

Zambia

Forests Act, 2015

Act 4 of 2015

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Forests Act, 2015

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Zambia

Forests Act, 2015

Act 4 of 2015

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ACT

An Act to provide for the establishment and declaration of National Forests, Local Forests, joint forest management areas, botanical reserves, private forests and community forests; provide for the participation of local communities, local authorities, traditional institutions, non-governmental organisations and other stakeholders in sustainable forest management; provide for the conservation and use of forests and trees for the sustainable management of forests ecosystems and biological diversity; establish the Forest Development Fund; provide for the implementation of the United Nations Framework Convention on Climate Change, Convention on International Trade in Endangered Species of Wild Flora and Fauna, the Convention on Wetlands of International Importance, especially as Water Fowl Habitat, the Convention on Biological Diversity, the Convention to Combat Desertification in those Countries experiencing Serious Drought and/or Desertification, particularly in Africa and any other relevant international agreement to which Zambia is a party; repeal and replace the Forests Act, 1999; and provide for matters connected with, or incidental to, the foregoing.

ENACTED by the Parliament of Zambia.

Part I – Preliminary

1. Short title

This Act may be cited as the Forests Act, 2015.

2. Interpretation

In this Act, unless the context otherwise requires—

"**authorised officer**" means a forest officer, a law enforcement officer or an honorary forest officer;

"**biological diversity**" means the variability among living organisms from all sources, including terrestrial ecosystems, aquatic ecosystems and the ecological complexes of which they are part, and diversity within species, among species, and of ecosystems;

"**botanical reserve**" means an area declared as such under section twenty-four;

"**Chief**" means a person recognised as such under the Chiefs Act;

[Cap. 287]

"**citizen**" means—

- (a) an individual who is a citizen of Zambia; or
- (b) an incorporated or unincorporated body of persons or a company which is composed exclusively of persons who are citizens of Zambia;

"**community forest**" means a forest controlled, used and managed under an agreement between a community forest management group and the Department;

"**community forest management group**" means a group of persons recognised by a Chief and local authority under section twenty-nine, which communally controls, uses and manages a forest in the area of the Chief and the local authority;

"**community resource board**" has the meaning assigned to it in the Zambia Wildlife Act, 1998;

[Act No. 12 of 1998]

"**concession licence**" means a concession licence issued under section fifty-two;

"**convert**" means to carry out the process of converting wood into any kind of product, and

"**conversion**" shall be construed accordingly;

"**coupe**" means any site or area for the cutting, felling or taking of forest produce, whether the boundaries of the area are demarcated on the ground or not;

"**court**" means a subordinate court or the High Court;

"**customary area**" has the meaning assigned to it in section two of the Lands Act;

[Cap. 184]

"**demarcated forest**" means a National Forest, Local Forest, joint forest management area, community forest or private forest;

"**Department**" means the Forestry Department in the Ministry responsible for natural resources;

"**Director**" means the Director of Forestry appointed under section four;

"**domestic animal**" includes a horse, donkey, mule, camel, cow, sheep, pig, goat and domestic fowl;

"**ecosystem**" means a living functional system which contains all organisms including human beings, their environment and the relationship that exists between them;

"**firewood**" means all woody parts of a tree which cannot be converted into timber or poles but can be cut into short lengths for use as wood fuel;

"**flora**" means all plants and parts of the plants in a particular area;

"**forest**" means any land with a tree canopy cover of more than ten percent and area of more than zero point five hectares and includes young stands that have not yet reached, but are expected to reach, a crown density of ten percent and tree height of five metres that are temporarily under stocked areas;

"**forest area**" means a National Forest, Local Forest, botanical reserve, plantation, private forest, community forest, joint forest management area and open areas;

"**forest management plan**" means a management plan for a forest area prepared pursuant to section forty;

"**forest officer**" means a person appointed as such under section four;

"**forest produce**" includes algae, bamboos, bark, bedding, bees, honey, beeswax, boards, branchwood, carbon, canes, charcoal, chips, climbers, cones, coppice, creepers, fibres, flowers, fruits, fuelwood, fungi, gills, grass, gums, hives, lichens, litter, logs, moss, nursery plants, peat, planks, plant, poles, reeds, resin, roots, rubber, rushes, sand, sap, sawdust, scantlings, seeds, seedlings, slabs, soil, stumps, timber, thatch, thinnings, trees, vegetable-derived oils, vegetable derived tar and wood spirits;

"**forest resources**" means vegetation, wood and non-wood products and forest ecological services, including the maintenance of soil quality, control of erosion, provision of organic materials and modulating climate;

"**Fund**" means the Forest Development Fund established under section seventy;

"game management area" means an area of land declared as such under the Zambia Wildlife Act, 2015;

[Act No. 14 of 2015]

"honorary forest officer" means a person appointed as such under section six;

"indigenous forest" means any forest which naturally grows or regenerates in a particular area;

"joint forest management" means the participation of stakeholders in the sustainable management of forest resources and the sharing of benefits derived from the management of the forest resources;

"joint forest management area" means an area declared as such under section thirty-six;

"joint forest management committee" means a committee constituted under section thirty-seven;

"law enforcement officer" means a police officer, wildlife police officer, an officer of the Zambia Environmental Management Agency, the Anti Corruption Commission or the Drug Enforcement Commission;

"licence" means a licence issued under this Act, and "licensee" shall be construed accordingly;

"local authority" means a city, municipal or district council established under the Local Government Act;

[Cap. 281]

"local community" means the residents within or adjacent to a Local Forest, joint forest management area or open area who, by virtue of their rights over land, including customary land tenure, invest in and derive benefits from the sustainable utilisation of forest resources in their areas;

"Local Forest" means an area declared as a Local Forest under section seventeen;

"major forest produce" means a tree, part of a tree or derivative product such as timber, charcoal and carbon, other than leaves, flowers, fruits and seeds;

"minor forest produce" means non-wood forest produce which is part of a tree or found in the forest;

"National Forest" means an area declared as a National Forest under section ten;

"national monument" means an area declared as a national monument under the National Heritage and Conservation Commission Act;

[Cap. 173]

"National Park" means an area declared as a National Park under the Zambia Wildlife Act, 2015;

[Act No. 14 of 2015]

"open area" means an area outside a Local Forest, National Forest, National Park, game management area and national monument;

"permit" means a permit issued under this Act;

"plantation" means a forest stand of introduced or indigenous species created by planting or seeding in the process of afforestation or reforestation;

"precautionary principle" means the principle that lack of scientific certainty should not be used as a reason to postpone measures to prevent environmental degradation, or possible environmental degradation, where there is a threat of serious or irreversible environmental damage because of the threat;

"pole" means all sound and reasonably straight parts of a tree which are one point two metres or longer and which are not more than thirty centimetres or less than five centimetres in maximum diameter over bark, unless otherwise specified on any licence;

"private forest" means any land or plantation registered as a private forest under section twenty-six;

"protected flora" means any kind or category of flora declared to be protected under section forty-seven;

"**public road**" has the meaning assigned to it in the Public Roads Act, 2002;

[Act No. 12 of 2002]

"**rail reserve**" means an area of land approved for the construction of a railway under the Railways Act;

[Cap. 453]

"**regulatory authority**" means a person or body, except a professional body, which by law is empowered to regulate an activity under that law, and includes a Minister;

"**repealed Act**" means the Forests Act, 1999;

[Act No. 7 of 1999]

"**Register**" means the Register of Licences and Permits established under section sixty-five;

"**river**" includes a lake, stream, canal and any other channel, whether natural or artificial;

"**saw**" includes a hand tool with a toothed blade or any power driven device with a rotating disk or moving band used for cutting wood;

"**sawmill**" means a factory where wood is processed mechanically into planks or boards using a saw;

"**single-licensing system**" has the meaning assigned to it in the Business Licensing Regulatory Act, 2014;

[Act No. 3 of 2014]

"**stakeholder**" means a person or group of persons with interest in the utilisation and management of forests;

"**State Land**" means all land in Zambia, other than customary areas, National Forests, Local Forests and land under leasehold tenure vested in any person;

"**timber**" means the part of any felled or fallen tree which has been cut off or can be cut off to provide wood whether sawn, split, hewn, sliced, veneered or otherwise fashioned, which is sound and reasonably straight, and which is one point two metres or longer and thirty centimetres or more in minimum diameter under bark;

"**trees**" includes bushes, climbers, coppice, palms, re-shoots, saplings, seedlings and shrubs of all ages and of all kinds and any part thereof;

"**woodlot**" means a forest of introduced or indigenous species, measuring up to ten hectares, established by planting or seeding in the process of afforestation or reforestation; and

"**Zambia Environmental Management Agency**" means the Zambia Environmental Management Agency established under the Environmental Management Act, 2011.

[Act No. 12 of 2011]

3. Ownership of trees and forest produce

The ownership of all trees standing on, and all forest produce derived from, customary areas, National Forests, Local Forests, State Land, botanical reserves and open areas is vested in the President, on behalf of the Republic, until lawfully transferred or assigned under this Act or any other written law.

Part II – Forestry Department

4. Director of Forestry and other staff

- (1) The Public Service Commission shall appoint as public officers, the Director, Deputy-Director, forest officers and such other staff of the Department within the Ministry responsible for natural resources as shall be necessary for the proper administration of this Act.

- (2) The Director shall be responsible for the administration of this Act and the exercise of the Department's functions as provided under this Act.
- (3) The Director may, in writing, delegate the exercise of any of the powers and functions conferred upon the Director by this Act to such authorised officers as the Director may think fit.
- (4) The Director may, in writing, revoke or vary the delegation of power made by the Director under subsection (3).
- (5) The Minister may, by statutory order, confer any power and duties of an authorised officer under this Act on any public officer or class of public officers.

