a gazetted village land forest reserve, a copy of any joint management agreement or other arrangement, the village land for

est management plan and any village by-laws or other rules made in pursuance of such joint management agreement, other arrangement under which the forest, a part thereof or gazetted village land forest reserve is managed;

(f) a brief statement of the reasons for the application and the proposed objectives to be pursued by the village council in the management of the proposed local authority forest reserve;

(g) a brief of statement of the financial management arrangements in existence in respect of the village land forest reserve or forest land which the village council in managing and the proposals for the financial management arrangements for the national or local authority forest reserve which is the subject of the application;

(h) a brief statement of the staff employed by the village council;

(i) such other matters as may be prescribed.

(6) The local authority to which the application has been submitted under subsection (1) shall, within thirty days, forward a copy of the said application to the Director together with its proposed determination on the said application.

(7) The Director and the local authority shall, not earlier than sixty days after receipt of the application, and after considering the application referred to in subsection (1) and, in the case of the local authority, the comments of the Director to decide whether to agree to the application or reject it and where the Director or local authority decide to reject the application, shall give reasons for that rejection in writing to that village council.

(8) Where the Director is of the opinion that the application should not be approved or that further discussion is needed on the application, he shall -

(a) in the case of an application made to him, inform the village council of his opinion and arrange a meeting with the village council to discuss the application; and

(b) in the case of an application made to a local authority, within thirty days of the receipt of the copy of the application, inform the local authority which forwarded the copy of his opinion and that local authority shall thereupon arrange a meeting with the village council to discuss the application.

(9) Where a local authority is minded to disagree with the opinion of the Director, it shall inform the Director in writing of the reasons for the disagreement.

(10) Where the Director or as the case may be the local authority agrees to the application, he or it shall inform the village council and, that village council and the Director or as the case may be, that local authority shall agree upon the modalities of managing the village forest management area or activity including whether to negotiate and agree a joint management agreement or some other arrangement for the management by the village council of that village forest management area or activity and where the Director or the local authority and the village council agree that the village forest management area or activity therein shall be managed in accordance with a joint management agreement, the provisions of section 38 shall apply to the making and operation of that joint management agreement.

(11) Where requested to by the village council committee responsible for managing the forest reserve or part thereof , the Director or local authority shall provide technical assistance to the village council in connection with the management under that joint management agreement or other arrangement of the village forest management area or activity therein, including assistance in the preparation or revision of any forest management plan applicable to that village forest management area.

(12) A village council committee exercising management functions within a village forest management area shall exercise those functions in accordance with the joint management agreement or other arrangement made between the village council and the Director or local authority under this section and where such agreement or other arrangement has not been made or is silent on any aspect of forest management, such management functions shall be exercised in accordance with the forest management plan already in existence for that village forest management area or activity therein.

Rights and duties of villages in respect of village land forest reserves

40. Unless a joint management agreement or other arrangement specifically provides otherwise the basic rights and responsibilities of all villagers in respect of a village land forest reserve which the village of which they are members is managing through the village council are as follows -

(a) the right to exercise existing rights to enter, occupy, use and harvest the produce of the forest jointly with all other members of the village, in a sustainable manner in accordance with the terms of any village land forest management plan, by-laws, rules, agreements or customary practices;

(b) the duty to comply with the terms and conditions of any licence subject to which any specific activity within the village land forest reserve may be carried out by any member of the village;

(c) the duty to assist in facilitating the implementation of a village land forest management plan, including undertaking any communal work connected to the management of the village land forest reserve;

(d) the duty to comply with and assist in the enforcement of any rules or any forest management by-laws made by the village council;

(e) the right to exclude non-members of the village land forest reserve, other than those non-members who have obtained a licence to enter and use or harvest the forest or its produce and are exercising their privileges in accordance with the terms of the said licence;

(f) the duty to pay any tax or other levy imposed by the village council to assist in defying the annual costs of managing and developing the village land forest reserve;

(g) the right and power to establish and manage a fund for the purposes of developing and carrying out improvements to the village land forest reserve or repairing any damage caused by any natural disaster affecting the said reserve and to pay into the fund any fees and penalties collected under the agreement;

(h) the duty not to assign, alienate, or otherwise transfer for value or donate any existing rights exercisable within the village land forest reserve held or acquired by virtue of being a member of the village to a person who is not a member of the village except in accordance with any rules made on that matter;

(i) the duty to comply with any decision of a village council committee managing a village land forest reserve and any directions given by a person working under the direction of that village council committee to facilitate the implementation of any such decision.

Functions of local authority in respect of village land forest reserves

41.-(1) A local authority exercising jurisdiction within the area where a village council is managing a declared village land forest reserve shall exercise a general supervision over the exercise by that village council of the functions of management of that declared village land forest reserve.

(2) In any case where the local authority referred to in subsection (1) is of the opinion, either on the basis of information given to it by any officer exercising functions under this Act or otherwise that a village council with the responsibility to exercise functions connected with the management of forests under this Act is failing to exercise those functions in accordance with the provisions of section 34 or any of them, then the said local authority may-

(a) serve a notice on that village council requiring it to take the steps specified in that notice within the time specified in the notice to rectify and improve its management of the forest under its jurisdiction; or

(b) serve a notice on that village council requiring it to show cause, within the time specified in that notice, as to why the local authority should not take over and exercise the functions of management of the declared village forest reserve for such period of time as may be specified in the notice; and

(c) in either case referred to in paragraph (a) or (b), upon making a written request to that village council send an officer of the local authority to appear before such village council committee with responsibility for managing the declared village land forest reserve personally for the purpose of making representations orally; and

(d) where, in the opinion of the local authority, the village council has failed to show cause as required under paragraph (b), may by resolution, determine to take over the functions of manage

ment in respect of that declared village land forest reserve or local authority forest reserve as specified in the notice referred to in paragraph (b).

(3) A village council may appeal in writing to the Minister responsible for local authority against any decision by a local authority to take over and exercise the functions of management of a forest under subsection (2), and the Minister responsible for local authority may, in order to assist him to determine the appeal, appoint a person, not being an officer within the Ministry, to hear any representations that such village council may wish to make in connection with its appeal and thereafter report to the Minister responsible for local government on those representations.

(4) The Minister responsible for local government shall -

(a) before determining an appeal have regard to the report submitted to him under subsection (3);

(b) not be bound to determine any appeal in accordance with any report made by any such person or to give any local authority or other forest management authority appealing under this subsection an oral hearing;

(c) give reasons in writing for his decision; and

(d) convey a copy of his decision to the village council.

(5) In exercising his responsibilities under this section and before reaching any decision on an appeal made to him under subsection (3), the Minister responsible for local government shall at all times consult with the Minister responsible for forests.

Community forest reserves

Community forest management groups

42.-(1) A community forest management group in this part referred to as a "Group" may be formed by any group of persons who are members of a village or who are living in or near to a forest or any other group of persons who are managing a forest or part thereof or who are desirous of managing a forest reserve or part thereof in accordance with the provisions of this Part for any purpose connected with the commu

nal ownership, use and management of a community forest reserve.

(2) Where a Group is to be formed for purposes of managing a community forest reserve, that Group shall be guided by the following principles:

(a) all persons within the neighbourhood or living in close proximity to or deriving their livelihood from or otherwise having strong traditional ties to the forest in respect of which it is proposed to apply to manage as a community forest reserve shall be given an opportunity to join the Group;

(b) the purposes for which the Group is to be formed and the likely responsibilities of members of the Group to ensure that those purposes are implemented are explained to all those wishing to join the Group;

(c) the arrangements for the management of the Group including the methods of selecting the leaders of the Group and the management of any funds of the Group shall be based on principles of openness, fairness, impartiality and non-discrimination and encourage all members of the Group to participate in the management of the Group;

(d) any procedures for excluding any members of the Group from the Group or otherwise regulating the conduct of members of the Group which may involve any sanction shall be based on and conducted in accordance with the principles of natural justice.

(3) Where the Director considers that it is in the public interest or where he is requested by a group of persons living in the vicinity of or deriving their livelihood from or otherwise having strong traditional ties to a forest, he may arrange for assistance to be given to such a group of persons to form themselves in a Group for purposes of applying to manage a forest as a community forest reserve.

(4) A District Council shall maintain a public list of Groups formed within its district in the prescribed form and shall exercise a broad and general supervision over all registered Groups within its district in order to ensure that their creation and management comply with the principles set out in subsection (2) and that all such Groups manage the community forest reserves under their control with due regard to the interests of the members of the Group and in accordance with any rules,

by-laws or agreements under which such Group is managing a community forest reserve.

Recognition of traditional and existing Groups

43.–(1) A village council may recognise as a Group for purposes of managing a community forest reserve any association of persons whether that association of persons is managing a forest or part thereof -

(a) is not formed in accordance with customary law for the purpose of occupying, using and managing a forest and forest resources on a communal basis; or

(b) which have come together and are recognised within the community of which they are a part as an association of persons formed to occupy, use and manage a forest and forest resource on a communal basis.

(2) In determining whether to accord recognition to an association of persons referred to in subsection (1), the village council shall have regard to the principles set out in subsection (2) of section 42 and may as a condition of according recognition to such association of persons, require such association to comply with the said principles.

(3) Where a village council refuses to recognise an association of persons to which this section applies as a Group for purposes of managing a forest as a community forest reserve, or proposes to impose conditions on such recognition to which the members of the association object, then -

(a) the association may appeal to the District Council having jurisdiction in the area against that decision of the village council; and where the District Council confirms the decision of the village council;

(b) the association or any member thereof may appeal to the High Court against the decision of the District Council.

(4) In considering any appeal by an association, the District Council shall comply with the rules of natural justice with respect to the hearing of and decision on that appeal.

General management powers of Group

44.–(1) Where a Group has been formed in accordance with section 42 or has been recognised in accordance with section 43, the persons within the Group who have been chosen to manage the affairs of the Group are hereby empowered to enter into any agreement connected to the management of a community forest reserve which shall, when ap

proved by the Group at a meeting called for the purpose of considering the agreement, bind all the members of the Group so that all members of the Group are equally liable in respect thereof and may, subject to any prior agreement made within the Group between the members, take equal benefits and without limiting the generality of the foregoing, any such agreement may include -

(a) a joint management agreement or any other agreement to manage a community forest reserve;

(b) an agreement to purchase and pay for any goods or services necessarily connected to the implementation of any such joint management agreement as is referred to in paragraph (a);

(c) an agreement to sell and deliver any produce lawfully produced from a community forest reserve;

(d) an agreement to employ or hire the services of any person or organisation to assist the Group in the management of a community forest reserve;

(e) an agreement to occupy any land or buildings to be used in connection with the management of a community forest reserve;

(f) an agreement made with any individual member of a Group relating to the performance by such member of any functions connected with or arising out of the implementation by such member of any of the foregoing agreements.

(2) Nothing in this section shall empower the Group managers or any individual member of a Group to make any agreement which prevents or limits the Group from complying with an agreement under which a community forest reserve is managed or requires the Group or any individual member to obtain a licence or other benefit from the Director or other organisation empowered to grant licences or confer benefits or may only be complied with by departing from the principles set out in subsection (2) of section 42.

(3) In the exercise of their functions of managing the affairs of the Group, the Group managers shall be under a duty -

(a) to hold any land and other property and to exercise their powers for and on behalf of all members of the Group;

(b) to consult fully with and take account of the views of all members of the Group on any exercise of their functions.

(4) In any dispute between the members of a group and the Group managers concerning the exercise of their functions by the Group managers, the person or organisation charged with the responsibility of settling the dispute shall have regard to the general principles of the law relating to the duties of trustees in considering and assessing the performance by the Group managers of their functions.

Application by Group to manage forest reserve

45.–(1) A Group may by resolution adopted at a meeting of the Group of which all members have been informed and to which all members of the Group have been invited decide to submit an application to the village council having jurisdiction in the area where the members of the Group reside to:

(a) establish a community forest reserve which may be separate from or a part of a village land forest reserve; or

(b) manage a community forest reserve on the basis of an agreement between the village council and the Group.