5. Functions of Department

- (1) Subject to the other provisions of this Act, the functions of the Department are to do all such things as are necessary for the rationalisation of the exploitation of forest resources and the promotion of sustainable forest management.
- (2) Without prejudice to the generality of subsection (1), the functions of the Department are to—
 - (a) advise the Minister on areas required to be protected as National Forests, Local Forests, botanical reserves or community forests and the policies required to ensure the conservation and sustainable use of forest resources in those areas;
 - (b) control, manage, conserve and administer National Forests, Local Forests and botanical reserves;
 - (c) adopt and promote methods for the sustainability, conservation and preservation of ecosystems and biological diversity in forest areas and open areas;
 - (d) collect, compile and disseminate information on forest resources in any area and advise on areas requiring afforestation, re-forestation and protection of flora threatened or in danger of extinction;
 - (e) establish and promote the establishment of plantations;
 - (f) devise and implement participatory forest management approaches for indigenous forests and plantations involving local communities, traditional institutions, non-governmental organisations and other stakeholders, based on equitable gender participation;
 - (g) develop and implement public education programs on various aspects of forestry, including indigenous knowledge on sustainable use and conservation of forest resources to ensure better appreciation, management and utilisation of forest resources;
 - (h) conduct and support forestry research and development and studies on national resource requirements and devise the best methods for meeting the demand of the multiple users of forest resources in an integrated manner compatible with sustainable use and conservation of biological diversity;
 - (i) undertake and support adaptive research and development of forest resource management, farm forestry, agro-forestry and forest products at national, regional and local levels;
 - (j) in partnership with local communities, joint forest management committees, community forest management groups, traditional institutions and the private sector, develop and implement management plans for forest areas and open areas;
 - (k) issue licences and permits and enter into concessions for purposes of this Act;
 - (l) devise methods for the sharing of costs and benefits from monies obtained from licences, permits and concessions with local communities and traditional institutions;
 - (m) develop mechanisms for monitoring the use of forest resources and developments in the forestry sector and for monitoring and evaluating forest resources;

- (n) promote the sustainable utilisation of forest resources for the development of the national economy;
 - (o) establish and operate effective and systematic management of financial, human and natural resources for the conservation of biological diversity;
 - (p) take appropriate measures, in consultation with the Zambia Environmental Management Agency, to safeguard protected species against extinction and control and prevent the introduction of invasive alien species in forest areas;
 - (q) facilitate equitable access to forest resources for commercial, recreational and indigenous use;
 - (r) promote and regulate beekeeping;
 - (s) cooperate and consult with other public institutions whose powers and functions impact on this Act;
 - (t) liaise or interface with similar organs in other countries or international institutions dealing with forestry conservation and management; and
 - (u) perform any other functions as are necessary or incidental to the carrying out of its functions under this Act.
- (3) The Minister may give to the Director such general or special directions, which are consistent with the provisions of this Act, as the Minister may consider necessary for purposes of this Act and the Director shall give effect to the directions.
- (4) The Director shall, in carrying out the functions of the Department—
- (a) promote a community-based natural resource management approach in respect of forest management;
 - (b) facilitate and simplify the licensing system under this Act and collaborate with other regulatory authorities in the administration of the single licensing system;
 - (c) encourage cooperation and partnerships with communities and civil society organisations in the implementation of this Act;
 - (d) ensure the uniform application of this Act;
 - (e) ensure the efficient and effective operation of the Department; and
 - (f) conduct any other activity specified under this Act or that is necessary for the implementation of this Act.

6. Honorary forest officers

- (1) The Minister may, in consultation with the Director, by notice in the *Gazette*, appoint any person to be an honorary forest officer on such terms and conditions as the Minister may specify in the notice.
- (2) The appointment of an honorary forest officer may be—
- (a) general, so that the honorary forest officer is empowered to act in any part of the Republic or in a National Forest, Local Forest or other area specified in the notice of appointment; or
 - (b) limited, so that the honorary forest officer is empowered to act in areas of their residence, including any forest, as may be specified in the instrument of appointment.
- (3) Subject to the provisions of this Act and the terms of the instrument of appointment, an honorary forest officer shall, within the terms of appointment, exercise the functions and perform the duties of an authorised officer.

7. Immunity

An action shall not lie against a forest officer or an honorary forest officer in respect of any act done by the forest officer or honorary forest officer in good faith and without negligence in the execution of the powers vested in them under this Act.

8. General principles of forest development and management

The Minister, Director or persons to whom the Minister or Director has delegated any powers and functions under this Act, shall, in implementing this Act, have regard to—

- (a) the principle that forests and trees shall be managed as an asset for succeeding generations;
- (b) the need to apply the precautionary principle to the development, management, utilisation and conservation of forest ecosystems, biological diversity and habitats, taking into account the best scientific evidence available;
- (c) the development, management, utilisation and conservation of forests and trees to achieve a sound ecological balance;
- (d) the need to achieve optimum utilisation and ecologically sustainable development and management of forest ecosystems, biological diversity and habitats;
- (e) the need to conserve forests and trees as living resources for both present and future generations and to achieve economic growth, human resource development and employment creation;
- (f) the need to protect biological diversity in forest areas and protect the ecosystem as a whole, including species which are not targeted for exploitation;
- (g) the need to sustain the potential yield of economic, social and environmental benefits derived from forests;
- (h) the need to promote the fair distribution of the economic, social health and environmental benefits derived from forests;
- (i) the need to minimise pollution of natural resources, especially forests, land and waters;
- (j) the need to develop and manage forests so as to conserve heritage resources and promote aesthetic and cultural values;
- (k) the need to achieve to the extent practicable a broad and accountable participation in the decision-making processes provided for in this Act; and
- (l) the implementation of international agreements to which Zambia is party.

9. Criteria for determination of sustainable forest management

- (1) The Minister may, by statutory instrument, make regulations—
 - (a) prescribing criteria for the sustainabilities of forests;
 - (b) prescribing indicators which may be used to measure the state of forest management and appropriate standards in relation to the indicators;
 - (c) creating or promoting certification programmes and other incentives to encourage sustainable forest management; and
 - (d) for the sustainable management of beekeeping.
- (2) The Minister shall, in prescribing criteria, indicators and standards under subsection (1), take into account economic, social and environmental conditions.

- (3) Criteria and indicators prescribed under subsection (1) may include those for determining—
- (a) the level of development and maintenance of—
 - (i) forest resources;
 - (ii) biological diversity in forests;
 - (iii) the health and vitality of forests;
 - (iv) the productive functions of forests;
 - (v) the protective and environmental functions of forests; and
 - (vi) the social functions of forests;
 - (b) the level of provision of socio-economic benefits by forests; and
 - (c) the status and appropriateness of the policy, legislative and institutional framework for forest development management.
- (4) The criteria, indicators and standards determined under subsection (1) may—
- (a) apply to specific forests;
 - (b) apply to all or specific forest types; and
 - (c) identify the boundaries of forests to which they apply.

Part III – Forest management and development

National Forest

10. Establishment of National Forest

- (1) Subject to subsection (2), the President may, by statutory instrument, declare any area of land within the Republic to be a National Forest and may, in like manner, declare that any National Forest shall cease to be a National Forest or that the boundaries of any National Forest shall be altered or extended.
- (2) Notwithstanding the provisions of this Act, an area declared a National Forest under the repealed Act shall continue to exist as if declared under this Act.

[Act No. 7 of 1999]

11. Acquisition of land for National Forest

The President may, on the recommendation of the Minister, compulsorily acquire under the Lands Acquisition Act any land for the purposes of a National Forest as may be necessary or desirable in the public interest.

[Cap. 189]

12. Purpose of National Forest

Subject to the other provisions of this Act, all land comprised in a National Forest shall be used for—

- (a) the security of forest resources of national importance;
- (b) the conservation of ecosystems and biological diversity;
- (c) improved forest resource management and sustainable utilisation of forest resources; and

- (d) the management of major water catchments and head waters, subject to the Water Resources Management Act, 2011.

[Act No. 21 of 2011]

13. Rights in National Forest

- (1) The President may, if satisfied that any right, easement or profit may reasonably be claimed over an area declared or recommended to be declared a National Forest under section ten, direct the Minister to inquire into and determine the existence, nature and extent of the right, easement or profit.
- (2) The Minister may, after proper inquiry, either admit in whole or in part, or reject any claim referred to in subsection (1) as seems just in the circumstances.
- (3) For the purposes of this section, the practice of shifting cultivation, including fallow stage or previous settlement, shall not be deemed to be a right for purposes of this section.
- (4) Subject to subsection (5), where it appears to the Minister that it is expedient or desirable to commute, in whole or in part, any right, easement or profit admitted under subsection (2), the Minister shall assess the amount of money payable to the holder of the right, easement or profit.
- (5) Notwithstanding subsection (4), no amount shall be payable on account of any restriction or prohibition imposed in the interest of forest management or in the exercise or enjoyment of any right, easement or profit relating to the collection of forest produce, hunting, fishing, setting any trap, obstructing any river, pasturing any domestic animal or lighting any fire.
- (6) Where any right, easement or profit over an area is admitted under subsection (2) and the Minister considers that the area could be excised in whole or in part from the National Forest or an area recommended to be declared a National Forest without materially affecting the proposed management of the National Forest, the President may alter the boundaries of the National Forest or an area recommended to be declared a National Forest so as to exclude from it such area or part of such area.
- (7) Any right, easement or profit admitted under subsection (2) which is not commuted under subsection (4) shall, unless the area on or in relation to which that right, easement or profit has been admitted as being excluded from the National Forest under subsection (6), be specified in a statutory instrument, and except for the right, easement or profit, shall be recognised on or in relation to any land comprised in the National Forest.
- (8) Notwithstanding anything to the contrary contained in this Act, the Director shall not prohibit or restrict the exercise or enjoyment of any right, easement or profit specified in a statutory instrument made under subsection (7).

14. Control and management of National Forests

Subject to the other provisions of this Act, the Director shall be responsible for the control and management of National Forests.

15. Grant of right or interest in National Forest

- (1) Nothing in this Act shall be construed as preventing or restricting the granting, under any other written law for any purposes consistent with the provisions of this Act, of any right or interest in, or in relation to, an area of land comprised in a National Forest, subject to any conditions which the Minister may determine, in consultation with the Director and the relevant regulatory authority under that written law.

- (2) The conditions imposed by the Director under subsection (1) shall take into account the provisions of the Environmental Management Act, 2011.

[Act No. 12 of 2011]

- (3) In this section, "right" includes a mining right granted under the Mines and Minerals Development Act, 2015.

[Act No. 11 of 2015]

16. Restrictions in National Forest

- (1) Subject to subsection (2), a person shall not enter any National Forest without a licence or permit.
- (2) Subsection (1) does not apply to a person who is a traveller on a public road in, or footpath frequently used by residents within or adjacent to a National Forest.
- (3) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Local Forest

17. Establishment of Local Forest

- (1) Subject to subsection (2), the President may, by statutory instrument, declare any area of land within the Republic to be a Local Forest and may, in like manner, declare that any Local Forest or part of the Local Forest shall cease to be a Local Forest or that the boundaries of the Local Forest shall be altered or extended.
- (2) Notwithstanding the provisions of this Act, an area declared a Local Forest under the repealed Act shall continue to exist as if declared under this Act.

18. Acquisition of land for Local Forest

The President may compulsorily acquire under the Lands Acquisition Act any land for the purposes of a Local Forest as may be considered necessary or desirable in the public interest.

[Cap. 189]

19. Purpose of Local Forest

Subject to the other provisions of this Act and any other written law, all land comprised in a Local Forest shall be used for the conservation and development of forests for—

- (a) the security of forest resources;
- (b) the protection of ecosystems, particularly the protection of land and water supplies of local strategic importance;
- (c) the utilisation of forest resources at the local level; and
- (d) meeting the social, cultural and economic needs of the local community.

20. Rights in Local Forest

Section thirteen shall apply to a Local Forest.

21. Control and management of Local Forest

- (1) Subject to the other provisions of this Act, the Director shall be responsible for the control and management of a Local Forest, except that the Minister may, by statutory instrument, after consultation with a local community in the area, assign the control and management of a Local Forest to a local community or joint forest management committee on such terms and conditions as the Minister may determine.
- (2) Notwithstanding subsection (1), a local authority may apply to the Minister, in the prescribed manner and form, to control and manage a Local Forest which lies within the jurisdiction of the local authority.

22. Grant of right or interest in Local Forest

Section fifteen shall apply to a Local Forest.

23. Restrictions in Local Forest

- (1) A person shall not do any of the following acts in a Local Forest without a licence or permit:
 - (a) fell, cut, fashion, burn, injure, take, collect or remove any forest product;
 - (b) squat, camp, reside, build or excavate, construct or use any enclosure, re-open or use any road other than a public road, or erect or operate any plant, machinery or equipment;
 - (c) set fire to any tree, undergrowth, grass or forest produce, assist in lighting any fire, or allow any fire to be lit by any person or allow the employee or agent of any person to enter a Local Forest;
 - (d) graze domestic animals or allow domestic animals to trespass;
 - (e) clear, cultivate or break up land for cultivation or other purposes, or grow crops;
 - (f) enter or be found in or upon any Local Forest or for any purpose contrary to an order made by the Director, unless the person is a traveller on a public road;
 - (g) collect any bees, comb-honey or beeswax, or hang or place on any tree or elsewhere any beehive or other receptacle for the purpose of obtaining any bees, comb-honey or beeswax, or be found in, or upon, any Local Forest for the purpose of collecting any bees, comb-honey or beeswax;
 - (h) remove or damage any boundary mark, beacon, notice, fence or gate, or remove or damage any mark placed on any tree by, or on, the authority of a forest officer; or
 - (i) deposit or negligently allow the disposal of any refuse or debris in, or on, any Local Forest.
- (2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.
- (3) Notwithstanding subsection (1), the Minister may, by statutory instrument, permit any acts described in that subsection in a Local Forest that do not adversely affect sustainable forest management and conservation.

Botanical Reserve

24. Establishment of botanical reserve

- (1) The President may, in consultation with the Ministers responsible for the environment and urban and regional planning, by statutory instrument, declare any forest area or woodland or any part

thereof, which has an environmental, ecological, cultural, scientific or national significance, to be a botanical reserve for the purpose of preserving, conserving and restoring its biodiversity and natural amenities and may, in like manner declare that any botanical reserve shall cease to be a botanical reserve or that the boundaries of any botanical reserve shall be altered or extended.

- (2) Where a botanical reserve lies within a private forest, the Director shall, in consultation with the Minister, make such arrangements for the payment to the owner of the private forest of such compensation as may be determined by a government valuation surveyor.
- (3) A person who, or local community which, intends to use a botanical reserve for cultural, religious, educational or scientific purposes shall apply to the Director in the prescribed manner and form.
- (4) The Director shall approve an application made under subsection (3) if it does not have adverse effects on the sustainability of ecosystems and biological diversity in the botanical reserve concerned.
- (5) The Minister may, by statutory instrument, prescribe guidelines for the use, conservation, preservation and management of botanical reserves.

25. Prohibition of certain activities in botanical reserve

- (1) A person shall not, in a botanical reserve and without the prior approval of the Director—
 - (a) fell, cut or damage any tree or re-generation of the tree or biodiversity in the botanical reserve;
 - (b) squat, camp, reside, build or excavate, construct or use any enclosure, re-open or use any road other than a public road, or erect or operate any plant, machinery or equipment;
 - (c) set fire to any tree, undergrowth, grass or forest produce, assist in lighting any fire or allow any fire to be lit by any person or allow any person to enter the botanical reserve;
 - (d) graze domestic animals or allow domestic animals to trespass;
 - (e) clear, cultivate or break up land for cultivation or other purposes, or grow crops;
 - (f) enter or be found in or upon the botanical reserve or for any purpose contrary to an order made by the Director, unless the person is a traveller on a public road;
 - (g) collect any bees, honey, comb, or beeswax, or hang or place on any tree or elsewhere any beehive or other receptacle for the purpose of obtaining any bees, comb, honey or beeswax, or be found in, or upon, the botanical reserve for the purpose of collecting any bees, honey, comb, or beeswax;
 - (h) remove or damage any boundary mark, beacon, notice, fence or gate, or remove or damage any mark placed on any tree by, or on, the authority of a forest officer; or
 - (i) deposit or negligently allow the disposal of any refuse or debris in, or on, the botanical reserve.
- (2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Private Forests

26. Registration of private forest

- (1) An owner or lessee of any land or plantation who wishes to establish a private forest shall apply to the Director, in the prescribed manner and form, for the registration of the area which the person intends to comprise the private forest.

- (2) The Director shall, in determining whether to approve an application under subsection (1), have regard to—
 - (a) the uses to which the applicant is proposing to put the land, the manner in which it will be done and the compatibility of the uses with sustainable forest management;
 - (b) the resources available to the applicant and likely to be applied to the land;
 - (c) the current use and management of the land;
 - (d) the environmental impact assessment undertaken in respect of the land; or
 - (e) any comments or representations from the local community in the area who are likely to be affected by the registration of the area as a private forest.
- (3) The Director may, within thirty days of receipt of an application under subsection (1), if the applicant meets the prescribed criteria, register the private forest on such terms and conditions as the Director may determine.
- (4) The terms and conditions referred to in subsection (3) may include—
 - (a) arrangements for and methods of felling trees, including the rates of extraction of timber on the land;
 - (b) in consultation with the relevant regulatory authority, construction of roads, bridges, buildings and other structures on the land;
 - (c) arrangements for and methods of transporting timber within and out of the land;
 - (d) gathering and utilisation of forest products from the land;
 - (e) afforestation and re-forestation of the land;
 - (f) in consultation with the Zambia Environmental Management Agency, disposal of waste;
 - (g) prevention of pollution;
 - (h) conservation of flora and fauna on the land;
 - (i) consultation with persons living near the land 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 registration and the terms of its renewal;
 - (l) the payment of rent, fees or royalties in respect of the land;
 - (m) rendering of reports to the Department, local authority or local community in the area;
 - (n) the settling of any disputes in respect of the land; and
 - (o) such other matters as may be prescribed.
- (5) The Minister may prescribe the—
 - (a) criterion for registration of private forests;
 - (b) procedure for applying for registration, renewal, transfer and cancellation of registration; and
 - (c) terms and conditions of registration, renewal, transfer or cancellation of registration.

27. Entitlement of owner of registered private forest

- (1) An owner of a private forest registered under section twenty-six shall be entitled to receive from the Department—
 - (a) technical advice on forest management and conservation; and
 - (b) subject to availability of funds, loans from the Fund for the development and management of the private forest.
- (2) An owner of a private forest may apply to the relevant authorities for exemption from payment of all or part of the rates and other charges that may be levied in respect of the land on which the private forest is established.
- (3) An owner of a private forest may sell, fell, cut or remove forest produce from the private forest without a licence or permit.

28. Deregistration of private forest

- (1) The Director may de-register a private forest if the owner of the private forest—
 - (a) requests for the de-registration in the prescribed manner and form;
 - (b) contravenes the provisions of this Act or fails to comply with the terms and conditions of registration;
 - (c) ceases to own the land on which it is located; or
 - (d) obtained the registration by fraud or deliberate or negligent submission of false information or statements.
- (2) The Director shall, before de-registering a private forest in accordance with subsection (1), give written notice to the owner of the private forest of the intention to de-register the private forest and shall give the reasons for the intended de-registration and require the owner of the private forest to show cause, within a period of not more than thirty days, why the private forest should not be de-registered.
- (3) The Director shall not de-register a private forest under this section if the owner takes remedial measures to the satisfaction of the Director within the period of thirty days referred to in subsection (2).
- (4) The Director shall de-register a private forest if the owner of the private forest who is notified under subsection (2) fails to show cause or does not take any remedial measures to the satisfaction of the Director within the period specified in that subsection.
- (5) The owner of a private forest shall, where a private forest is de-registered, cease to be entitled to the rights and benefits conferred under this Act with effect from the date of the de-registration.

Community forest management

29. Community forest management group

- (1) A community forest management group may be formed by a group of persons who are—
 - (a) members of a village in or near a forest;
 - (b) managing a forest or part of a forest; or
 - (c) desirous of managing a forest or part of a forest.

- (2) A community forest management group shall be formed for the purpose of communal control, use and management of a forest.
- (3) A community forest management group shall be guided by the following principles:
 - (a) persons living in close proximity to or deriving their livelihood from or having strong traditional ties to the forest shall be given an opportunity to join a community forest management group;
 - (b) the purposes for which the community forest management group is formed shall be implemented to promote sustainable management of forest ecosystems and biological diversity;
 - (c) the purposes for which the community forest management group is formed shall be explained to all persons wishing to join the community forest management group;
 - (d) the management of the community forest management group, the management of any funds and the selection of the leaders of the community forest management group shall be based on transparency, fairness, impartiality and non-discrimination;
 - (e) members of a community forest management group shall be encouraged to participate in the management of the community forest management group; and
 - (f) the procedures for membership of the community forest management group or guidelines regulating the conduct of members of the community forest management group shall be based on, and conducted in accordance with, the principles of natural justice.
- (4) The Director may provide assistance to persons living in the vicinity of, or deriving their livelihood from, a forest to form a community forest management group to manage a forest.