(2) An application by a Group to a village council to establish and manage a community forest reserve shall include -

(a) a copy or other verifiable evidence of the resolution referred to in subsection (1);

(b) a list of the names of the Group managers;

(c) a description and a simple sketch plan of the area to be established as a community forest reserve;

(d) a brief statement of the reasons for the application and the proposed objectives to be pursued by the Group in the management of the proposed community forest reserve;

(e) such other matters as may be prescribed.

(3) The application referred to in subsection (2) shall, within sixty days of its receipt, be forwarded by the village council to the local authority having jurisdiction within the area where the village council to which the application has been submitted together with any com

ments the village council may have on the said application.

(4) The local authority to which an application has been forwarded within sixty days of the receipt of the application determine whether -

(a) not to comment on the application;

(b) to recommend that the application be -

(i) approved, with or without conditions; or

(ii) referred back for further consideration and negotiations between the village council and the Group which submitted the application; or

(c) to reject, and that local authority shall communicate its determination and the reasons for it in writing to the village council from which the application was forwarded to the local authority.

(5) In determining whether to grant, with or without conditions, the village council to which the application referred to in subsection (2) was submitted shall take fully and carefully into account the recommendations of the local authority communicated to it under subsection (4) but shall not be bound to follow any such recommendation or comments.

(6) Where a village council in determining an application submitted to it under subsection (2) does not follow a recommendation of the local authority, it shall record its reasons for not so following any such recommendation in writing and forward a copy to that local authority.

(7) Where the village council agrees to the application, it shall inform the Group managers and that village council and the Group managers shall agree upon the modalities of managing the community forest reserve including whether to negotiate and agree to a joint management agreement or some other arrangement for the management by the Group of that community forest reserve and where the village council and the Group agree that the community forest reserve shall be managed in accordance with a joint management agreement, no Group shall exercise any functions of management within any community forest reserve under and in accordance with that joint management agreement unless the agreement referred to into this subsection has been agreed to by -

(a) the Group by resolution adopted at a meeting of the Group of which all members of the Group have been informed and to which all members of the Group have been invited;

(b) the village council by resolution.

(8) A copy of an agreement to which subsection (7) applies shall be kept at the office of the village council and made available for inspection by any member of the Group and any member of the village, free of any charge or condition, at all reasonable hours during the working day.

Functions of Group as manager of community forest reserve

46.–(1) Where the modalities for the management of a community forest reserve, including any joint management or other agreement of the whole or a part of a village forest or a village land forest reserve as a community forest reserve, the Group shall be responsible for the management of such community forest reserve in accordance with the agreed modalities or the terms of any agreement and without prejudice to the generality of the foregoing, the Group shall, through the Group managers:

(a) manage the forest in accordance with any village forest management plan prepared and adopted by the village council;

(b) review the existing customs, practices and rights of the members of the Group to enter or live in the forest and use the forest products with a view to proposing the amendment, alteration, adjustment or abolition any of those customs, practices and rights which in the opinion of the Group managers would be likely to impede the management of the community forest reserve in accordance with any village forest management plan;

(c) make such rules applicable to the members of the Group and propose to the village council such village by-laws as it considers necessary or desirable to facilitate the management of the community forest reserve;

(d) appoint such persons as it considers necessary or desirable to perform such functions connected with the management of the community forest reserve and the maintenance of the security of the said reserve and the resources therein as it shall from time to time determine to be necessary;

(e) meet the costs of management of such community forest reserve as may have been agreed between the Group and the vil

lage council;

(f) collect revenue from fees, royalties and licences charged or issued in respect of such community forest reserve as may have been agreed between the Group and the village council and pay them into such accounts as may be established for this purpose or as may be provided for in any agreement;

(g) undertake such other specific management functions as may be prescribed.

(2) Where requested by the Group managers or as the case may be, the village council or where he considers that it is necessary so to do, the Director may provide technical assistance to the Group in connection with the management of a community forest reserve.

(3) In the exercise of their functions of managing a community forest reserve, Group managers shall have regard to but shall not be bound to follow all and any advice which the Director is empowered to give to any and all local authorities or villages respecting their management of local authority and village land forest reserves.

Rights and duties of Group members in respect of community forest reserves

47. Unless any agreement made between a Group and a village council specifically provides otherwise, the basic rights and responsibilities of all Group members in respect of a community forest reserve which they are managing are as follows -

(a) the right to exercise existing rights to enter, occupy, use and harvest the produce of the forest jointly with all other members of the Group, in a sustainable manner in accordance with the terms of any by-laws, rules or agreements applicable to that community forest reserve;

(b) the duty to comply with the terms and conditions of any licence subject to which any specific activity within the community forest reserve may be carried out by any member of the Group.

(c) the duty to assist in facilitating the implementation of any forest management plan, including undertaking any communal work connected to the management of the community forest reserve;

(d) the duty to comply with and assist in the enforcement of any rules set out in any agreement or made by the Group or any forest management by-laws made by the village council;

(e) the right to exclude non-members of the Group from the com

munity forest reserve, other than those non-members who have obtained a licence to enter and use or harvest the forest or its produce and are exercising their privileges in accordance with the terms of the said licence;

(f) the duty to pay any tax or other levy imposed by the village council to assist in defraying the annual costs of managing and developing the community forest reserve;

(g) the duty not to assign, alienate, or otherwise transfer for value or donate any existing rights exercisable within the community forest reserve held or acquired by virtue of being a member of the Group to a person who is not a member of the Group except in accordance with the terms of an agreement and any rules made thereunder;

(h) the duty to comply with any decision of Group managers and any directions given by a person working under the direction of the Group managers to facilitate the implementation of any such decision.

Supervision and monitoring of management of community forest reserve

48.–(1) Subject to the provisions of this section, the provisions of sections 8 and 41 of this Act shall apply to the management of a community forest reserve.

(2) Where the Director proposes to exercise any power under section 8 with respect to a community forest reserve, he shall inform the local authority having jurisdiction within the area where such community forest reserve is situated in writing of that fact and the said local authority shall not thereafter exercise any powers under section 41 with respect to the same community forest reserve.

(3) Where the local authority having jurisdiction within an area where a community forest reserve is situate proposes to exercise any power under section 41, it shall, prior to any such exercise, inform the Director in writing of that fact with the reasons for the proposed action and shall take no further action unless and until the Director shall, within twenty-one days of the receipt of the said information from that local authority either:

(a) authorise the said local authority to take such action under section 41 as may be specified in the authorisation;

(b) inform the said local authority that he proposes to take action under section 8; or

(c) direct that no action be taken pending further investigation of the matter.

(4) Where a dispute occurs between the Group managers and the other members of the Group or between members of the Group over the management of a community forest reserve which cannot be resolved satisfactorily by and within the Group or by reserve, the Director may at the request of the said local authority appoint an officer or other person of good standing to mediate between the parties to the dispute and attempt to bring about a solution to the dispute or to assist the Group to overcome the circumstances which are affecting the proper management of the community forest reserve.

PART VI

PERMITS AND LICENCES

Permits issued for activities carried in national and local authority forest reserves

49.–(1) The following are the permits which, may be issued to permit the activities specified to be carried in a national or local authority forest reserve subject to such conditions as may be attached to the said permit; that is to say, permits to-

(a) fell or extract timber:
  (i) for domestic commercial use and sale;
  (ii) for export;
  (iii) for mining purposes; or
  (iv) for prospecting and for exploration of mineral resources;

(b) gather and take away specified forest produce;

(c) pluck, pick, take parts or extracts of any protected plant for purposes of research or the production or manufacture of any medicine or other product;

(d) erect buildings or other structures;

(e) operate sawmills and such other industrial processes and machinery as may be prescribed;

(f) construct roads, bridges, paths, waterways, railways or runways;

(g) camping, operating tourist facilities and undertaking activities connected with tourism, such as tourism photographic;

(h) export such other forest produce as may be prescribed;

(i) sow, plant or cultivate trees, crops or other vegetative matter;

(j) enter to hunt or fish;

(k) allow domestic animals to enter and graze;

(l) any other activity for which the granting of a permit is specifically required by regulations.

(2) One permit may be granted for all or any of the activities set out in subsection (1) or any combination of the said activities.

(3) For the avoidance of doubt, it is hereby provided that not every activity set out in subsection (1) may be permitted to be undertaken in every forest reserve.

(4) No permit shall be granted under this Part unless the activity in respect of which the permit is applied for is -

(a) consistent with any forest management plan applicable to the forest reserve where it is proposed to undertake the said activity;

(b) in compliance with any other written laws pertaining to the environment or land which are applicable to that forest reserve.

(5) Notwithstanding the permits issued under this Part, the grant of a permit shall not prevent the permit holder from any requirement in any other written law to obtain a licence or permission under that other written law to undertake the activity to which a permit issued under this Part relates or any activity which is a necessary consequence of the said activity.

(6) A village council shall, by resolution, which shall require confirmation by the village assembly, adopt the provisions of this Part with such adaptations and modifications as may be prescribed, in respect of the granting of permission to any person to undertake, for other than domestic purposes, any of the activities to which this Part refers in a village land forest reserve or a village forest but no such resolution shall operate to replace any arrangements providing for domestic use permits for villagers.

(7) A village council shall send a copy of a resolution referred to in subsection (6) to the district council having jurisdiction in the area where the village is situate.

(8) Notwithstanding the permits issued under this section, any person permitted to undertake the activities specified under subsection (1), shall be required to obtain licences to carry or undertake other activities connected with such permit.

Application for permit

50.–(1) An application for a permit shall be -

(a) submitted on a prescribed form;

(b) accompanied by the prescribed fee;

(c) signed by the applicant or a duly authorised representative or agent of the applicant;

(d) in respect of any activity set out in subsection (1) of section 49 other than the activities referred to in subparagraphs (ii), (iii) and (iv) of paragraph (a) and paragraphs (c), (g) and (h), sent or delivered to the forest manager of the forest reserve in which it is proposed to undertake the activity for which the permit is being applied for;

(e) in respect of the activities referred to in subparagraphs (ii), (iii) and (iv) of paragraph (a) and paragraphs (c), (g) and (h) of subsection (1) of section 49 sent or delivered to the Director;

(f) contain or be accompanied by such other information as may be prescribed or as the forest manager may in writing require the applicant to supply;

(g) if made by a non-citizen or foreign company, accompanied by such documentation as may be required by any law to be submitted by an applicant.

(2) The forest manager may, by notice in writing, require an applicant to -

(a) submit information relevant to that application, additional to that already submitted with the application; and

(b) give such publicity to and undertake such consultations in respect of that application as may be specified in the said notice;

and shall not be obliged to determine the application until the matters referred to in paragraphs (a) and (b) have been complied with to the satisfaction of the forest manager.

(3) A list of all applications received shall be affixed for not less than fourteen days before a meeting is held to consider them in conspicuous place in the offices of the local authority and the village council having jurisdiction in the area where the forest reserve in respect of

which the application to undertake an activity has been submitted is situate.

(4) An application for a permit to undertake any activity referred to in paragraph (d), (e) and (f) of subsection (1) of section 49 which is submitted to a forest manager other than the Director shall be forwarded to the Director and no action or decision shall be taken on that application unless and until the Director shall, in writing and within sixty days or such longer period as may be agreed upon between the Director and the said forest manager of the receipt thereof, either -

(a) forward his advice on that application to the forest manager to whom the application was submitted;

(b) require the forest manager to whom the application was submitted to refer the said application to the Director for his decision; or

(c) inform the forest manager that the Director has no comment on the said application.

(5) The forest manager shall maintain a register of applications which have been submitted to him in the prescribed form which shall be available for inspection by the members of the public at reasonable times during office hours.