30. Recognition of group

- (1) A group of persons living in the vicinity of a forest may apply to the Director for recognition as a community forest management group with the consent of the Chief of the area in which the forest is located.
- (2) The Director may, within twenty-one days of receipt of an application under subsection (1), recognise a group of persons as a community forest management group if the group of persons—
 - (a) is recognised within the community which is within or adjacent to a local forest; and
 - (b) derives their livelihood from the forest.
- (3) The Director shall, in determining whether to accord recognition to a group of persons under this section, take into account the principles set out in section twenty-nine.
- (4) The Director shall, where the Director refuses to recognise a group of persons as a community forest management group under this section, notify the group of persons, in writing, within fourteen days from the date of such refusal and give the reasons therefor.
- (5) A group of persons which is aggrieved by the decision of the Director may, within thirty days from the date of receipt of the decision of the Director, appeal to the Minister.
- (6) A group of persons which is aggrieved by the decision of the Minister may, within thirty days from the date of receipt of the decision, appeal to the High Court.

31. Community forestry agreements

- (1) A community forest management group recognised under section thirty may apply to the Director, in the prescribed manner and form, to enter into a community forestry agreement with the Department in respect of an area or forest for which the community forest management group is formed.

- (2) The Director shall, in considering an application under subsection (1), after consultation with the Chief and the local authority in respect of an area or forest for which the community forest management group is formed—
 - (a) establish whether or not there is any other group of persons which intends to enter into a community forestry agreement or has made an application in respect of the same forest;
 - (b) consult any other Government Ministry, department or body which has an interest in the matter; and
 - (c) evaluate the suitability of the forest for community forestry management in comparison with the current or potential uses of the forest.
- (3) The Minister may, by statutory instrument—
 - (a) prescribe the content, terms and conditions of community forestry agreements; and
 - (b) designate an area or forest in respect of which a community forestry agreement is concluded.
- (4) A community resource board may apply to the Director to enter into a community forestry agreement in accordance with subsection (1), and sections thirty-two to thirty-four shall apply as if the community resource board were a community forest management group.

32. Rights and obligations of local community under community forestry agreement

- (1) A community forest management group that is party to a community forestry agreement for a community forest shall—
 - (a) protect, conserve and manage the community forest or part thereof pursuant to the community forestry agreement and the management plan for the community forest;
 - (b) formulate and implement forest management consistent with traditional forest user rights of the local community in accordance with sustainable forest management;
 - (c) protect sacred groves and protected trees in the community forest;
 - (d) assist the Director in enforcing the provisions of this Act in relation to illegal harvesting of forest produce;
 - (e) with the approval of the Director, enter into partnerships with other persons for the purposes of ensuring the efficient and sustainable conservation and management of the community forest;
 - (f) keep the Director informed of any developments, changes and occurrences within the community forest which are critical for the conservation of biodiversity;
 - (g) help in fire-fighting within and around the community forest; and
 - (h) do any other thing that is necessary for the efficient conservation and management of the community forest.
- (2) A community forestry agreement may confer on a community forest management group that is party to the community forestry agreement any or all of the following forest user rights in the community forest concerned:
 - (a) collection of medicinal herbs;
 - (b) harvesting of honey;
 - (c) harvesting of timber or fuel wood;
 - (d) grass harvesting and grazing of animals;
 - (e) collection of forest produce for community based industries;

- (f) eco-tourism and recreational activities;
 - (g) scientific and educational activities;
 - (h) plantation establishment through non-resident cultivation;
 - (i) the right to enter into contracts to assist in carrying out specified silvicultural operations;
 - (j) development of community forest wood and non-wood based industries; and
 - (k) any other benefits which may be agreed upon between the community forest management group and the Director.
- (3) The Director may, in consultation with the Minister—
- (a) provide information, training advice and management and extension services for community forestry management;
 - (b) establish and maintain nurseries and other facilities to provide seed and plants for community forestry management; and
 - (c) provide material or financial assistance for community forestry management, including recovery from disaster where such assistance is not available from any other institution.

33. Assignment of rights under community forestry agreement

- (1) A community forest management group may, with the approval of the Minister, assign any or all its rights under a community forestry agreement to any other person or group.
- (2) A community forest management group which intends to assign any or all of its rights under a community forestry agreement shall apply to the Minister in the prescribed manner and form.

34. Termination of community forestry agreement

- (1) The Minister may, in consultation with the Director, terminate a community forestry agreement or withdraw a particular user right if—
 - (a) the community forest management group breaches a term or condition of the community forestry agreement;
 - (b) the termination is necessary for purposes of protecting and conserving biodiversity; or
 - (c) the local community applies for the termination.
- (2) Where the Minister intends to terminate a community forestry agreement or withdraw a particular user right on any of the grounds set out in paragraph (a) or (b) of subsection (1), the Minister shall give the community forest management group thirty days, written notice to show cause why the community forestry agreement should not be terminated or the user rights withdrawn.
- (3) A community forest management group which is aggrieved by the decision of the Minister may, within thirty days of the service of the decision of the Minister, appeal to the High Court.
- (4) Nothing in this section shall be construed as limiting the grounds on which a community forestry agreement may be terminated.
- (5) Where a community forestry agreement is terminated, the Department shall resume the responsibility of protecting, conserving and managing the community forest affected, and any benefits conferred on the community forest management group shall cease.

35. Register of community forestry agreements

The Director shall keep or cause to be kept a register of all community forestry agreements entered into under this Part.

Joint forest management

36. Declaration of joint forest management area

- (1) The Minister may, on the recommendation of the Director, local community or owners or occupiers of an area in a forest, declare by statutory instrument, a Local Forest, botanical reserve, plantation, private forest or open area, a joint forest management area.
- (2) An area proposed to be declared a joint forest management area under this section shall not be declared as such unless the local community or owner of the forest concerned consents to the declaration.

37. Joint forest management committee

- (1) The Director may, in consultation with a local community and with the approval of the Minister, constitute a joint forest management committee for that area which shall comprise the following members:
 - (a) one person appointed by the Chief in that area to represent the Chief;
 - (b) a representative of the Department;
 - (c) one representative each from the Departments of Agriculture, Water, Lands and Fisheries in the area;
 - (d) three persons representing the local community in the area, elected by the local community;
 - (e) one representative of the local authority in the area;
 - (f) one representative of holders of licences and permits under this Act operating in that area; and
 - (g) a representative of the Ministry responsible for wildlife.
- (2) The chairperson and vice-chairperson of a joint forest management committee shall be elected by the members from amongst themselves.
- (3) A joint forest management committee constituted under this section may invite any person whose presence is in its opinion desirable to attend and to participate in the deliberations of a meeting of the committee but such person shall not vote.
- (4) A member of a joint forest management committee constituted under this Act shall hold office for a period of three years and may be re-appointed for a further like period.
- (5) The Minister may dissolve a joint forest management committee constituted under this section if the Minister is satisfied that the committee—
 - (a) has mismanaged its finances;
 - (b) has failed to render a report to the Director or has misrepresented facts in a report submitted under section thirty-nine; or
 - (c) is engaged in activities inconsistent with the functions of the committee specified in section thirty-eight.

38. Functions of joint forest management committee

- (1) The functions of a joint forest management committee shall be to manage and develop the joint forest management area and distribute the benefits amongst the local communities in the area.

- (2) Without prejudice to the generality of subsection (1), a joint forest management committee shall—
 - (a) develop and implement, in consultation with the Director, management plans for the joint forest management area aimed at reconciling the various uses of land in that area;
 - (b) negotiate, in conjunction with the Director, co-management agreements with other stakeholders; and
 - (c) perform such other functions as the Director may delegate to it for purposes of joint forest management.
- (3) The development and implementation of management plans in a joint forest management area shall be in accordance with such regulations as the Minister may prescribe, in consultation with the Director.

39. Benefit sharing and financial provisions regarding joint forest management committees

- (1) Subject to the other provisions of this Act, a percentage of the revenues payable under this Act as determined by the Director in respect of licences or permits issued, concessions granted or services rendered from the use of forest resources within a joint forest management area shall be payable to a fund set up for this purpose.
- (2) There shall be paid out of the fund of a joint forest management area such monies as may be required to meet the cost of the services of the joint forest management committee and the Department.
- (3) There shall be paid into the fund of a joint forest management area such monies as the joint forest management committee may, with the approval of the Director, accept by way of grants and donations from any source within and outside Zambia.
- (4) A joint forest management committee shall cause to be kept proper books of account and other records relating to its accounts.
- (5) The accounts referred to in subsection (3) shall be opened for inspection by the Director and any member from that local community.
- (6) A joint forest management committee shall, not later than one hundred and eighty days after the end of the financial year, submit to the local community and the Director—
 - (a) an audited balance sheet;
 - (b) an audited statement of income and expenditure; and
 - (c) a report concerning its activities during that financial year.
- (7) A person who misuses any money belonging to a joint forest management committee commits an offence and is liable to a surcharge and prosecution.
- (8) Any benefits derived from the joint forest management area shall be shared among the stakeholder parties as provided for in the joint forest management plan.

Part IV – Forest management plans and conservation orders

40. Preparation of forest management plans

- (1) The Director shall, in consultation with the local authority, local community, Chief, joint forest management committee and any other stakeholders in a forest area, cause to be prepared a forest management plan for the forest area according to the purposes for which the forest area is established under this Act.

- (2) A forest management plan shall—
 - (a) include such maps and descriptive matter as may be necessary to illustrate the proposals in the management plan;
 - (b) provide for all the matters referred to in the Schedule as may be necessary for the purposes of this Act; and
 - (c) state the institution or authority responsible for the actions necessary to implement the forest management plan.

41. National and local inquiries

The Director shall, for the purpose of preparing a forest management plan under this Part, conduct national and local inquiries on the management plan and its implementation as may be necessary to obtain representation from a local community, Chief and any other stakeholder in the prescribed manner.

42. Consultation with holders of rights, title or interest in forest areas

- (1) The Director shall, to facilitate the preparation of a forest management plan, consult holders of rights, title or interest in the forest areas.
- (2) The Director shall, in preparing the forest management plan, take into account the submissions of the holders of rights referred to in subsection (1) and the local community in the area.

43. Publication of forest management plan

- (1) The Director shall cause a notice of the completion of a forest management plan to be published in the *Gazette*.
- (2) A notice published under subsection (1) shall state the time and place at which the forest management plan may be inspected by members of the public and shall request for objections, in writing, to be lodged with the Director within thirty days from the date of the publication of the notice in the *Gazette*.
- (3) The Director shall, where no objections to a forest management plan are lodged with the Director under subsection (2), notify the Minister accordingly.
- (4) The Minister shall consider and determine any objection lodged with the Director pursuant to subsection (2) and shall cause the decision to be published in the *Gazette*.