Grant of permit

51.-(1) The Director in the cases refer to in paragraph (e) of subsection (1) or paragraph (b) of subsection (4) of section 50 and the forest manager in all other cases shall in respect of any application submitted to him -

(a) grant;

(b) grant subject to conditions; or

(c) refuse that application and shall in every case, unless the circumstances provided for in subsection (2) apply, make one or more of the decisions set out in paragraphs (a) to (c).

(d) within sixty days of the submission of an application under subsection (1) or the reference of an application under paragraph (b) of subsection (4) of section 50;

(e) where the circumstances set out in subsection (2) of section 50 apply, within sixty days of the satisfactory completion of the matters referred to in the said subsection; or

(f) where the circumstances set out in paragraphs (a) or (c) subsection (4) of section 50 apply, within sixty days of the receipt by the forest manager upon the advice of the Director.

(2) Where in the opinion of the Director an application that has been submitted to him under paragraph (e) of subsection (1) of section 52 or has been referred to him under paragraphs (a) or (b) of subsection (4) of section 49 raises issues of such importance and complexity that the time set out in subsection (1) is inadequate properly and fully to consider those issues, the Director shall, before the end of the period referred to in subsection (1) inform the applicant in writing of the time which he considers will be necessary to consider and decide on the application but in no circumstances shall the Director extend the period referred to in subsection (1) by more than ninety days.

(3) In considering the application, the Director or as the case may be the forest manager shall have regard to the following-

(a) the nature and purpose of the forest reserve and whether the activity for which the permit is being applied for will further or erode that nature and purpose;

(b) the provisions of the forest management plan application to that forest reserve;

(c) any guidelines issued by the Director relating to the activity for which the permit being applied for or to the forest reserve in which it is proposed that the activity shall be undertaken;

(d) any advice given by the Director under subsection (4) of section 50;

(e) the matters set out in paragraphs (b) to (g) of subsection (1) of section 50;

(f) the extend to which the grant of a permit may interfere with or impede the exercise of any existing rights of stake holders within the forest reserve;

(g) such other considerations as may be prescribed or as the Director or as the case may be the forest manager think material to the application.

(4) Every permit shall specify -

(a) the name and address of the person or organisation to whom the permit has been granted;

(b) the activity or activities authorised by the permit;

(c) the date of issue of the permit;

(d) the date of expiry of the permit;

(e) the date by which any activity authorised by the permit must be commenced;

(f) the forest reserve or part thereof or other place where the authorised activities may be undertaken;

(g) the conditions subject to which the permit is granted;

(h) the fees, royalties and other charges that must be paid in connection with the grant of a permit or the undertaking of any activities authorised by the said permit;

(i) such other matters as may be prescribed.

(5) A permit may be granted for any period up to thirty three years provided that, the conditions of the permit have been fully and properly complied with during the currency of the original term and every successive term thereafter be renewed for successive periods of up to fifteen years.

(6) Unless the matter is specifically provided for by any condition in a permit, a permit is personal to the person or organisation to whom it is issued and may not be transferred to any other person or organisation but this shall not affect the validity of a permit granted to a corporate or other body which is transferred to or bought by new owners.

(7) Where the Director or the forest manager determines to refuse the application for a permit, he shall inform the applicant in writing of the reasons for his decision.

(8) Where a forest manager makes a decision which does not conform to any advice received by that forest manager from the Director under paragraph (a) of subsection (4) of section 50, he shall forward a copy of that decision to the Director with a statement in writing of the reasons for his decision.

Conditions of a permit

52.–(1) A permit may be granted subject to such conditions as are calculated to ensure that the permit holder exercises his powers under a permit with due regard to the principles set out under section 3, to any forest management plan applicable to the forest reserve where the permit holder has been authorised by the permit to undertake activities and to an overriding duty to ensure that any areas from which trees have been cut in accordance with a permit are reforested, and without preju

dice to the generality of the foregoing, a permit granted under this Act may be granted subject to conditions on -

(a) any of those matters set out in subsection (8) of section 25 which are relevant to the specific licence which has been granted;

(b) the plant protection substances which may be used on or about any crops permitted by permit to be grown in the forest reserve, including any requirements to apply integrated pest management practices to the said crops;

(c) the submission to the Director of a copy of any report or other finished piece of writing or research arising out of or written as a consequence of any research permitted by a permit or research licence to take place in a forest reserve;

(d) the places and periods of the year where and when any domestic animals permitted by permit to enter and graze in a forest reserve may do so and the places where any such domestic animals must gain access to and egress from the said forest reserve;

(e) the hours of the day during which a sawmill or other industrial operation permitted by permit within a forest reserve may operate;

(f) quality, quantity and specification controls on the export of timber and other forest produce and the exit points for the export of all such produce;

(g) the import of equipment to be used in connection with any permitted activity;

(h) the volume, type, specification and quality of timber permitted to be felled and used for mining purposes, including exploration and prospecting and the mines in which any such timber may be used;

(i) the terms and conditions under which a permit may be transferred to any other person;

(j) the circumstances and procedures for varying or modifying a permit or any condition thereof;

(k) such other matters as may be prescribed.

(2) A condition may be imposed on a permit holder requiring him to undertake or not undertake some activity on land under his

control notwithstanding that the said land is not part of the land on which the permitted activities of the said permit holder are to be undertaken but any such activity on which a condition is to be imposed must be connected to or form a part of any permitted activity.

(3) The Director may, in respect of any permit granted by him, direct the permit holder to post a bond or other guarantee for the payment of such sum of money as may be specified in the direction, being a reasonable estimate of the costs of any activity required as a condition attached to the permit connected with the provision of infrastructure or environmental conservation within the forest reserve to which the said permit applies.

(4) A condition shall be deemed to be attached to and form part of any permit in respect of which it was issued and shall bind any successor in title to or transferee from the original permit holder.

Variation and modification of a permit

53.–(1) A permit holder may submit an application on the prescribed form to the Director or forest Manager applying for a variation or modification of that permit or any condition attached thereto.

(2) The provisions for section 56 shall apply to an application for a variation or modification of a permit as they apply to an application for the grant of a permit with such adjustments to the said provisions as the circumstances of the application may require.

(3) Where it appears to the Director or forest manager that the circumstances pertaining to the grant of a permit either with respect to the forest reserve for which the permit was granted, or with respect to the activity so permitted or with respect to the permit holder have changed to such an extent that it is desirable that the permit is varied or modified, he shall sent a draft of a proposed variation or modification to the permit holder together with a statement of the reasons for the proposed draft.

(4) The permit holder shall within thirty days of the receipt of the draft variation or modification under subsection (3) notify the Director or forest Manager in writing whether he accepts or rejects the proposed variation or modification and if he rejects it, he shall state his reasons for that rejection and what alternative, if any, he would be prepared to accept.

(5) On receipt of the notification from the permit holder under subsection (4) that he accepts the proposed variation or modification, with or without such minor amendments which do not affect the substance thereof,

the Director or forest Manager shall notify the permit holder that the variation or modification shall take effect on a specified date, which will be not earlier than one month from the date of the notification.

(6) On receipt of a notification from the permit holder under subsection (4) that he rejects the proposed variation or modification, the Director or forest Manager shall enter into negotiations with the permit holder to attempt to conclude an agreement on the proposed variation or modification and where such an agreement is concluded, the provisions of subsection (5) shall thereupon apply.

(7) Where the Director or forest Manager and the permit holder are unable, within a period of sixty days, to conclude an agreement on a variation of modification of a permit, the Director or forest Manager shall -

(a) determine either to withdraw the proposed variation or modification; or

(b) issue a notice to the permit holder stating that-

(i) a variation or modification as provided for in the notice shall take effect in relation to the permit on a specified date which shall not be earlier that one month from the date of the notice; and

(ii) if the variation or modification significantly alters the terms and conditions of the permit to the disadvantage of the permit holder, the permit holder is entitled to apply for a reduction in the terms of any annual payments falling due under the permit or to surrender the permit.

Surrender of a permit

54.–(1) Where a permit holder wishes to surrender a permit, he shall submit an application to surrender using the prescribed form to the Director or forest Manager together with the permit which is to be surrendered.

(2) The Director or forest Manager shall not accept the surrender of a permit where it appears to him that -

(a) the permit holder is in breach of the terms or any conditions of the permit;

(b) any fees, royalties or other imposts arising out of any permitted activity are owing to the Government;

(c) the surrender is to avoid any legal liability or the payment of any sums owing to creditors or employees.

(3) Where Director or forest Manager is satisfied that none of the matters referred to in subsection (2) applies to the application to surrender, he shall notify the permit holder in writing of his acceptance of the surrender, and any such acceptance may be made subject to such conditions set out in subsection (1) of section 52 as will be best calculated to ensure that the surrender of the said permit does not affect in any adverse manner the forest reserve where the permitted activities were being undertaken.

(4) A condition attached to an acceptance of a surrender of a permit shall be enforceable in like manner as a condition attached to a permit.

(5) A surrender of a permit shall not :

(a) limit any civil or criminal liability of the permit holder which may have been caused by or have arisen out any activities of the said permit holder which he undertook while holding the said permit;

(b) prevent the Director or forest manager of the permit from taking any action to ensure compliance with any condition subject to which the permit was granted where -

(i) the condition was not complied by the permit holder when he held the permit; or

(ii) the condition relates to any activities required to be undertaken after and as a consequence of the carrying out of any permitted activity;

(c) prevent any bond of other guarantee of payment made under subsection (3) of section 52 from being forfeited.

Revocation or suspension of a permit

55.–(1) Where the Director is of the opinion, either of his own motion or as a result of advice or information given to him by an officer, a forest manager or any other person with expertise or knowledge of the matter, that the circumstances set out in subsection (2) of this section apply, he may, in accordance with the provisions of this section, revoke or suspend any permit or any activity permitted by a permit granted by a forest manager.

(2) The circumstances referred to in subsection (1) are-

(a) a natural disaster or other supervening natural occurrence has taken place in or about a forest reserve which makes it desirable that the forest reserve undergo a period of regeneration;

(b) too many permits to undertake a particular activity or activities in general within a forest reserve have been issued so that the sustainability of the resources of the forest reserve are threatened;

(c) a permit has by a process of novation or other legal transaction came into the possession of a person or organisation which, had that person or orgnisation made the original application for the said permit, the original application would have been refused;

(d) a permit was granted by a forest manager notwithstanding that the Director had, in accordance with the provisions of paragraph (a) of subsection (4) of section 50, advised that the application for a permit be refused;

(e) the activity permitted by the permit which it is proposed to revoke or suspend has not been undertaken for a continuous period of not less than one year since the grant of the permit or during the currency of the permit;

(f) the circumstances provided for in section 48 apply;

(g) the Minister has, after taking the advice of the Committee, directed the Director to revoke or suspend a permit in order to enable the Government to comply with or take some benefit from an international convention or agreement relating to biodiversity conservation, the preservation of the natural heritage, the protection of flora and fauna, or forest management.

(3) Where the Director is minded to revoke or suspended a permit, he shall -

(a) serve a notice on the permit holder, informing him of the intention to revoke or suspend the permit and the reasons for the proposed action, and requiring him to show cause, within forty days, as to why the said revocation or suspension should not take place;

(b) where the permit was granted by a forest manager other than the Director, send a copy of the notice referred to in paragraph (a) to that forest manager, inviting him to make such comments, within forty days, on the proposed revocation or suspension, as he sees fit to make.

(4) After considering the responses, if any, of the permit holder under paragraph (a) and the forest manager under paragraph (b) of subsection (3), the Director shall, within sixty days of the receipt of the said responses, determine whether to serve a notice of revocation or suspension of the permit or to proceed to further the matter.

(5) A notice of revocation or suspension shall be in the prescribed form and shall specify :

(a) the name of the permit holder;

(b) the activity or activities permitted by the permit which are revoked or suspended by the notice;

(c) the date, being not less than fourteen days from the date of the issue of the notice from which the notice takes effect;

(d) where the notice is a notice of suspension, the length of time for which the activity or activities permitted by the permit or suspension;

(e) the penalties which will be incurred if the notice is not complied with;

(f) such other matters as may be prescribed.

(6) Compensation for all and any losses arising directly or indirectly out of or as a consequence of the revocation or suspension of a permit on the grounds set out in paragraphs (b), (d) and (g) of subsection (2) shall be payable:

(a) by Minister in respect of the revocation or suspension of a permit on the grounds set out in paragraphs (b) and (g) of subsection (2); and

(b) by the forest manager which issued the permit in respect of the revocation or suspension of a permit on the ground set out in paragraph (d) of subsection (2).

(7) A permit holder whose permit has been revoked or suspended or who is dissatisfied with the amount of compensation declared to be

payable to him under subsection (6) may appeal to the High Court against that revocation or suspension or the amount of compensation declared to be payable to him.

Compliance

56.–(1) Where it appears to the Director that a permit holder is in breach of the terms of a permit or any conditions subject to which the said permit was granted, he may serve a notice of compliance on the permit holder and the permit holder on whom any such notice of compliance has been served shall be under an obligation to comply.

(2) A notice of compliance shall be in the prescribed form and shall specify in such terms as will enable the person on whom it is served to understand and contain the following -

(a) the name of the person to whom it is addressed;

(b) the action or non-action or other matter which it is alleged to constitute the breach of the terms of the permit or of any condition attached to the permit;

(c) the steps that must be taken to rectify the breach, time, being not earlier than twenty one days from the date of the service of the notice of compliance, and the reasons why those steps are being required;

(d) the compensation if any must be paid by the permit holder to make goods the losses or damage caused by such breach;

(e) the steps that will be taken by the Director to rectify the breach if the permit holder does not comply with the notice of compliance, including entering on the land under the control of the permit holder and taking any property under the control of the permit holder as part of a process of rectifying the breach or obtaining compensation in respect of that breach;

(f) the penalties which may be imposed in the event of non-compliance which may include the revocation of the permit;

(g) such other matters as may be prescribed.

(3) The steps referred to in paragraph (c) of subsection (2) may include all such actions and activities, including the cessation of any actions and activities which may reasonably be required to rectify the breach and may also include all and any such steps which are necessarily to the rectification of the breach.

(4) The compensation referred to in paragraph (d) of subsection (2) may include -

(a) the payment by the permit holder on whom a notice of compliance has been served;

(b) compensation for any loss of or any physical damage caused to any forest produce within a forest reserve or to the forest reserve;

(c) compensation for any loss of or any damage caused to any protected wild plans or protected wild animals;

(d) compensation for general environmental damage, including damage to the sustainability of the forest resources or any part thereof;

(e) compensation to any right holders of existing rights for interference with those existing rights;

(f) compensation to other permit holders for any losses sustained by those permit holders as a consequence of any breach in respect of which a notice of compliance has been served;

(g) such other matters as may be prescribed.

(5) A permit holder on whom a notice of compliance has been served may appeal to the High Court against the decision on the grounds that -

(a) he is not the person named in the notice of compliance;

(b) he is not responsible for the breaches which are the subject of the notice of compliance;

(c) the actions or activities, including the non-actions and non-activities set out in paragraph (b) of subsection (2) do not constitute a breach of the terms of the permit or any conditions attached thereto;

(d) the steps that are required to be taken to rectify the breach are excessive or unreasonable or the time within which the steps must be taken is unreasonable;

(e) the compensation that is required to be paid is out of proportion to or does not relate to the damage that the breach has caused.

(6) Where a permit holder does not comply with the time stated in the said notice or within such further time as the Director may, on request from the permit holder and at his discretion, allow, the Director may, in accordance with the provisions of section 55, revoke the permit granted to the said permit holder.

(7) Nothing in this section shall be taken to prevent the Director from:

(a) delegating the power of serving a notice of compliance to a forest manager, subject to such conditions and limitations as he may consider necessary and desirable; or

(b) sending one or more warning notices to a permit holder falling within the terms of subsection (1) advising the said permit holder to comply with the terms of the permit granted to him and any conditions attached to the said permit prior to serving a notice of compliance, but this paragraph shall not be taken as imposing any duty on the Director to send any warning notice prior to serving a notice of compliance.

Stop orders

57.–(1) Notwithstanding any of the provisions contained in section 56, where the breach of the terms of a permit or any condition attached thereto consists of or includes cutting down, felling, damaging, digging up, removing any tree, forest produce protected wild plant for purposes of sale, barter, profit or for use in any trade, industry, commercial or research undertaking, the Director may issue an order, to be known as a stop order.

(2) The Director shall serve a copy of such notice on the permit holder on whom a notice of compliance has been served and any persons acting on behalf of or under the instructions of or with the knowledge, express or implied of the permit holder carrying on any of the activities to which this subsection refers directing the said permit holder and those persons to stop that activity forthwith.

(3) A stop order shall contain such information and be made known in such manner as will enable the person or group of persons on whom it is served to understand and comply with such order and subject to this, it shall contain such information as may be prescribed.

(4) Any person on whom a stop order is served shall stop from performing any of the activities referred to in the said stop notice and where that person is a permit holder on whom a notice of compliance has been served, he shall be under a duty to direct all his employees and contractors and all other persons acting under his control to cease and desist from the said activities.

(5)Any person who has been served with a copy of a stop order may appeal to the High Court against such order but any stop order which is appealed against shall remain in full force until determination of the appeal.

PART VII

TRADE IN FOREST PRODUCE

Prohibition of export of forest produce without export certificate

58.–(1) No person shall export or enter for export any timber or other forest produce unless -

(a) he has a valid export certificate issued by the Director in respect of that timber or other forest produce; or

(b) that timber or other forest produce has by an order made by the Minister and published in the *Gazette* been exempted from the provisions of paragraph (a).

(2) No export certificate shall be granted or shall be valid except in relation to graded timber, the origin and grade of each piece of timber of which accords with the marks placed thereon.

(3) No export certificate for the export of forest produce other then timber shall be granted or shall be valid except in relation to forest produce which has been certified by an authorised officer as having complied with such standards of quality as may be prescribed.

(4) Every export certificate shall be in the prescribed form and shall expire three months after the date of issuance.

Restrictions on exports

59.–(1) No person shall export timber or other forest products except through such places or ports of exit as the Director may by notice published in the *Gazette* declare to be places or ports of exit for the purposes of this section.

(2) No person shall export any timber or other forest produce in respect of which an export certificate has been issued except in the state in which it was when the said export certificate was issued.

(3) Where any graded timber or other forest produce which has been certified as being of the requisite quality to be exported is in the opinion of the Director so handled or stored whilst in transit that such timber or other forest produce is not in the state it was when the export certificate was issued, the said export certificate in respect of such timber or other forest produce may be cancelled by the Director.

(4) Where a holder of an export certificate proves to the satisfaction of the Director that the matters referred to in subsection (3) were due to circumstances beyond his control, he shall be relieved from any liability to which he might otherwise be exposed under the provisions of subsection (3).

(5) No person shall sign, issue or use in respect of any timber or other forest produce any document being or purporting to be an export certificate under this Part knowing or having reason to believe that the same is false either wholly or in any material particular and where such a person makes any contract or other agreement on the basis of such a false certificate, that contract or other agreement shall be void.

(6) The Director may, direct any forest officer to exercise any of the following functions at any gazetted place or port of exit; that is to say -

(a) to inspect any timber or other forest produce sent or brought to that place or port of exist for export;

(b) to prohibit the export of any timber or other forest produce pending the completion of any necessary export formalities connected with the export of that timber or other forest produces;

(c) to prohibit the export of any timber or other forest produce on the grounds that it does not comply with the prescribed standards of quality set out in this Act or any regulations made thereunder;

(d) to prohibit the movement of any timber or other forest produce from the place or port of exist;

(e) to reject any document tendered in respect of the export of any timber or other forest produce on good and sufficient grounds;

(f) to perform such other functions as may be prescribed.

(7) Where a forestry officer exercises any functions under subsection (6), he shall give reasons for the exercise of that function to the person in respect of whose timber or other forest produce or whose documents the function is being exercised.

Authorisation of graders and inspectors

60.–(1) The Director may, either on the basis of an application made in the prescribed manner or of his own motion authorise in writing any suitable person to be a grader of timber or an inspector of forest produce for the purposes of carrying out the provisions of this Part.

(2) Where the Director refuses to authorise an applicant to be a grader or an inspector, he shall give reasons to the said applicant for his decision.

(3) Every authorisation issued under this section shall be personal to the holder and shall expire on the 31st day of December of the year in which it has been issued.

(4) The Director may, after giving notice of not less than thirty days to the holder of an authorisation issued under this section of his intention to suspend or revoke the said authorisation and considering any representations that such a holder may make, suspend or revoke any such authorisation on the ground that he is not satisfied with the qualifications or experience of the holder of the authorisation or with the manner in which the holder has carried out his duties.

Inspection of forest produce before export

61.–(1) Where application for grading or inspection in respect of any timber is made to a grader, such timber shall be stacked by the owner or exporter in convenient parcels to allow a thorough inspection of piece by piece by the grader at the owner's sawmill or the exporter's premises or such other place as the grader may require.

(2) Where an application for inspection in respect of any forest produce is made to an inspector, the produce shall be set out in such a manner which will allow a thorough inspection at the owner's place as the inspector may require.

(3) A grader may refuse to grade timber if for any reason he considers it to be in an unfit condition for export in which case he shall provide reasons for his decisions.

(4) An inspector may refuse to inspect any forest produce if for any reason he considers it to be in an unfit conditions for export in which case he shall provide reasons for his decisions.

(5) In relation to timber, a grader, and in relation to forest produce other than timber, an inspector, may at any time inspect timber or forest produce other than timber for any purpose connected with checking or confirming the grading or quality of the timber or as the case may be the forest produce.

(6) All handling charges in respect of grading or inspection or any inspection to confirm the grading of timber or for any other purpose connected with timber or forest produce shall be at the expense of the owner or exporter who shall provide all necessary services, labour and

other facilities as may be required by a grader or an inspector to enable any such inspection to be carried out.

(7) Any person aggrieved by a decision of a grader or an inspector may appeal within thirty days of the decision to the Director and the Director may confirm, vary or reverse any such decision of a grader or inspector and where he varies or confirms any such decision, he shall, in writing, give the reasons for his decision to the appellant.

(8) Any person aggrieved by a decision of the Director may appeal to the High Court.

Prohibition of marking by unauthorised person

62.–(1) No person other than a grader shall mark any timber with any mark prescribed under this Act.

(2) No person other than an inspector shall mark or place on any forest produce any mark prescribed under this Act.

(3) No person shall mark any timber or place upon any forest produce any mark so similar to any mark prescribed under this Act that it may or can be mistaken for any mark so prescribed.

(4) Where the owner of graded timber or other forest produce or any person acting under the authority of such an owner desires to re-saw that timber or otherwise alter the state of that timber or other marked forest produce, he shall before doing so effectively obliterate the prescribed mark so that it cannot be recognised as a mark prescribed under this Act.

Power to control movement of timber and other forest produce

63.–(1) The Minister may, by order published in the *Gazette*, prohibit or restrict the movement of timber of any kind, quantity or description both within Tanzania and from Tanzania for such periods as shall be specified in the order.

(2) In determining whether to exercise powers under subsection (1), the Minister shall have regard to:

(a) the need to maintain the quality of exports of timber and forest produce;

(b) the need to contain and prevent the spread of any disease affecting trees, timber or other forest produce;

(c) the importance of conforming to international agreements and

standards relating to the export of timber;

(d) the prevention of any criminal activity in relation to the export or sale of timber and other forest produce;

(e) such other factors affecting the sustainability of forests and the welfare of those obtaining a livelihood therefrom as it will appear to be relevant and appropriate.