44. Registration of forest management plan

- (1) The Minister may, after the notification from the Director under subsection (3) of section forty-three or after the hearing of an objection under subsection (4) of section forty-three
 - (a) cause the management plan to be registered in such register as the Minister may prescribe and publish a notice of the registration in the *Gazette*;
 - (b) publish a notification of a rejection of a forest management plan in the *Gazette*; or
 - (c) cause the management plans as varied by the Minister or any court, to be registered in such register as may be prescribed by the Minister and publish a notice of the registration in the *Gazette*.
- (2) The Minister shall not reject a forest management plan under this section except on the grounds that it is contrary to the purposes of this Act.
- (3) The provisions of a forest management plan shall, from the date of publication of its registration under this section, apply to the forest area in respect of which it is prepared.

45. Conservation orders

- (1) The Minister may, on the recommendation of the Director and after consultation with a local authority and other stakeholders in the area, and subject to subsection (8), issue by statutory instrument, orders to the occupier of any land to undertake or adopt such measures as the Director may consider necessary for the conservation of natural resources on land in an open area and the prevention of injury to natural resources by the acts or omissions of the occupier.
- (2) The Minister shall issue such orders as the Minister may consider necessary to ensure that the occupier of land affected by a forest management plan registered under section forty-four complies with the provisions of the conservation order.
- (3) Orders given under subsection (1) or (2) may relate to—
 - (a) the allocation of the uses of land for arable, pasture, woodland or forest purposes or for water catchment;
 - (b) the construction and maintenance of works for conserving water or soil and other works to preserve or improve natural resources;
 - (c) the prohibition or restriction of cultivation of any part of the land;
 - (d) the method of cultivation of land and the system of farming to be used on the land;
 - (e) the manner of watering, managing, pasturing and moving livestock;
 - (f) the preservation and protection of the source, course and banks of any stream;
 - (g) the control of water, including storm water, drainage water and floods;
 - (h) the prevention of pollution or fouling of public water as defined in the Water Resources Management Act, 2011;
[Act No. 21 of 2011]
 - (i) the preservation of trees and other vegetation and the method and systems by which forest produce may be taken and used;
 - (j) measures to prevent, control or combat fires, including the making of firebreaks and carrying out control burning;
 - (k) measures to be taken to ensure compliance with a registered forest management plan.
- (4) An occupier of land who fails or neglects to carry out an order given under subsection (1) or (2) within the period specified in the order commits an offence and a court shall, in addition to any other penalty which it may impose, make an order requiring the occupier to carry out within a specified time the order of the Minister.
- (5) Where it is necessary for an occupier of land to construct any works to give effect to an order made under this section, the Minister may, on the advice of the Director, cause the works to be carried out and completed on behalf of the occupier.
- (6) Subject to the other provisions of this section, where costs are incurred under subsection (5), the amount of such costs shall be a debt due to the Republic by the occupier concerned and, until discharged, interest shall be payable thereon at such rate as is charged by a court on judgment debt under the Judgment Act.
[Cap. 81]
- (7) The Minister may reduce the amount of costs payable under subsection (6) by such amount as the Minister determines to be the value of such works to the public.

- (8) The Minister shall not give an order under this section in any statutory housing area and improvement area under the Town and Country Planning Act without consulting the planning authority for the area and the Minister responsible for housing in connection with that order.
- [Cap. 283]*
- (9) Where the Minister gives an order after consultation, in accordance with subsection (8), permission shall not be required under the Town and Country Planning Act to do anything which is required to be done under that Act or in respect of anything done under this section to give effect to that order.
- [Cap. 283]*
- (10) An order made under this section shall be deemed to be sufficiently served if sent by registered post to an occupier at the last known address of the occupier.

46. Apportioning costs due on conservation order

- (1) An occupier may apply to the Minister to apportion any sum spent by that occupier or for which the occupier has become liable by reason of the provisions of this section between the occupier and other persons with an interest in the land.
- (2) An application under subsection (1) shall be in writing and shall state the names and addresses of the other persons having interest in the land.
- (3) The Minister shall, where an application is made under subsection (1)—
- (a) appoint a committee to hear the matter, which shall fix a date for hearing of the application;
 - (b) notify the occupier and the other persons named in the application; and
 - (c) afford the occupier and other persons named in the application an opportunity to be heard.
- (4) The Minister shall, on the advice of the committee appointed under subsection (3), apportion the sums sent by the occupier or for which the occupier has become liable by reason of this section between the occupier and the other persons named in the application in such manner as the Minister considers just having regard to the respective interests in the land.
- (5) Any sum apportioned on any person other than the occupier shall become a debt due by that person to the occupier and, until discharged, interest thereon shall be paid at the rate prescribed under subsection (6) of section forty-five.
- (6) The Director may apportion such sums from the Fund to assist occupiers of land, on application, to meet the costs payable under subsection (6) of section forty-five.

Part V – Protected flora

47. Declaration of protected flora

- (1) The Minister may, by statutory instrument, on the recommendation of the Director for the purposes of conserving any species of flora, particularly having regard to its rarity, economic significance or its role in assessing the health of an ecosystem and generally for the conservation of biological diversity—
- (a) declare a kind or category of flora to be protected flora; and
 - (b) prohibit or regulate the felling, cutting, burning, injury, taking or removal of any protected flora, generally or during a specified period and throughout or in a specified area of the Republic.
- (2) An order made under subsection (1) may apply to a kind or category of flora that though abundant so closely resemble the protected flora within the specified area.

- (3) The statutory order specifying protected flora may be at the initiative of a petition from any interested person lodged with the Director.
- (4) The Minister shall, by statutory order, prescribe the process and criteria for determining protected flora and the form of petition under subsection (3).

48. Recovery plans for protected flora

- (1) The Director shall, in consultation with the relevant local community, a joint forest management committee, Chief and any other stakeholder, develop and implement recovery plans for the conservation and survival of protected flora.
- (2) In this section, "recovery plan" means a plan for promoting the regeneration, growth and survival of protected flora.

Part VI – Regulation of forest produce

49. Purpose of conserving trees on State Land and customary areas

- (1) Major forest produce on State Land and customary areas shall be conserved for the use and benefit of the local community in those areas, except that—
 - (a) trees may be felled and land cleared by or for the local community for the purpose of agricultural and other developments; and
 - (b) any major forest produce which, in the opinion of the Director, is not required to be conserved or would be wasted or destroyed if not harvested may be felled and sold under a licence.

50. Control and management of major forest produce on State Land and customary areas

- (1) Subject to the other provisions of this Act, the control and management of the licenced felling, cutting, taking and removal of major forest produce on State Land, land under leasehold tenure vested in any person and customary areas shall vest in the Director.
- (2) A person who intends to fell, cut, work or remove any major forest produce from any State Land, land under leasehold tenure vested in any person or customary area or sell, offer for sale, barter or deal in any major forest produce shall apply for a licence or permit under this Part.

51. Sale of forest produce

Subject to the provisions of this Act and to the general or special directions of the Minister, the Director may offer forest produce for sale and sell forest produce by auction, tender or estimate at such places and in such a manner as the Minister may prescribe by statutory instrument.

52. Licences

- (1) The following licences may be issued under this Part:
 - (a) sawmill licence, to authorise a sawmill owner to process timber using a sawmill or any other wood processing equipment for a period not exceeding five years; and
 - (b) concession licence, to authorise a citizen to cut, fell or process timber from a specified forest area for a period not exceeding five years.
- (2) A person shall apply to the Director for a licence in the prescribed manner and form.

- (3) The Director shall, within thirty days of receipt of the application for a licence made under subsection (2)—
 - (a) issue the licence to the applicant if the applicant meets the requirements of this Act; or
 - (b) reject the application if it does not meet the requirements of this Act, and inform the applicant of the reasons for the rejection.

53. Permits

- (1) The following permits shall be issued under this Part:
 - (a) forest produce conveyance permit, to allow the holder to convey forest produce;
 - (b) forest produce merchant's permit, to allow the holder to trade in forest produce;
 - (c) forest produce export permit, to allow the holder to export forest produce;
 - (d) forest produce import permit, to allow the holder to import forest produce;
 - (e) domestic user permit, to allow the holder to harvest or use forest produce for domestic purposes;
 - (f) cord-wood permit, to allow the holder to harvest or use wood for firework or charcoal production;
 - (g) forest fire permit, to allow the holder to set a forest fire for purposes of forest management; and
 - (h) tree-felling permit, to allow the holder to fell a tree or trees.
- (2) A person shall apply to the Director for a permit in the prescribed manner and form.
- (3) The Director shall, within thirty days of receipt of the application for a permit under subsection (2) —
 - (a) issue the permit to the applicant if the applicant meets the requirements of this Act; or
 - (b) reject the application made if it does not meet the requirements of this Act, and inform the applicant of the reasons for the rejection.
- (4) This section does not apply to any forest produce—
 - (a) in transit through Zambia if the forest produce is accompanied by the necessary transit customs documents issued in the country of origin or export, including a phytosanitary certificate or its equivalent and is entered through a customs port of entry; or
 - (b) accompanied by a person who is in possession of, and surrenders to the forest officer or customs officer, a copy of certificate or permit issued by the country of origin or export stating that the person is lawfully authorised to export the forest produce and the person satisfies the customs officer or forest officer that—
 - (i) the certificate or permit was issued to that person;
 - (ii) the person is exporting the forest produce from the country of origin or export; and
 - (iii) the forest produce being exported is subject to a phytosanitary certificate or its equivalent.

54. Integrated decision-making process and single licensing system

- (1) The Director shall, for the efficient issuance of licences, permits and certificates under this Act, establish an integrated decision-making process and conform with the regulatory clearance system established under the Business Licensing Regulatory Act, 2014.

[Act No. 3 of 2014]

- (2) A regulatory authority shall not issue or grant a licence, permit or certificate for the doing of any activity by any person that may have an adverse effect on natural resources without consulting the Director concerning the issuing or the grant of the licence, permit or certificate likely to have an adverse effect on natural resources.
- (3) The Director may, where consulted under subsection (2), prescribe such conditions or stipulate such requirements as the Director considers necessary to maintain or protect the natural resources, including conditions relating to compliance with any other written law.
- (4) Where the Director imposes any conditions or stipulates any requirement under subsection (3), a regulatory authority shall endorse such condition or requirement on the licence, permit or certificate issued to any person whose activities under the licence, permit or certificate will affect the natural resources.