(3) Where the Minister has published an order in the *Gazette* under subsection (1), any forestry officer shall thereupon have, in relation to that timber or other forest produce which is the subject of that order, power to prohibit the movement of that timber or other forest produce in the terms of such order.

64.–(1) The Minister may by order published in the *Gazette,* prohibit or restrict the importation into Tanzania of any timber or any forest produce other than timber and any such order shall state -

(a) the timber or as the case may be the forest produce the subject of the order.

(b) the date, being not earlier than sixty days from the date of the publication;

(c) the period for which the prohibition or restriction is to be in operation.

(2) Any timber or forest produce imported into the country in contravention of any order made under subsection (1) shall be forfeited to the Government.

(3) It shall be a valid defence to any action taken by the Government under subsection (2) for a person concerned with the importation of any timber or forest produce the subject of an order made under subsection (1) to prove that the process of importation had commenced at the time the said order was published and that it was not practicable or possible to stop the importation before the said order came into effect.

(4) Where the Minister has published an order in the *Gazette* under subsection (1), any forest officer shall thereupon have, in relation to that timber or other forest produce which is the subject of that order, power to prohibit the movement of that timber or other forest produce in the terms of the order in the *Gazette.*

PART VIII
CONSERVATION OF TREES, WILD PLANTS AND WILD ANIMALS

Reserved trees

65.–(1) The Minister may, after consultation with such persons and organisations within the public and private sectors who may appear to him to be knowledgeable on environmental issues, by order published in the *Gazette,* declare in respect of any general land that any tree, class of tree or group of trees of diverse kinds shall be reserved.

(2) Any order referred to in subsection (1) may contain such exceptions and exemptions from its provisions in respect of such persons and such general land as the Minister may provide in such order.

(3) If any general land referred to in any order made under subsection (1) ceases to be general land the provisions of any such order shall cease to apply in respect of such land.

(4) Subject to any exception or exemption provided for in any order, no person may, without a licence or other lawful authority -

(a) fell, cut, lop, damage or remove any reserved tree or any part thereof on any general land;

(b) take, offer for sale any produce from any reserved tree.

Restrictions on cutting of trees

66.–(1) If the Minister, after taking advice from the Director and such other persons and organisations as it may appear to him to be knowledgeable on the matter considers that the cutting of indigenous timber on any land held for a right of occupancy may result in -

(a) damage to the locality by fire, climatic factors or soil erosion;

(b) interference with natural water supplies;

(c) interference with or the hindrance of the natural regeneration of vegetation;

(d) loss of biodiversity;

(e) general deterioration of the environment of the locality; or

(f) a general shortage of timber in the locality;

and that it is in the public interest that action be taken to prevent all or

any of the matters referred to in paragraphs (a) to (f), he may give such written directives to the occupier of the land or to any person authorised by the occupier to cut timber on that land to adopt all or any of such measures as are set out in subsection (2) as he may consider necessary to prevent the occurrence of any or all of the matters referred to under this subsection.

(2) The measure which may be made the subject of directives given under subsection (1) may relate to–

(a) the method of cutting and removal of trees on the land and the route by which such trees shall be removed.

(b) the prohibition of or restriction of cutting trees on the land;

(c) the afforestation or reforestation of the land.

(3) If the occupier of land fails or neglects to carry out the actions referred to in paragraph (c) of subsection (2) within such reasonable time as the Minister may have fixed, he may cause to be carried out or completed any work which is necessary to give effect to the notice and the cost of any such work shall be a debt due by the occupier of the land to the state.

(4) An occupier of land in receipt of a direction issued under subsection (1) may appeal to the High Court on the following grounds:

(a) that the circumstances do not justify the making of the directives or

(b) that the terms of the directives are unreasonable.

Protected wild plants

67.–(1) The Minister may, after consultation with such persons and organisations within the public and private sectors that appear to him to have expertise in the matter and taking account of any international agreements which contain provisions on the matter prepared and publish in the *Gazette* one or more lists of wild plants so as to preserve and maintain biodiversity and genetic resources within the country and shall thereafter from time to time, by notice published in the *Gazette* amend, vary, add to or delete from any such published list.

(2) The publication of a list of wild plants in the *Gazette* shall operate to confer protection on all wild plants listed in such list.

(3) The Minister shall cause publicity to be given to any list of wild plants together with an explanation of the reasons for any such list being made in such manner and form and using such media as is best calculated to bring such lists to the attention of all persons.

(4) No person shall pick, pluck, take samples or any part from or in any way interfere with or wilfully and intentionally poison, damage or destroy in any way or by any means any listed wild plant.

(5) Where in any forest reserve there are right holders exercising existing rights to use any wild plant or any part thereof or any produce therefrom and any such wild plant is listed, the Director shall in association with the right holders or any organisation of right holders or any person representing those right holders prepare a scheme in the prescribed manner and form to enable such right holders to use such wild plant with due regard to the need to protect that wild plant and adhere to the purposes for which it has been listed and until such scheme is prepared and agreed to by the right holders, the provisions of subsection (2) shall apply to such right holders.

(6) The Director may, having regard to the purpose for which any wild plant is protected and the rarity and importance of that plant, grant a permit, to be known as a research permit, to any person with the appropriate qualifications from or with proven affiliations to a reputable research organisation or institution in the public or private sector, including any department from a university, specialising in environmental, scientific or medical studies and work or any institution in connection to the wild plant or forest who applies for such a permit to conduct research within a forest reserve the holder of the permit may take samples from the said forest reserve.

(7) The Director shall keep any list of wild plants under continuous review and may, after consultation with the Committee and all those persons and organisations referred to in subsection (1) from time to time recommend to the Minister to vary, amend, or modify such list.

Protected wild animals

68. No person shall without -

(a) a permit from the Director enter a forest reserve;

(b) a licence from the authority responsible for the management and protection of wildlife,

kill, injure, destroy, drug, capture, collect, or take any listed wild animal or take, injure or destroy any egg or nest or part thereof or any lair or part thereof of any wild animal or transport any wild animal from one part of a forest reserve to another part of the same forest reserve or to a different forest reserve without obtaining a lawful authority of the Director of Wildlife.

Sovereignty over biological resources in forests

69.-(1) All biological resources and their intangible products, whether naturally occurring or naturalised within forests including genetic resources belongs to the government in accordance with Article 27 of the Constitution and shall be conserved and utilised for the people of Tanzania in accordance with the provisions of this Act and any other written law on biological resources.

(2) The transfer of any biological resources, their derivative products or intangible components from forest shall not operate so as to extinguish the sovereignty of Tanzania over those resources.

(3) Without prejudice to the provisions in subsection (1), the right to determine and regulate access to genetic resources is vested in the Government and may be exercised by the competent authority in consultation with relevant organisations in accordance with the provisions of this Act or any other written law on biological resources.

PART IX

FIRES

Restriction on burning of vegetation

70.-(1) Unless otherwise exempted by an order made by the Minister and published in the *Gazette,* no person shall, subject to the provisions of this section, within any area of Tanzania Mainland -

(a) burn any vegetation on any land outside the curtilage of his own house or compound;

(b) wilfully or negligently kindle or cause to be kindled any fire which he has reasonable cause to believe may spread so as to destroy or damage any property of any other person or the sate.

(2) Every person who intends to burn vegetation on land outside the curtilage of his own house or compound or on any other land in pursuance of any permission from the person having control of the said land or from a forestry or other officer with the authority to grant such permission, shall, before proceeding to burn any vegetation endeavour to give such reasonable notice of his intention to burn the vegetation in such form as will enable the persons to whom it is addressed to understand it, to -

(a) the occupiers of all land which is situated within half a kilometer of the place where the burning is to take place;

(b) the officer who has authorised the burning of vegetation on any land or where the burning is to take place on the burner's own land, and officer responsible for such matters from a local authority having jurisdiction over the place where the burning is to take place.

(3) The notice referred to in subsection (2) shall -

(a) be in writing and delivered by hand or given orally whichever is likely to be more effective;

(b) be deemed to take effect from the time it is given; and

(c) shall state as near as may be the time at which the burning will take place.

(4) If for any reason the burning does not take place at the time specified in the notice, a further notice in terms of subsections (2) and (3) shall be required to be given by the person intending to undertake the burning.

(5) Where a fire lawfully kindled after notice given in terms of subsections (2) and (3) spreads to other land, the fact that such notice was given shall -

(a) be a sufficient defence to any person who kindled or was responsible for the fire to any charge of contravening the terms of this section unless it is proved that such a person wilfully or by the negligence of himself, his employees or agents caused or permitted such fire to spread across the boundaries of the land on which the burning took place to such other land; but

(b) not affect the right of any person aggrieved to sue for and receive damages in respect of any loss sustained by him as a result of such fire.

Power to require persons to assist in extinguishing fire

71.–(1) Whenever there is good reason to believe that any fire in the open air may become dangerous to life or property, any person acting in good faith shall -

(a) notify the occupier of the land upon which such fire is burning of his belief; or where the occupier is not present on the land or is not present in the vicinity of the fire;

(b) either alone or with other persons enter upon any land for the purpose of extinguishing that fire or for preventing the extension thereof.

(2) Any owner notified of a fire on his land shall take all reasonable measures to extinguish that fire or prevent its extension and to this end he may require any person present at or in the vicinity of such fire to render assistance or do any act or perform any service as he may consider necessary or expedient to control, extinguish or prevent the spread of such fire.

(3) Any person in the vicinity of a fire has the obligation whether called upon do so or not, to attempt or assist in extinguishing such fire which he has reasonable cause to believe is not under control or may become dangerous to life or property but no person shall be obliged to take any action which a reasonable person or firm desposition would consider likely to endanger his life or cause him injury.

(4) Any person acting in terms of paragraph (a) of subsection (1) or any occupier of land acting in terms of subsection (2) -

(a) shall have the control of persons whom he has required to assist him and of persons who voluntarily place their services at his disposal;

(b) may take all such measures as in the circumstances are reasonable and necessary or expedient for the protection of life and property or for extinguishing or preventing the spread of fire and may for this purpose, cause reasonable destruction of any trees, grass, crops or other vegetation by cutting burning, ploughing; or

(c) may order any person whose life may be or may become endangered or whose presence at or in the vicinity of the fire may interfere with any operation in connection with the fire, to remove himself or any vehicle or other thing under his control.

(5) Where any fire is approaching the boundary of a forest reserve, or is burning within a forest reserve, any officer present shall have the right and duty to take full control of all actions to extinguish or contain the spread of the fire and to that end shall have all the powers conferred on any person referred to under subsection (4).

Orders in relation to fire-breaks

72.–(1) Where the Director or any authorized officer is satisfied that vegetation on any land is of such a nature that a boundary firebreak

is necessary to provide proper protection to adjoining land from the risk of fire, the Director may by written notice to the occupier of such land upon which such vegetation occurs direct the said occupier -

(a) to provide a firebreak on the boundary of his land of such a width as may be specified in the notice;

(b) to establish and maintain internal firebreaks on the land in his occupation of such width as may be specified in the notice.

(2) If the occupier of land fails or neglects to carry out the actions referred to in subsection (1) within sixty days from the date of the notice as the Director may have fixed, the Director may carry out or complete any work which is necessary to give effect to the notice and the cost of any such work shall be a debt due by the occupier of the land.

(3) An occupier of land in receipt of a direction issued under subsection (1) may appeal to the High Court on the following grounds:

(a) that the circumstances do not justify the making of the direction;

(b) that the terms of the direction are unreasonable.

Fires kindled on land of another to be controlled and extinguished

73. Any person who is upon the land of another, whether lawfully or not or upon any road or vacant land shall carefully and properly extinguish any fire kindled or used by him and until he has done so shall not go so far from any such fire as to be unable to control it by himself or his employees.

Saving of counter firing

74. Nothing in this Act contained shall be deemed to prohibit any person when his life, person or property is in danger of loss or injury from an approaching fire, from setting alight to and burning vegetation in the manner commonly known as counter firing in order to prevent such loss or injury.

Saving of right to recover damages

75. Save in respect of any reasonable and necessary action taken under the provisions of sections 71 and 74, nothing in this Part shall be deemed to affect the right of any person aggrieved to recover damages by civil action for any loss sustained by him.

Definition of the words owner or occupier

76. In this Part the expression "owner or occupier of the land on which the fire is burning" shall include any person managing such land on behalf of the owner or occupier and any employee of the owner or occupier in possession of written authority from the owner or occupier to act on his behalf in the manner provided under this Act.

PART X
FINANCIAL PROVISIONS AND ESTABLISHMENT OF A FUND

Power to charge fees

77. The Minister may determine and thereafter prescribe, the services and permits for which fees shall be charged by forest managers and their corresponding charge rates.

Power to set and collect royalties

78.–(1) Any permit relating to the harvesting or extraction of any forest produce from forest reserves, shall, subject to the provisions of this section, be granted upon payment by the permit holder of such royalties at such times and in such manner as the Minister may determine and prescribe.

(2) In determining the level of royalties in connection with any particular produce, the following shall be considered -

(a) the potential market value of the produce;

(b) the accessibility of the produce;

(c) the profitability of the enterprise, due regard being had to the expenses and capital investment of the enterprise;

(d) principles of sustainability in connection with harvesting of the produce;

(e) such other factors as may be prescribed.

(3) No royalties shall be required for the harvesting or extraction of forest produce within a village forest reserve or a community forest reserve by the resident of the village or the members of a Group as the case may be unless such a requirement is specifically provided for in any agreement under which they are managed.

Establishment of Tanzania Forest Fund

79.–(1) There is hereby established a fund to be known as the Tanzania Forest Fund.

(2) the funds and resources of the Fund shall consist of -

(a) a levy of two per cent of every prescribed fee payable under this Act;

(b) a levy of three per cent of any royalty payable under this Act;

(c) grants, donations, bequests or such sums contributed by any private individuals, corporate bodies, foundations, or international organisations or funds within or outside the Country.

(d) any sums realised by the sale of any forest produce confiscated under any of the provisions of this Act;

(e) any income generated by any project financed by the Fund, due allowance being made for any necessary expenses which must be met by any such project.

(f) any such funds acquired from various sources.

(3) The Fund shall be managed by the Forest Fund Trustees who shall be appointed by the Minister.

(4) The composition and procedures of the Trustees shall be as provided for in the Second Schedule to this Act.

Purposes of the Fund

80. The objects and purposes of the Fund are to-

(a) promote awareness of the importance of the protection, development and sustainable use of forest resources through public education and training;

(b) promote and assist in the development of community forestry directed towards the conservation and protection of the forest resources of the country through the making of grants and providing advice and assistance to groups of persons wishing to form themselves into a group;

(c) promote and fund research into forestry;

(d) assist in enabling Tanzania to benefit from international initiatives and international funds directed towards the conservation and protection of biological diversity and the promotion of sustainable development of forest resources;

(e) assist groups of persons and individuals to participate in any public debates and discussions on forestry and in particular to participate in processes connected with the making of an environmental impact assessment provided under section 18;

(f) assist groups of persons and individuals to ensure compliance with this Act;

(g) promote such other activities of a like nature to those set out in this section as will advance the purposes of this Act.

Administration of the Fund

81.–(1) The Trustees shall -

(a) establish one or more separate accounts in a bank certified into which all monies received by the Fund shall be paid in and out;

(b) keep books of accounts and maintain proper records of its operations in accordance with commercial accounting standards;

(c) prepare annual estimates of income and expenditure and adhere to any such estimates;

(d) ensure that the operations of the Fund are exercised in an economical and efficient manner;

(e) make grants to applicants for funds in accordance with such procedures and such criteria as may be prescribed;

(f) manage the resources of the Fund in a prudent and business-like manner;

(g) prepare and publish an annual report which shall include -

(i) an account of the operations of the Fund during the year covered by the report;

(ii) a set of audited accounts;

(iii) such other matters as may be prescribed;

(h) appoint such full-time and part-time staff as seems to the Trustees to be appropriate and necessary to ensure that the matters referred to in this section are implemented;

(i) take all such other action which shall advance the objects and purposes of the Fund.

Accounts and financial audit

82.–(1) The Fund shall keep books of accounts and maintain proper records of its operations in accordance with acceptable accounting standards.

(2) The Fund shall at any time, and at the end of each financial year have the accounts of the Fund audited by the Controller and Auditor-General or by a firm of auditors certified by the Controller and Auditor-

General to be a firm capable of undertaking such work on such terms and conditions as the Fund may determine.

(3) The Trustees shall prepare an Annual Report in relation to each year ended 30th June and submit it to the Authority before 30th November in that year.

(4) The Annual Report shall provide detailed information regarding the activities of the Fund during the previous year ended 30th June and any additional information requested by the Ministry, thereafter the Minister shall table in the National Assembly the Annual Report of the Fund.

(5) Subject to the provisions of subsection (4) the Annual Report of the Fund shall include the financial Statements of the Fund for the immediately proceeding year and the auditors report based on the aforementioned Statements.

(6) Where the Minister is of the opinion that the Trustees are not carrying out their functions in a proper and reputable manner, he shall give them such directions in writing to ensure that they carry out their functions in a proper and reputable manner or he many take other necessary measures.

Fund exempted from taxes etc.

83.–(1) The Fund is hereby exempted from payment of any import, and other duties, taxes and levies in respect of its operations, capital property or documents or any other transaction, deed, agreement, fees or promissory note to which it is a party but such exemptions shall be in accordance with other written laws governing financial matters.

(2) Notwithstanding the provisions of subsection (1), the employees of the Authority shall be liable to pay taxes, duties and excise on their transactions just like any other employee of the Government.

PART XI

Offences and Penalties

Offences in forest reserves

84.–(1) Any person who, without an existing right, or permit or other lawful authority under this Act within a forest reserve -

(a) enters into the forest reserve;

(b) performs any act which is prohibited by section 26 or which is prohibited by a forest management or other agreement;

(c) obstructs any existing road, path or water course;

(d) covers any tree stump with brushwood or earth or by any other means whatsoever conceals, destroys, or removes such tree stump or any part thereof;

(e) damages, defaces, alters, shifts, removes, or in any way whatsoever interferes with any beacon, fence or other boundary mark or notice, or notice board,

shall be guilty of an offence against this Act.

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

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

(4) The Director may by notice published in the Gazette exempt the whole or any part of any forest reserve from the application of the provisions subsection (2) subject to such terms and conditions as he may think fit and any such notice shall be -

(a) exhibited in a conspicuous place in the offices of all local authorities within whose area of jurisdiction any part of the forest reserve to which the notice applies is situate or is contiguous thereto; and

(b) given publicity to in such manner as is customary in the area or as is otherwise calculated to bring it to the attention of all persons living in or in the vicinity of or deriving their livelihood from or using on a regular basis any part of the forest reserve.

(5) Any person committing an offence under this section shall be guilty of an offence and upon conviction liable to a fine of not less than thirty thousand shillings and not exceeding one million shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Offences relating to trees not in forest reserves

85. Any person who without a licence, permit or other lawful authority under this Act fells, cuts, lops damages, removes or sells any reserved tree or any part thereof on unreserved land shall be guilty of an offence and upon conviction shall be liable to a fine of not less than fifty thousand shillings and not exceeding one million shillings or to imprisonment for a period not exceeding one year or to both such fine and imprisonment.

Offences relating to listed wild plants

86. Any person who, without any lawful authority or excuse, the proof of which lies upon him, under this Act-

(a) picks, plucks, take samples or any part from or in any way interferes with or wilfully and intentionally poisons, damages or destroys in any way or by any means any listed wild plant;

(b) exposes for sale or purchase or has in his possession or control any listed wild plant or part thereof intending to offer the same for sale of purchase;

(c) exports or attempts to export any listed wild plant or any part or seed thereof.

shall be guilty of an offence and upon conviction shall be liable to fine of not less than two hundred thousand shillings and not exceeding one million shillings or to imprisonment for a term not less than six months and not exceeding two years or to both such fine and imprisonment.

Offences relating to listed wild animals

87. Offences relating to wild animals shall be dealt with in accordance with the written laws governing wild life issues and any other written laws.

Offences relating to unlawful taking possession or receiving of forest produce

88. Any person, who without lawful authority or excuse, the burden of proof which shall be upon him, takes, receives or is found in possession of forest produce with respect to which an offence against this Act has been committed, unless he can account for such possession or can show that he came by such produce innocently shall be guilty of an offence and upon conviction shall be liable to a fine of not exceeding one million shillings or to imprisonment for a period not exceeding two years or to both such fine and imprisonment.

Offences relating to trade in forest produce

89. Any person who, without lawful authority or excuse, the proof of which lies upon him -

(a) harvests forest produce to which this Act applies;

(b) operates, or causes to be operated a vehicle to carry, haul, evacuate, or transport forest produce harvested in contravention of this Act;

(c) carries, hauls, or evacuates by non-mechanical means any forest produce harvested in contravention of this Act;

(d) offers for sale, sells or buys forest produce harvested in contravention of this Act;

(e) stocks forest produce harvested in contravention of this Act;

(f) not being an authorised grader, marks any timber with a prescribed mark;

(g) exports or enters for export any forest produce for which an export certificate is required without a valid export certificate,

shall be guilty of an offence and upon conviction shall be liable to a fine not less than two hundred thousand shillings and not exceeding one million shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Counterfeiting and similar offences

90. Any person who –

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

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

(c) marks any timber, whether such timber has been marked by an authorised grader or inspector or not, with a mark so similar to any mark prescribed by this Act or any rule made under this Act that it may or can be mistaken for such prescribed mark,

shall be guilty of an offence and upon conviction shall be liable to a fine not less than one million shillings and not exceeding three million shillings or to imprisonment for a not less then one year or not exceeding two years or to both such fine and imprisonment.

Offences in connection with fires

91.–(1) Any person who, without lawful authority or excuse the proof of which shall lie upon him -

(a) lights or assists in lighting or uses, rekindles or adds fuel to any fire or causes any of these activities to take place;

(b) leaves unattended a fire which he, with or without authority has lighted or assisted in lighting or used or rekindled or to which he has added fuel before such fire is thoroughly extinguished;

(c) fails to comply with any lawful order issued to him under and in connection with any of the provisions of Part IX of this Act,

shall be guilty of an offence and upon convition, shall be liable to a fine of not less than fifty thousand shillings and not exceeding one milion shillings or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(2) Any person who willfully and unlawfully sets fire to any forest reserve, forest plantation, standing trees, sapling or shrubs, whether indigenous or not, commits an offence and upon conviction shall be liable in accordance with the provisions of section 321 of he Penal Code.

Interference with or obstruction of officers carrying out their functions

92. Any person who -

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

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

(c) knowingly makes a false or incorrect statement, report or entry of any information that is required to be supplied to any officer;

(d) without lawful authority or excuse, fails or refuses or wilfully neglects to comply with any lawful demand or requirement made by, or to provide information that is required to be supplied to, any officer or member of staff of the Division;

(e) obstructs, hinders, delays, threatens, intimidates or assaults any person in the execution of his powers or duties under the provisions of this Act or any rules, orders, or notices made un

der this Act,

shall be guilty of an offence and upon conviction shall be liable to a fine of not less than fifty thousand shillings or not exceeding one million shillings or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

Powers of officers with respect to offences

93.–(1) Any authorized officer, forestry officer or police officer may –

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

(b) require any person whom he has reasonable grounds to suspect of being in possession of any forest produce unlawfully obtained to stop and give an account of his possession of such produce and may, subject to the provisions of this section, without warrant search any such person or any baggage, package, parcel, vehicle, boat, aeroplane, tent or building in the possession of or under the control of such person in which such forest produce may be suspected of being contained or stored;

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

(d) arrest without warrant any person whom he has reasonable cause to suspect that he has committed or has been involved in an offence against this Act where -

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

(ii) there is reason to believe that such a person will abscond but any officer making arrest shall ensure that person who has been arrested shall be taken to the court.