55. Terms and conditions of licences and permits

- (1) Subject to the provisions of this Act, the power to issue licences or permits shall be exercised by the Director or a forest officer authorised, in writing, by the Director, subject to such terms and conditions as the Director may determine.
- (2) The Minister may, on the recommendation of the Director, prescribe the terms and conditions for licences and permits which shall specify—
 - (a) the circumstances under which the licences or permits may be suspended, cancelled or renewed;
 - (b) the fees and penalties for non payment of fees;
 - (c) the conditions for the felling, cutting, taking, removal, conversion, processing, transport or sale of forest produce;
 - (d) the activities for prevention and fighting of fires;
 - (e) the form of records and returns to be submitted by persons engaged in the cutting, taking, removal, conversion, processing, transportation, sale or use of forest produce;
 - (f) the payment of compensation for damage to trees, growing crops, broads, tracks, paths, bridges, waterways and other improvements in forest areas;
 - (g) the making good of any damage to land in forest areas;
 - (h) the conduct of any silvicultural activities;
 - (i) the quantity of forest produce to be harvested;
 - (j) the requirements for afforestation and reforestation; and
 - (k) any other matter which the Director may recommend for purposes of this Act.

56. Limitations of licences and permits

- (1) A licence or permit shall not, unless a contrary intention is expressly stated on the licence or permit, grant any exclusive right or confer on the licensee or permit holder any right to compensation for—
 - (a) any works or improvement in the forest area effected by the licensee or permit holder;
 - (b) any loss suffered by the licensee or permit holder as a result of the suspension or cancellation of the licence or permit;
 - (c) the inability of the licensee or permit holder to take away any forest produce within the period of the validity of the licence or permit; or
 - (d) any damage to, or loss of, any forest produce before its removal from the licence or permit area or coupe.
- (2) A licence or permit shall not be granted in an area which is the subject of another licence or permit issued under this Act.
- (3) Unless a contrary intention is expressly stated on a licence or permit, rights under the licence or permit shall not extend to—
 - (a) any land dedicated as a place of burial;
 - (b) any area designated a National Park under the Zambia Wildlife Act, 2015;
 - (c) any land within thirty metres of the centre line of any public road;
 - (d) any land within thirty metres of the boundary of any rail reserve;
 - (e) any land within fifty metres of a bank or edge of any river;
 - (f) any land within thirty metres of a power line; or
 - (g) grazing land.

57. Obligations of licensee and permit holder

- (1) A licensee or permit holder shall fell, cut, take, convert and perform other operations under the licence or permit in such manner as to cause the least possible waste of, or damage to, trees and forest produce.
- (2) A licensee or permit holder shall, where the licensee or permit holder causes waste or damage to trees and forest produce contrary to subsection (1), be liable to pay such value for the trees or forest produce damaged or wasted as may be assessed by the Director.
- (3) A licensee or permit holder shall, where requested by a forest officer, furnish such information, records and returns concerning the operations, conversion, processing, transport, sale, manufacture, export or use of the forest produce by the licensee or permit holder as the forest officer may require for purposes of this Act.
- (4) A licensee or permit holder shall keep such records and submit such returns to the Director in the prescribed manner and form.

58. Removal of forest produce from forest area

A person shall not remove from a forest area any forest produce cut or taken under a licence or permit until—

- (a) a forest officer endorses on the licence or permit;
- (b) the forest produce is measured or checked by the forest officer; and

- (c) the forest produce is marked by the forest officer with the imprint of the timber marking hammer or instrument or any other mark of the Department.

59. Variation of licence or permit

- (1) A licensee or permit holder may, at any time during the validity of the licence or permit, apply to the Director for variation of the terms and conditions of the licence or permit.
- (2) The Director shall, within thirty days of receipt of the application under subsection (1), grant or reject the application, and shall give reasons for the rejection to the applicant where the application is rejected.

60. Surrender of licence or permit

- (1) The holder of a licence or permit who decides not to continue with the project to which the licence or permit relates shall notify the Director, in writing, and agree with the Director on the terms and conditions of the surrender of the licence or permit, with particular reference to anything done or any benefit obtained under the licence or permit.
- (2) Where a licence or permit is surrendered under subsection (1), the licence or permit shall lapse, and subject to section sixty-two, be cancelled and the holder of the licence or permit shall cease to be entitled to any benefits granted under the licence or permit.

61. Transfer of licence or permit

A licence or permit or any rights conferred under the licence or permit shall not be transferred or assigned by the licensee or permit holder to any other person.

62. Suspension or cancellation of licence or permit

- (1) Subject to the other provisions of this Act, the Director may suspend or cancel a licence or permit if the holder—
 - (a) obtained the licence or permit by fraud or deliberate or negligent submission of false information or statements; or
 - (b) contravenes this Act or any terms and conditions of the licence or permit.
- (2) The Director shall, before suspending or cancelling a licence or permit in accordance with subsection (1), give written notice to the holder thereof of the intention to suspend or cancel the licence or permit and shall give the reasons for the intended suspension or cancellation and require the holder to show cause, within a period of thirty days, why the licence or permit should not be suspended or cancelled.
- (3) The Director shall not suspend or cancel a licence or permit under this section if the holder takes remedial measures to the satisfaction of the Director within the period of thirty days referred to in subsection (2).
- (4) The Director may suspend or cancel a licence or permit if the holder who is notified under subsection (2) fails to show cause or does not take any remedial measures to the satisfaction of the Director within the time specified in that subsection.
- (5) Where a licence or permit is suspended, the holder of the licence or permit shall cease to be entitled to the rights and benefits conferred under this Act for the period of the suspension.
- (6) The holder of a licence or permit shall, where the licence or permit is cancelled, cease to be entitled to the rights and benefits conferred under this Act with effect from the date of the cancellation.

63. Renewal of licence or permit

- (1) A licensee or permit holder may, three months before the expiry of the licence or permit, apply for the renewal of the licence or permit.
- (2) The Director may, within thirty days of receipt of the application under subsection (1), renew the licence or permit for such period and on such terms and conditions as the Director may determine.
- (3) The Director shall, where the Director rejects an application under subsection (2), inform the applicant accordingly and give reasons for the rejection.

64. Regulations on import and export of forest produce

The Minister may, on the advice of the Director and in consultation with the Minister responsible for trade and industry, by statutory instrument, regulate the import or export of any forest produce and such regulations may incorporate the requirements of the Convention on International Trade in Endangered Species of Flora and Fauna.

65. Register of licences and permits

- (1) The Director shall keep and maintain a Register of all the licences and permits issued under this Act.
- (2) The Register referred to in subsection (1) shall be kept at the offices of the Department and shall be open to inspection by the public at such times and on such conditions, including the payment of a fee for inspection, as the Director may determine.
- (3) A person may, upon payment of the prescribed fee, request a copy of a licence or permit of any person or a copy or extract of any other particulars from the Register to be certified by the Director.
- (4) Any document purporting to be an extract or copy of an entry in the Register and duly certified to be a true copy or extract under the hand of the Director shall be received in evidence as to the matter stated therein in any legal proceedings.

Part VII – Marking of timber

66. Licence for manufacture and use of timber marking hammer or instrument

- (1) The Director shall approve such timber marking hammer or instrument for the marking of timber for the purposes of this Act.
- (2) The Director may, on application by a person in the prescribed manner and form, issue a licence for the manufacture of a timber marking hammer or instrument of the Director or for any other person licensed under this Act, subject to such conditions as the Director shall determine.
- (3) Notwithstanding subsection (1), the holder of a licence for the manufacture of a timber marking hammer or instrument may, subject to the approval of the Director, use such timber marking hammer or instrument for the purpose of identification.
- (4) The timber marking instrument of a holder of a licence under this Act and a licence issued under subsection (2) shall be registered by the Director.

67. Prohibition of use of Department's or other licensee's timber marking hammer or instrument

- (1) A person who is not a forest officer who possesses or uses the Department's timber marking instrument commits an offence.

- (2) A person who is not the owner of a timber marking instrument who uses the timber marking hammer or instrument commits an offence.

68. Alteration and obliteration of marks on timber or tree stumps

A marking made on any timber or tree stump by a timber marking hammer or other instrument shall not be altered, defaced, obliterated or removed without the consent of the owner of the tree stump or timber and the consent of a forest officer.

69. Marking of timber for export

All timber being exported shall be hammer marked in such manner as the Director may determine.

Part VIII – The Forest Development Fund

70. Establishment of Fund

- (1) There is established the Forest Development Fund.
- (2) The Fund shall consist of—
- (a) such monies as Parliament may approve for purposes of the Fund;
 - (b) voluntary contributions to the Fund from any person;
 - (c) grants from any source within or outside Zambia, with the approval of the Minister; and
 - (d) interest arising out of any investment of the Fund.
- (3) The monies of the Fund shall be used for—
- (a) the management of forest re-generation and tree planting in degraded areas;
 - (b) the development and management of forests and trees to achieve a sound ecological balance;
 - (c) the promotion of community-based forestry management practices;
 - (d) research in the forestry sector; and
 - (e) any other matter connected with forest management and development as may be prescribed.

71. Administration and management of Fund

The Fund shall be vested in the Minister responsible for finance and shall be managed and administered by the Department.

72. Auditing of Fund

The Fund shall be audited every year by the Auditor-General.

73. Statement of income and expenditure

The Minister shall cause to be prepared an annual audited statement of income and expenditure with respect to the Fund which shall be laid by the Minister before the National Assembly.