(2) The powers referred to in paragraph (b) of subsection (1) shall in relation to the search of domestic buildings -

(a) not extend to any such search by forest rangers, forest guards or police officers below the rank of inspector;

(b) only be exercised by officers on whom such powers have been conferred by this section in the presence of two independent witnesses.

Custody of seized produce and articles

94.–(1) Any article or forest produce seized under sections 88 or 90 shall be brought to the nearest police station or if it is not feasible to deliver it to a police station it shall be delivered into the custody of the nearest reserve manager and a report of such seizure shall be made forthwith to the senior police officer having jurisdiction within the area.

(2) Any article or forest held in custody by the police or a forest reserve manager shall be retained until the offence in connection with which it has been seized has been prosecuted, or compounded or a decision has been taken not to prosecute.

(3) Where any seized article or forest produce is perishable, a forest reserve manager may order that the said article or forest produce be sold or destroyed and where it has been sold, the proceeds of the sale shall be retained and the provisions of subsection (2) shall apply to any such proceeds.

(4) Where the owner or a person in control of a seized property fails to appear or absconds and abandons his property for a period of thirty days, the Director or an authorised officer may dispose of such property sale it and the money collected therefrom shall be used to cover any costs incurred and the remaining amount, if any, shall be deposited into the Fund.

Compounding of offences

95.–(1) The Director or any officer specifically authorised by the Director by notice published in the *Gazette* may, subject to and in accordance with the provisions of this section, if he is satisfied that a person has committed an offence against this Act, compound such offence by accepting from such person a sum of money together with the forest produce, if any, in respect of which the offence has been committed.

(2) The sum of money payable under subsection (1) shall -

(a) not exceed five times the maximum amount of the fine prescribed as being payable in respect of such offence;

(b) include payment of all fees and royalties due or which would have been due if the action taken had been authorised under this Act;

(c) where any forest produce involved in the offence has been damaged, injured or removed during the commission of the offence, include a sum of money not exceeding the value of that forest produce;

(d) include all reasonable expenses which the Division may have incurred in the seizure, storage, maintenance or removal of any articles seized in connection with the offence.

(3) The power conferred by this section shall be exercised where a person admits that he has committed an offence and agrees in writing in the prescribed form to the offence being dealt with under this section.

(4) The power conferred by this section shall be exercised where the value of the forest produce in respect of which an offence has been committed or the damage caused by the offence does not exceed two million shillings.

(5) The Director or officer exercising powers under this section shall give to the person from whom he receives any sum of money under subsection (2) a receipt in the prescribed form and as soon as practicable report the exercise of such power, and if exercised by the Director of Public Prosecutions, the Director and the District Administrative Officer exercising jurisdiction within the area where the offence was committed.

(6) Any sum of money received under this section shall, after deduction of reasonable expenses, be paid into the Fund.

(7) If any proceedings are brought against any person for an offence against this Act, it shall be a good defence if such person proves that the offence with which he is charged has been compounded under this section.

96. The Director, any forestry officer or any authorized officer after obtaining the permission to prosecute from the Director of Public Prosecution shall have the power to conduct prosecution for any offence committed under this Act.

Additional orders on conviction

97.–(1) Where any person is convicted of an offence against this Act, the court may in addition to any other penalty provided for by this Act order,

(a) that any permit granted under this Act to the person convicted be cancelled and that the said person be disqualified from holding any other permit for such period as the court may direct;

(b) that any forest produce in respect of which the offence has been committed and anything which has been used in the commission of the offence be forfeited to the forest reserve manager of the forest reserve where or in connection with which the offence occurred and may be disposed of by the forest reserve manager after such interval of time and in such manner as he may see fit;

(c) that where any forest produce has been damaged or injured in the course of or in connection with the commission of the offence, the person convicted of the offence to pay to the forest reserve manager of the forest reserve where the offence occurred by way of compensation the value of the said forest produce;

(d) that where any property or thing belonging to the Government or a local authority has been damaged or injured in the course of or in connection with the commission of the offence, the person convicted of the offence to pay to the Director or as the case may be the Chief Executive Officer of the local authority by way of compensation the value of the property or thing;

(e) that the person convicted of the offence to pay to the forest reserve manager of the forest reserve where or in connection with the offence occurred up to ten times the amount of any royalties or fees which had the action constituting the offence been authorised would have been payable in respect thereof;

(f) that where the offence of which the person has been convicted consists of occupying or cultivating or grazing land in any forest reserve not having an existing right or without a permit, the person so convicted to remove any buildings, enclosures, huts, crops, or livestock within a period to be specified in the order and if the person so convicted fails to comply with the order of the court within the period so specified, any such building, enclosure, hut, crops or livestock shall be deemed to be the property of the Government and may be disposed of by the Director

in such manner as he may see fit;

(g) the person convicted to reimburse the forest reserve manager for any costs and expenses he has incurred in the seizure, storage, maintenance and removal of any forest produce or other goods and things confiscated or forfeited to the Government in connection with the offence.

(2) Notwithstanding the provisions of paragraph (b) of subsection (1), any forest produce or any thing forfeited under this Part shall be sold or otherwise disposed of as the Director or any other authorised officer may, by general or specific order direct.

(3) Any sums of money paid or payable to the Director or generated by the sale of any property under the provisions of this section shall be paid into the general revenues of the Government.

Protection of officers

98.–(1) No matter or thing done by any authorised officer to perform any function under this Act, shall, if done in good faith in execution or purported execution of his function under this Act, render him personally liable for the matter or thing concerned.

(2) When in any proceedings a question arises respecting the good faith of any act done in the purported exercise of any power or performance of any duty under this Act, where a *prima facie* case has been shown that an authrorised officer was so acting in the purported exercise of any power or the performance of any duty, the burden of proving that the act in question was not done in good faith shall thereupon pass to the person alleging that matter.

Rewards to informer

99.–(1) The Director may award any amount not exceeding one half of any fine imposed for an offence against this Act to any person who may have supplied such information as may have led to the conviction of an offender.

Saving of receive rights

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

PART XII

MISCELLANEOUS PROVISIONS

Substituted service

101.-(1) Where the Director is satisfied that a notice under this Act or any other written laws cannot be served personally or by post, either because the person to be served is evading service or for some other reason, he may order service to be effected by -

(a) affixing a copy of the notice in a conspicuous place -

(i) on or a near as may be to the place where the said person had his last known place of abode; and

(ii) at the offices of the local authority having jurisdiction in the area where the place referred to in paragraph (i) is located or other public place in the said area; and

(b) publishing a copy in the *Gazette* and, if he thinks, fit, one or more newspapers circulating widely in the country.

(2) A notice displayed or published under this section may be in English or Kiswahili or both.

Publication of notices and other information

102.-(1) Where, by any provision of this act, a notice or other information is to be published or given such publicity as will bring it to the attention of all persons likely to be affected by it, that duty shall be construed as requiring –

(a) where the notice relates to a village or community forest reserve or to a matter affecting a village or the inhabitants thereof, a copy of the notice or other information to be:

(i) affixed in a conspicuous place on or as near as may be to the forest reserve to which it relates; and

(ii) affixed in a conspicuous place at the officers of the village council and in such other public places in the village as the village council shall direct; and

(iii) summarised and communicated orally to the residents of the village at a meeting of the village assembly and at such other meetings as may be convened by the village council for that purpose;

(b) where the notice relates to a local authority forest reserve or a national forest reserve, a copy of the notice to be -

(i) affixed in a conspicuous place on or as near as may be to the forest reserve to which it relates; and

(ii) affixed in a conspicuous place at offices of the local authority having jurisdiction in the area where the land is located and at such other public places, including offices of the Government as the local authority think fit.

(iii) summarised and communicated orally to the residents of the village at a meeting of the village assembly and at such other meetings as may be convened by the village council for that purpose;

(2) Where the Director considers it desirable, a notice or other information to which this section applies may be published in one or more newspapers circulating in the area in English or Kiswahili or both where the forest reserve to which the notice or other information relates is located.

Rights of entry

103.-(1) Any person authorised in that behalf by the Director shall have power, on the giving of not less than 48 hours notice, to enter and inspect at all reasonable times between the hours of 6.00 am and 6.00 pm any land, other than land occupied exclusively as a dwelling house, for any purpose connected with the implementation of this Act.

(2) The notice which is required by subsection (1) to be given prior to any entry on to any land shall specify clearly the purpose for which and the time at which the authorised person will enter the land.

(3) Every person authorised to enter or inspect the land under this section shall be furnished with a written authorisation signed by the Director and if so required by any person having an interest in or occupying the land which he enters and inspects, shall produce the same to such person.

(4) Where any person authorised under this section causes any damage to land or anything on the land during his entry and inspection, the Director, shall forthwith appoint a person to assess such damage and pay compensation based on that assessment to the person whose land or things on the land have been damaged.

Call for information

104.–(1) The Director may, for any purpose connected with the implementation of this Act, by notice in writing sent or delivered by registered post, require any person holding a licence under this Act to send or deliver to the Director within one month of the date on which the notice was so sent or delivered such documents and other information about the licence as is specified in the notice.

(2) The notice sent by the Director shall specify clearly and in a language calculated to be understood by the recipient of the notice the information that is required.

(3) Where the recipient of the notice is unclear as to the information which he is required to provide, he shall, as soon as may be, seek further clarification and education from the Director.

(4) It shall be a defence to any person charged with a failure to comply with the notice or with giving misleading information in his reply to the notice that he could not reasonably have been expected to understand the notice or any further clarification and elucidation provided by the Director in response to any communication sent or made to the Director under subsection (3).

(5) Where the Director requires information from a person whom it is reasonable to assume from his age, circumstances, education, and location will not be able to understand or reply in writing to the written notice, the Director shall authorise an officer in writing to interview that person and obtain the required information.

(6) An officer authorised to conduct an interview under subsection (5) shall give not less than seven days notice of the time, being a reasonable time between the hours of 6.00 am and 6.00 pm, at which he proposes to conduct the interview and such interview shall be conducted in a reasonable manner.

(7) The provisions of subsections (3) and (4) of section 105 shall apply to a person conducting an interview under this section.

Arrangements for facilitating and regulating research

105.–(1) Any person intending to undertake any research in a forest reserve or in connection with any forest produce shall in addition to any permit or licence, if any, required to be obtained from any other person or organisation in order to be able to undertake such research, obtain a research permit from the Director.

(2) An application for a research permit to which this section applies shall be accompanied by a copy of the research proposal and include -

(a) the name, qualifications and designation of the person applying for the permit;

(b) the names, qualifications and designation of any persons whom it is proposed will assist or work with the person applying for the permit;

(c) the name, function and address of the institution or organisation, if any, with which the person applying for the permit is connected, either directly or indirectly and if a different institution or organisation is funding in whole or in part the research, the name, address and function of that funding institution or organisation;

(d) the purpose of the research and the use to which it shall be put, including any proposals for the publication of the results of the research and any proposed commercial exploitation of the research;

(e) such other matters as may be prescribed.

(3) In determining whether to grant or refuse to grant a research permit, the Director shall have regard to -

(a) any general policies concerning research adopted by any national bodies charged with a duty to promote and regulate research;

(b) the extent to which the proposed research is likely to contribute to the furtherance of the objectives the of forest as set out in section 3;

(c) the proposals or lack of them that the research plan contains for providing feedback from the research and disseminating the results of the research within the country;

(d) the extent to which the research plan complies with any international agreements relating to research on forestry of the nature proposed in the application;

(e) such other matters as appear to be relevant or as may be prescribed.

(4) The Director may in granting a research permit attach such conditions to the permit as are calculated to ensure that the matters referred to in subsection (3) are observed and furthered by the research and in particular such conditions may regulate and control the manner in which any specimens of flora or fauna are taken from a forest reserve or are exported from Tanzania in the course of or at the conclusion of the permitted research.

(5) A person who has been granted a research permit shall, at his own expense, deposit one copy of any publication of any sort and any other publicly available information arising out of or produced in connection with the research, whether produced by the person granted the research permit alone or as a joint author with other persons during the course of the research in each such library in the country as shall be specified in the research permit or as may be prescribed.

(6) Where the Director is satisfied after due inquiry or as a result of information given to him by a reliable source that any research is being conducted otherwise than in accordance with the terms of a research permit, he shall forthwith withdraw the said research permit and issue a direction in writing to the person to whom the research permit was granted to cease all activities connected with or arising out of the research.

(7) A person from whom a research permit has been withdrawn under subsection (6) may appeal to the High Court.

Power to make regulations

106.–(1) The Minister may, make regulations either of general application or in respect of any particular forest reserve or in respect of any timber or other forest produce for the better carrying out of the provisions and purposes of this Act and without prejudice to the generality of this provision, regulations may be made for -

(a) regulating the felling, working, removal and transport of timber or other forest produce;

(b) prescribing any areas of unreserved land in which all or any timber or other forest produce may or may no be cut or removed;

(c) prohibiting or regulating the use and occupation of land in forest reserves for residential, cultivation, commercial or industrial purposes or grazing, including the impounding of livestock and the payment of pounding fees;

(d) prohibiting or regulating the use of forest reserves for eco-tourism, camping, hiking and any other purposes of like nature;

(e) prescribing the time and manner of investigating and recording existing rights in relation to land or forest produce within forest reserves;

(f) prescribing the form of forestry dedication covenants;

(g) regulating the manner and procedures in which licences, permits or certificates may be applied for, granted, varied, refused or cancelled;

(h) regulating the procedures for the application for and the grant of concenssion;

(i) providing for the terms and conditions subject to which concession, licences, permits or certificates may be granted, extended, altered, or revoked;

(j) prescribing the fees payable for any licence, permit or certificate and providing for any exemptions for any persons or class of persons from the payment of any such fees and any conditions and limitations relating to any such exemption;

(k) regulating the manner and procedures governing appeals against adverse decisions provided for under this Act;

(l) prescribing the terms and conditions and the amount of fees payable under any concession granted under this Act;

(m) regulating the sale and disposal of forest produce by tender, public auction, private treaty or otherwise, and matters incidental thereto;

(n) regulating the taking of timber for mining purposes, including prospecting and exploring for minerals;

(o) regulating the transport and movement of timber from one part of the country to another part.

(p) prohibiting or controlling the entry of persons, animals, or vehicles into any forest reserve, or part thereof and regulating the

period during which such persons, animals or vehicle may remain therein and providing for the conditions subject to which they may do so;

(q) regulating the times, seasons and practices of collecting, taking, picking, storing and removing wild plants within forest reserves;

(r) regulating the modalities of research within forest reserves and making available the results of any such research;

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

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

(u) providing for the compulsory use of property marks by local authorities, village councils and owners of private forests and woodlands for the purpose of identifying timber sold from local authority, village land and community forest reserves and private woodlands and the manner of their use;

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

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

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

(y) providing for the registration of stamps and marks for use by the Forest department for making forest produce or indicating forest reserves;

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

(aa) providing for the modalities of prohibiting or regulating the export from the country or from any area of the country of any forest produce;

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

(cc) providing for local authorities and village councils to make by-laws on matters set out in this section as may be provided for in any such rules;

(dd) providing model by-laws for adoption by local authorities and village councils on any of the matters set out in this section;

(ee) providing for the regulation of access to genetic resources within forests;

(ff) regulating the manner and the criteria on which the Trustees may grant monies from the Fund to applicants;

(gg) prescribing the qualifications, codes of conduct and standards which officers must attain and maintain in connection with the performance of their duties under this Act;

(hh) regulating the times, seasons and practices of hunting, capturing, collecting, taking or transporting of wild animals within forest reserve;

(ii) establishing and regulating sanctuaries for birds and other flying creatures.

(jj) regulating the times, seasons and practices of fishing within forest reserve;

(kk) providing for the registration and payment of fees of all dealers of timber and forest produce.

(2) Notwithstanding the provision of this section, paragraph (hh), (ii) and (jj) shall be dealt with in accordance with the written laws governing such matters.

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

such acts or things shall be performed or done or such conditions shall be fulfilled.

(4) A local authority or a village council may after consultation with the Director, with the approval of the Minister for the time being responsible for local government make rules applicable to any local authority or village land or community forest reserve which it maintains or has jurisdiction over on any of the matters which may be provided for by any rules made by the Minister under paragraph (ff) of subsection (1).

(5) A rule made under this section may prescribe for the breach thereof a fine not exceeding five hundred thousand shillings or imprisonment for a term not exceeding six months or both such fine and such imprisonment.

107. The Minister may, if he is satisfied on proper and relevant information that it is in the interests of the better management or sustainable utilisation of the forest resources of the country, by notice in the *Gazette* exempt any person or class of persons or any forest or class of forests from all or any of the provisions of this Act, other than any of the provisions of Parts IX and XI and any such notice shall be accompanied by a written statement of the reasons for the exemption which shall be made available to the public.

108.–(1) The Ordinances set out in the Third Schedule to this Act are, hereby repealed.

(2) Notwithstanding the repeal of the Forests Ordinance the Export of Timber Ordinance and the Grass Fires Ordinance -

(a) all territorial forest reserves declared as such under the Forests Ordinance shall be deemed to have been declared national forest reserves under this Act;

(b) all local authority forest reserves declared as such under the Forest Ordinance shall be deemed to have been declared local authority forest reserves under this Act;

(c) all local authorities empowered under the Forest Ordinance to exercise control over a local authority forests reserve shall be deemed to have been declared responsible for managing the said local authority forest reserve under and in accordance with this Act;

(d) all licences, and permits granted under the provisions of the Forests Ordinance or the Export of Timber Ordinance shall be deemed to have been made, granted or issued under and subject to the provisions of this Act;

(e) all rules made under the provisions of the Forest Ordinance, the Export of Timber Ordinance and have the Grass Fires Ordinance shall be deemed to have been made under this Act and shall remain in force and have effect until repealed, replaced or amended under and in accordance with the provision of this Act;

(f) all lawful orders, notices, by-laws or anything given or made by an authorised officer so authorised to give or make such lawful orders notices and by-laws under the Forest Ordinance, the Export of Timber Ordinance or the Grass Fires Ordinance shall be deemed to have been made under this Act and shall remain in force and effect until amended or withdrawn under this Act.

FIRST SCHEDULE

(Made under Section 10)

MEETING AND PROCEDURAL MATTERS OF THE COMMITTEE

1. The Director of Forestry or his representative shall be an ex-official member of the Committee.

2. The members of the Committee shall elect from amongst their number a Chairman and a Vice-Chairman who shall hold office for three years respectively unless their membership is otherwise terminated and shall be eligible to be re-elected for one further term in those offices.

3. Members of the committee shall hold the office for three years and unless their membership is otherwise terminated due to misconduct or non-attendance, without reasonable excuse, at three successive meetings of the Committee shall be eligible to be re-appointed for one further term.

4. The Director shall appoint an officer from the Division to act as the Secretary to the Committee.

5.–(1) There shall be not less than four ordinary meetings of the Committee in each year.

(2) An ordinary meeting of the committee shall be convened by the Chairman and

the notice specifying the place, date, and time of, and agenda for, the meeting shall be sent to each member at his usual place of business or residence not less than fourteen days before the date of the meeting.

(3) The Chairman, or in his absence the Vice-Chairman shall be bound to convene a special meeting of the Committee upon receipt of a request in writing in that behalf signed by not less than three members of the Committee and where such special meeting in convened, the agenda for such a meeting shall be sent to each member at his usual place of business of residence not less than seven days before the date of the meeting.

(4) A meeting of the committee shall be presided over by the Chairman or in his absence, by the Vice-Chairman and when both the Chairman and the Vice-Chairman are absent, by a member elected by those members present at that meeting.

(5) The quorum at any meeting of the Committee shall be half of the members.

(6) The Committee may establish such sub-Committees as it sees fit to enable it to discharge its functions under the Act.

(7) The Committee and any Sub-Committees established by the Committee shall have the power to co-opt any person on to the committee or sub-Committee either generally or for a specific item of business and such co-opted person shall have all the rights and duties of a member of the Committee or sub-Committee except that such co-opted person shall not have any right to vote on any matter before the Committee or Sub-Committee.

(8) A member who has any interest, direct or indirect in any matter coming before the Committee or sub-Committee shall, as soon as is reasonably practicable, disclose the nature of that interest to the Chairman or Vice-chairman and shall not, thereafter take part in any decision on that matter nor, except with the consent of a majority of the members present at that meeting, take part in any deliberations of that meeting.

(9) Subject to the provisions of this Schedule, the Committee shall regulate its own proceedings.

6. The Committee shall prepare an annual report setting out its current activities and indicating its future activities together with a set of audited accounts and shall submit that report to the Minister who shall lay the same before the Parliament.

SECOND SCHEDULE

(Made under Section 79)

THE TRUSTEES

1.–(1) The Trustees shall consist of members whose numbers shall be not less than seven and not more than nine including -

(a) a person of proven quality and integrity who has achieved high office or distinction within the country and shall be appointed by the President who shall be the Chairman;

(b) a senior representative from the Ministry responsible for finance;

(c) a senior representative from the Ministry responsible for forestry;

(d) a member from an institution concerned with training in forestry and allied matters;

(e) a qualified and registered accountant;

(f) an legally qualified person holding office in the Attorney-Generals' Chambers, nominated in that behalf by the Attorney-General;

(g) a member from non-governmental organisations concerned with the conservation of the natural resources of Tanzania;

(h) one person representing local government, and

(i) a member from the forestry research institution.

(2) Not less than three of the Trustees shall be women.

The Trustees shall elect from amongst their number a Vice-Chairman who shall hold office for two years but shall be, subject to remaining a Trustee eligible to be re-elected for one further term of two years.

2. The Trustees shall hold office for three years and except where their membership is terminated for misconduct or other sufficient reason, shall be eligible to be re-appointed for one further term.

MEETING AND PROCEDURAL MATTERS

3. An officer responsible for financial matters of the Fund shall attend the meetings of the Trustees when matters connected with the management of the Fund are discussed.

4. The quorum at any meeting of the Trustees shall be the Chairman or Vice-Chairman and not less than three other Trustees.

5.–(1) An ordinary meeting of the Trustees shall be convened by the Chairman and the notice specifying the place, date, and time of, and agenda for, the meeting together with the papers for the meeting shall be sent to each Trustee at his usual place of business or residence not less then fifteen days before the date of the meeting.

(2) The Chairman, or in his absence the Vice-Chairman shall be bound to convene a special meeting of the Trustees upon receipt of a request in writing in that behalf signed by not less than three Trustees.

(3) A Trustee who has any interest, direct or indirect in any matter coming before the Trustee shall, as soon as is reasonably practicable, disclose the nature of that interest to the Chairman or Vice-Chairman and shall not, thereafter, take part in any deliberations or decision on that matter.

(4) Subject to the provisions of this Schedule, the Trustees may regulate their own proceedings.

ANNUAL REPORT

6. The Trustees shall prepare an annual report and set of audited accounts and shall submit that report to the Minister who shall lay it before the Parliament.

THIRD SCHEDULE

(Made under Section 108)

1. The Forests Ordinance, Cap.389.
2. The Export of Timber Ordinance, Cap.288
3. The Grass Fires Ordinance Cap.135

Passed in the National Assembly on the 23rd April, 2002.

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Clerk of the National Assembly

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