Part IX – Enforcement

74. Powers of authorised officer

- (1) Subject to, and for the purposes of this Act, an authorised officer may—
 - (a) at any reasonable time, enter upon and inspect any land, building, premises or conveyance, where any forest produce, major forest produce or protected flora may be found or processed, for the purposes of inspection and data collection;
 - (b) demand from any person the production of a licence or permit for an act done or committed by that person in a forest area or in relation to any forest produce for which a licence is required under this Act;
 - (c) require any person found within a forest area who has in that person's possession any forest produce to give an account of the manner in which the person came in possession of the forest produce and where the account given is not satisfactory, arrest and take that person before a court;
 - (d) open and examine any container, conveyance, package or wrapping suspected to contain any forest produce, major forest produce or protected flora to ensure phytosanitary compliance;
 - (e) inspect any forest produce, major forest produce or protected flora destined for import into or export from Zambia to determine whether the consignment is phytosanitary compliant;
 - (f) inspect and examine any conveyance which the authorised officer has reasonable grounds to believe is transporting any forest produce, major forest produce or protected flora to ensure phytosanitary compliance;
 - (g) require the person in charge of any conveyance entering Zambia to furnish a list of the names of all persons in the conveyance and such other prescribed information which is within the power of such person to furnish;
 - (h) search any person whom the authorised officer has reasonable grounds to believe is carrying any forest produce or protected flora or carrying out activities contrary to this Act;
 - (i) require any person to produce for inspection any forest produce, protected flora, document, appliance, article, device or anything in relation to or in connection with which, the authorised officer has reason to believe, an offence has been committed or is likely to be committed;
 - (j) seize any forest produce, major forest produce, protected flora, appliance, equipment, device or material in connection with which an offence appears to have been committed;
 - (k) seize and detain any livestock found in a forest area without permit;
 - (l) take all reasonable steps to prevent the commission of an offence under this Act;
 - (m) apply or order the application of measures which are necessary or prescribed for the control or prevention of the spread of plant diseases;
 - (n) destroy or order the destruction at any time of any forest produce, major forest produce, protected flora which is diseased, moved or used contrary to the provisions of this Act;
 - (o) order the adoption of measures prescribed to ensure the protection of forests and protected flora; and
 - (p) seize or order the seizure of a conveyance carrying any forest produce, major forest produce or protected flora in contravention of this Act or any other law.
- (2) An owner of any land, building, premises or conveyance shall afford an authorised officer access to the land, building, premises or conveyance and shall give such information and provide such

reasonable assistance as the authorised officer may require for the purposes of data collection and carrying out an inspection.

- (3) An authorised officer may, in the performance of any functions under this section, be accompanied and assisted by a police officer.
- (4) An authorised officer may, in the course of an inspection carried out under this section—
 - (a) subject to subsection (7), seize, recall, destroy, detain or otherwise dispose of any forest produce, major forest produce or protected flora or order that any such action be taken at the expense of the owner;
 - (b) obtain any sample of any forest produce, major forest produce or protected flora as the authorised officer considers necessary;
 - (c) order any person to produce for inspection, or for purposes of obtaining extracts or copies, any book, document or other information concerning any matter relevant to the administration of this Act;
 - (d) suspend one or more activities or temporarily, partially or completely close inspected premises; and
 - (e) suspend or withdraw any permit or licence issued under this Act.
- (5) Where an authorised officer detains, disposes of or destroys any forest produce, major forest produce or protected flora under subsection (1) or (4), the authorised officer shall, as soon as is practicable, notify, in writing, the owner of the forest produce, major forest produce or protected flora of the steps taken and the reasons therefor.
- (6) Where any forest produce, major forest produce or protected flora or conveyance is infected or is suspected of being infected with any disease or any forest produce, major forest produce, protected flora or conveyance has been introduced into any place in Zambia without the permit required for that introduction, or having been introduced under a permit is moved or dealt with otherwise than in accordance with that permit, an authorised officer may make such order as the authorised officer considers necessary for all or any of the following purposes:
 - (a) direct that such forest produce, major forest produce, protected flora or conveyance be seized or detained;
 - (b) subject to subsection (7), direct that such forest produce, major forest produce, protected flora or conveyance be disposed of or destroyed; or
 - (c) direct that such forest produce, major forest produce, protected flora or conveyance be dealt with in such manner as is considered necessary to prevent the spread of any disease.
- (7) Notwithstanding anything to the contrary contained in this section, an authorised officer shall not order the destruction of protected flora which is not diseased.
- (8) A person who contravenes an order made pursuant to this section commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.
- (9) Where a person fails or refuses to do anything which that person is required to do under an order made under this section, an authorised officer may do or cause such thing to be done.
- (10) The cost of anything which an authorised officer does or causes to be done under subsection (8) shall be recoverable by the Director from the person who failed or refused to comply with the order.
- (11) The Government shall not be liable for any loss or damage which occurs to any property during an act of seizure by an authorised officer or whilst the property is detained under this Act unless the authorised officer caused the damage negligently, maliciously or fraudulently.

75. Power to carry out tests and take statistics

- (1) An authorised officer may, for the purposes of this Act—
 - (a) take or cause to be taken from any forest produce, major forest produce or protected flora, any sample or specimen;
 - (b) take or cause to be taken from any land, building, premises or conveyance, any sample or specimen; and
 - (c) apply such other tests as the authorised officer considers necessary.
- (2) An authorised officer, may for the purpose of obtaining statistics of forest produce, major forest produce or protected flora, weigh, measure and check any protected flora, and any person in charge of the forest produce, major forest produce or protected flora shall, on demand being made to that person by an authorised officer, produce that forest produce, major forest produce or protected flora to the authorised officer for that purpose.

76. Arrest without warrant

- (1) An authorised officer may arrest a person, without warrant, where the authorised officer has reasonable grounds to believe that the person—
 - (a) has committed an offence under this Act;
 - (b) is about to commit an offence under this Act and there is no other way to prevent the commission of the offence; or
 - (c) is wilfully obstructing the authorised officer in the execution of the officer's duties.
- (2) An authorised officer who makes an arrest under subsection (1) shall, without undue delay, have the person arrested brought to a police station.

77. Obstruction of authorised officer

A person who—

- (a) willfully delays or obstructs an authorised officer in the carrying out of the officer's duties under this Act;
- (b) knowingly or negligently gives an authorised officer false or misleading information; or
- (c) impersonates or falsely represents oneself to be a forest officer or to be a person acting under an authorised officer's orders;

commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

78. Demanding production of licence or permit

An authorised officer may demand from any person engaged in doing or causing to be done anything for which a licence or permit is required under this Act to produce the licence or permit, and if that person fails to produce the licence or permit, restrain that person and the employees and agents of that person from doing such thing until the licence or permit is produced.

79. Prevention of offences

- (1) An authorised officer may take such measures and do such acts for preventing the commission of an offence as the authorised officer may consider necessary for purposes of this Act.

- (2) Without prejudice to the generality of subsection (1), an authorised officer may—
- (a) inspect forest produce, and for the purpose of detecting pests or disease, expose the roots of plants, remove bark or cut any part of forest produce or open any container or package or wrapping suspected to contain the forest produce liable to harbour the pests or diseases;
 - (b) order the application of measures which are necessary or prescribed for the eradication or prevention of the spread of a pest or disease in accordance with the Plant, Pests and Diseases Act;
- [Cap. 233]*
- (c) order the destruction at any time of any forest produce infested with any harmful agent, pest or disease; and
 - (d) declare a nursery, plantation or any part of a forest estate with a pest or disease or such portion thereof as an infected area until such time as the nursery or portion thereof is free from the pest or disease.

80. Search with warrant

- (1) Subject to subsection (2), an authorised officer may, where the authorised officer suspects that a person has committed an offence or is in possession of any forest produce in respect of which an offence has been committed, with a warrant—
- (a) enter upon and inspect the land, buildings, tents, structures or enclosures on or in which the forest produce which is the subject of an offence may be found; or
 - (b) search any baggage, package, parcel, vehicle, vessel or tent under the control of that person or the employee or agent of that person.
- (2) Notwithstanding subsection (1), a private dwelling shall not be entered into except in the presence of the occupier or person over the apparent age of eighteen years who resides in the private dwelling as a member of the occupier's family.

81. Prosecution by officers

- (1) The Director of Public Prosecutions may, at the request of the Director, in writing, appoint by name or rank a forest officer to undertake and prosecute criminal proceedings in respect of any offence alleged to have been committed by any person in contravention of this Act.
- (2) A forest officer shall, in undertaking or prosecuting any proceedings under subsection (1), act in accordance with the general or special instructions of the Director of Public Prosecutions and shall, for the purpose of the prosecutions, have the powers of a public prosecutor appointed under the National Prosecutions Authority Act, 2010.

[Act No. 34 of 2010]

82. Seizure of property

Where there is reason to believe that an offence has been committed, any major forest produce felled, cut, collected or removed contrary to the provisions of this Act and any tools, instruments, plants, machinery, equipment, vehicles and other property suspected of having been used in the commission of the offence may be seized by an authorised officer and detained until an order of the court is made regarding the disposal thereof.

83. Forfeiture and restoration of property

- (1) The Director shall, where any person from whom any forest produce or other property has been seized under section eighty-two is found not guilty or the proceedings against that person are withdrawn—
 - (a) without unnecessary delay, restore the forest produce or property to that person; or
 - (b) where the Director is satisfied that the person cannot be found or is unwilling to receive back the forest produce or property, apply to the court for an order of forfeiture of the forest produce or property.
- (2) The court shall not make an order of forfeiture under subsection (1) unless—
 - (a) the Director has given notice, by publication in the *Gazette* and in one daily newspaper of general circulation in Zambia, to the effect that the forest produce or property which has been seized under this Act shall vest in the State if it is not claimed within three months from the date of publication of the notice; and
 - (b) three months after the giving of the notice under paragraph (a), the forest produce or property remains unclaimed.
- (3) Where a claim is made, in writing, by any person that is lawfully entitled to the forest produce or property seized under this Act that the forest produce or property is not liable to forfeiture under this Act, the Director may order the release of the forest produce or property to the claimant if satisfied that there is no dispute concerning the ownership of the forest produce or property and that it is not liable to forfeiture.
- (4) The Director shall refer a claim to the High Court where a claim of ownership is made in relation to forest produce or property seized under this Act and the Director finds that—
 - (a) there is dispute regarding the ownership of the forest produce or property;
 - (b) there is insufficient evidence to determine the ownership of the forest produce or property; or
 - (c) the Director is unable to ascertain whether the forest produce or property is liable to forfeiture or not.

84. Assistance in extinguishing fire

- (1) Where there is a fire, other than any controlled fire started by or on the authority of a forest officer, or in the case of an accident or emergency likely to endanger a National Forest or Local Forest, every person of not less than eighteen years of age resident within ten kilometres of the boundary of the National or Local Forest shall assist a forest officer who demands aid from the person in extinguishing the fire or averting the danger.
- (2) It shall be a condition of a licence or permit that in the event of an outbreak of fire in a National Forest, Local Forest or any other land in which forest produce is being cut, carried or stored under a licence or permit, a licensee or permit holder shall, when called upon to do so by a forest officer, provide employees, tools, plant, machinery and equipment which the licensee or permit holder may have in the vicinity of the forest or land to assist in extinguishing the fire, and the licensee or permit holder may be paid such consideration therefor as the Minister may prescribe, by statutory instrument.
- (3) The consideration under this section shall not be paid if the fire was, in the opinion of the Director, occasioned willfully by, or through the carelessness or neglect of, the licensee or permit holder or the employees or agents of the licensee or permit holder.

Part X – Offences and penalties

85. Offences by authorised officers

An authorised officer who willfully or negligently permits the removal of unmarked produce from a coupe commits an offence.

86. Prohibition of removal, felling, cutting, collecting, etc. of major forest produce without licence or permit

- (1) A person shall not, without a licence or permit—
 - (a) fell, cut or work any major forest produce;
 - (b) fell, cut, work, take, collect or remove any major forest produce in or from any State Land, customary area or open area; or
 - (c) sell, offer for sale, barter or otherwise deal in any major forest produce from any State Land, customary area or open area.
- (2) A person who contravenes subsection (1) or (2) commits an offence.
- (3) This section does not apply to a person who within any State Land, customary area or open area—
 - (a) is the owner of the land and is in possession of a valid licence or permit authorising the licensee or permit holder to do any of the prohibited acts;
 - (b) has obtained the permission of the owner to do so and is in possession of a valid licence or permit authorising that person to do the prohibited act; or
 - (c) is an authorised officer acting under instructions in performing the authorised officer's functions under this Act.

87. Restrictions on manufacture of charcoal

- (1) Subject to the other provisions of this Act, a person who, not being a holder of a licence or permit under this Act, manufactures wood into charcoal or offers for sale, sells or removes charcoal in or from any State Land or customary area commits an offence.
- (2) This section does not apply to a person who, within the State land, customary area or open area—
 - (a) is in possession of a valid licence or permit authorising the licensee or permit holder to do the act or to manufacture charcoal;
 - (b) has obtained the permission of the owner of the land to do so and is in possession of a valid licence or permit authorising that person to manufacture charcoal and do any such act; or
 - (c) is an authorised officer acting under instructions in performance of that officer's functions under this Act.

88. Destruction of major forest produce

A person who willfully destroys major forest produce commits an offence.

89. Illegal possession of forest produce

A person who knowingly receives or is in possession of any forest produce in respect of which an offence has been committed commits an offence.

90. Import of forest produce

A person who imports or attempts to import any forest produce without an import permit issued under this Act commits an offence.

91. Export of forest produce

A person who exports or attempts to export any forest produce without an export permit issued under this Act commits an offence.

92. Mixing of marked forest produce with unmarked forest produce

A person who willfully mixes forest produce marked by the Department with unmarked forest produce contrary to the provisions of this Act commits an offence.

93. Defacing of mark on forest produce

A person who, without being authorised under this Act to do so, alters, defaces, obliterates or removes any stamp, mark or sign placed upon forest produce or upon a tree stump by a forest officer commits an offence.

94. Removal, damage, etc, of boundary mark

A person who, without being authorised under this Act to do so, removes, damages or defaces any boundary mark, beacon, notice, fence or gate posted or erected by or on the authority of a forest officer commits an offence.

95. Illegal fixing of Departmental mark

- (1) A person who, without being authorised to do so, makes upon or fixes to any forest produce the mark of the Department to purport that the forest produce has been inspected or measured or to indicate that the forest produce may lawfully be cut or removed commits an offence.
- (2) A person who counterfeits any timber marking hammer or instrument of the Department or of a person authorised under this Act or counterfeits any mark made by the timber marking hammer or instrument commits an offence.

96. Failure to assist with extinguishing fire in forest area, etc

A person who, being liable under section eighty-four to render assistance in the case of a fire, accident or other danger in a forest area, refuses or fails to do so without reasonable excuse when called upon by an authorised officer commits an offence.

97. Malicious damage to infrastructure in forest area

Subject to any other written law, a person who intentionally damages any plant, machinery, equipment, road, track, tramway, bridge, water installation, power line, telephone line, drain or other infrastructure in a forest area commits an offence.

98. Unauthorised possession or use of uniform or identity of authorised officer

A person who, without authority, wears or is in possession of any uniform or part of a uniform or any badge, mark or identity document issued by or on behalf of the Director to be worn or possessed by an authorised officer commits an offence.

99. General penalty

A person who commits an offence under this Act for which a penalty is not provided is liable, upon conviction—

- (a) if the offence was committed within, or in connection with, a forest area, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both; and
- (b) in all other cases, to a fine not exceeding thirty thousand penalty units or to imprisonment for a term not exceeding six months, or to both.

100. Payment of fine without appearing in court

- (1) An authorised officer may, where satisfied that a person has committed an offence for which the penalty does not exceed one hundred thousand penalty units or where a person has admitted the commission of an offence under this Act for which the penalty does not exceed one hundred thousand penalty units, summarily demand from the person the payment of a fine not exceeding fifty thousand penalty units in respect of the offence.
- (2) An authorised officer shall, where the authorised officer demands a payment under subsection (1), inform the person against whom the demand is made of the right to admit or dispute the liability.
- (3) A person from whom payment of a fine has been demanded under subsection (1) may elect to admit liability and pay the fine or dispute liability.
- (4) The payment of a fine shall operate as a bar to any further criminal proceedings against the person making the payment in respect of the offence concerned.
- (5) An authorised officer who receives payment of a fine shall give a receipt to the person making the payment in such form as may be prescribed.
- (6) An authorised officer who receives a payment under this section and—
 - (a) fails to issue a receipt to the person making the payment as required under subsection (5);
 - (b) fails to account for any payment made under this section; or
 - (c) in any manner, misuses or puts to personal use any payment made under this section;

commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

101. Additional powers of court

- (1) The court may, where a person is convicted of an offence, in addition to any other penalty provided for in this Act—
 - (a) order the cancellation of the licence or permit held by that person;
 - (b) assess the amount of compensation for the loss or damage caused by that person in the commission of the offence and cause the compensation to be recovered from that person as if it were a debt due and payable to the Government;
 - (c) order the removal or demolition, within such time as the court may determine, of any unauthorised buildings, structures, plant, machinery, equipment, crops and other works set up or grown by that person, and the restoration, as far as practicable, of all areas and things to their former state, and if the removal, demolition and restoration is not effected within the time fixed by the court, the Director shall cause it to be done and the cost incurred shall be recovered by the Director from the convicted person; or

- (d) order the confiscation or forfeiture of any forest produce in respect of which the offence was committed and of any livestock, tools, plant, machinery, equipment, vehicles or other property used in the commission of the offence.
- (2) The Director may sell or otherwise dispose of any property confiscated or forfeited under subsection (1) and handed over to the Director by order of the court and any moneys received from the sale or disposal of the property shall be paid into the general revenues of the Republic.

102. Civil remedy reserved

- (1) Nothing in this Act shall be construed as taking away or interfering with the right of the Republic or any person to sue for and recover, at common law or otherwise, compensation for or in respect of any damage or injury caused by the commission of an offence.
- (2) The court shall, in assessing the compensation take into account the amount of any compensation recovered under section one hundred and one.

103. Evidence

Where in any proceedings under this Act the question arises whether any forest produce is the property of the Republic, it shall be presumed to be the property of the Republic unless the contrary is proved.

104. Exhibits

Where in any proceedings under this Act it becomes necessary for an authorised officer to produce in evidence any forest produce and, in the opinion of that authorised officer, production of the whole of the forest produce would be impracticable or involve unnecessary expense or undue delay, it shall be sufficient for the authorised officer to produce in the court any piece or sample of the forest produce.

Part XI – General provisions

105. Regulations

- (1) The Minister may, by statutory instrument, prescribe anything which by this Act is required to be prescribed or is necessary for the carrying out of the provisions of this Act.
- (2) Without prejudice to the generality of subsection (1), regulations made under that subsection may provide for—
 - (a) the survey and demarcation of National Forests and Local Forests;
 - (b) the protection and management of flora in forest areas and open areas;
 - (c) the development and implementation of forest management plans by the Department and local communities, joint forest management committees, Chiefs and other stakeholders;
 - (d) the form of participation of local communities and Chiefs which ensures equitable gender participation;
 - (e) the registers for forest management plans, licences and permits;
 - (f) the establishment of commercial plantations and woodlots;
 - (g) the marking of timber from private forests and the conveyance fees to be paid for the timber;
 - (h) the utilisation, conservation and planting of trees on State Land, customary areas and open areas;
 - (i) the prohibition and regulation of the cutting and taking of forest produce;

- (j) the management of Local Forests by local communities, Chiefs, local authorities and other stakeholders;
- (k) the implementation of international agreements to which Zambia is a State Party;
- (l) the sharing of forest revenue with local communities;
- (m) the fees to be paid for licences and permits issued under this Act;
- (n) carbon stock management;
- (o) the regulation of beekeeping; and
- (p) the administration and management of the Fund.

106. Repeal of Act No. 7 of 1999

The Forests Act, 1999, is repealed.

107. Savings and transitional provisions

- (1) The Forestry Department shall, on the commencement of this Act, continue to be a Department of the Government.
- (2) For the avoidance of doubt, a person who was an officer or employee of the Department before the commencement of this Act shall continue to be an officer or employee of the Department.
- (3) The service of the persons referred to in subsection (2) shall be treated as continuous service.
- (4) Nothing in this Act affects the rights and liabilities of any person employed in the Department before the coming into operation of this Act.

Schedule

Content of a management plan (Section 40)

- 1. The conservation of biological diversity taking into account all other users of the forest resources
- 2. The protection of ecosystem and species, including the species which indicate the health of an ecosystem
- 3. The designation of nature reserves and areas of stabilisation of watersheds
- 4. Designation of areas for agro-forestry, traditional agriculture and recreation areas to provide buffer zones to National and Local Forests
- 5. Commercial timber production and commercial agriculture on the edges of National and Local Forests
- 6. Afforestation and reafforestation
- 7. The restoration and rehabilitation of degraded ecosystems
- 8. The requirements for a forest monitoring system and carbon stock assessment
- 9. The requirements of environmental impact assessments under the Environmental Management Act, 2011
- 10. The use of traditional knowledge and practices conducive to the rational utilisation of forest resources and the conservation of biological diversity and the equitable sharing of benefits arising from the use of such knowledge with the affected local communities
- 11. The designation of sites for social amenities for the local communities
- 12. The designation of areas for the protection of relics and other national heritage
- 13. Re-investment in the forestry sector including in the welfare of local communities