

In the Name of Allah, the Gracious, the Merciful

The Forests Act 1989

Be it hereby enacted in accordance with Articles 56(2) and 58(1) of the Sudan Transitional Constitution 1985, by the Head of State and the Constituent Assembly, as follows :

Chapter I

Preliminary Provisions

Title and Commencement

1. This Act may be cited as "The Forests Act 1989", and shall come into force as from the date of promulgation thereof.

Repeal and Saving

2. (1) The following two Acts shall be repealed :
 - (a) The Central Forests Act 1932;
 - (b) The Provincial Forests Act 1932.
- (2) Notwithstanding the repeal provided for in subsection (1) all regulations, rules notices made under the two Acts shall continue in force until repealed or amended under the provisions of this Act.

Interpretation

- (3) In this Act unless the Context otherwise requires: "Land at the disposal of Government, means":
 - (a) any land registered in the name of the government or deemed so registered under the Unregistered Lands Act 1970 (repealed) or the Civil Transactions Act 1984 or the Land Settlement and Registration Act 1985;
 - (b) all waste, forest, or unoccupied or unproductive land in respect of which no settlement of claims has been made under the Land Settlement and Registration Act 1925.

"Forest Offence" means an offence punishable under the provisions of this Act or any regulations or rules made thereunder.

"Tree"	means forest trees including bushes, palms, bamboos, shrubs, brushwood, creepers and climbers at all stages of their growth.
"Cattle"	include bulls, cows, oxen, horses, mules, asses, camels, pigs, sheep, goats and the young thereof.
"General manager"	means the General Manager of the Forests National Corporation.
"Area Council"	means the Area Council in which the land which is the subject of any proceedings hereunder lies, or where the land lies in more than one of these provinces as the Minister may direct.
"Forest Produce"	includes <ul style="list-style-type: none"> (a) timber, charcoal, bark, different kinds of gum, and tanning fruits (b) trees and leaves, flowers and fruits and all other parts or produce, not hereinbefore mentioned, of trees; (c) honey and wax, silk and cocoons within the forests.
"Reserve"	means an area or any part thereof declared to be a national forest reserve or a regional forest or other forest reserve whether the same be covered with trees or not.
"National forest"	means any national forest, reserved or not, allotted to the trusteeship and control of the corporation specially the marginal land and watersheds for the purpose of making available the national needs of forest produce and protection of the environment.
"Regional Forest"	means any forest reserved and designated as such for the region or the province or the area Council for the purpose of making available the regional and local needs of forest produce and protection of the environment.

"Other Forests"	includes : (a) Private Forests established in any agricultural land owned or leased to people or which they traditionally cultivate, or which is surrounding their houses. (b) Communal forests established by the citizens in their farms and around the cities and villages;
"Forest Officer"	means any person appointed by name or otherwise by an order of the corporation or whoever represents it, to be a conservator, a deputy or assistant conservator, superintendent, forest ranger, forest overseer or forest guard.
"Means of Transport"	includes vehicles, boats and ships and all machanical means of transport and includes all different animals and any other means of transport.
"Timber"	means any trees or any part of any tree which has fallen or has been cut and includes all wood whether cut up or fashioned or otherwise.
"Corporation"	means the Forests' National Corporation established under the Forests National Corporation Act, 1989.
"Minister"	means the Minister of Agriculture and Natural Resources.

Chapter II

Reserved Areas

Existing Reserved Areas shall be considered

Reserved under this Act

- 4 All reserved areas under the Provincial Forests Act 1932, and the Central Forests Act 1932 shall be considered as if they are reserved under this Act subject to the rights of such areas before the coming into force of this Act.

Procedure for Reservation of an Area

5. (1) The Corporation shall, when informed by the decision of the Minister to reserve any Area in any land under the disposal of the government, take the procedure of acquiring any such rights according to Land Acquisition Act 1930; provided that the rights, which the Corporation in consultation with the Board do not want to acquire the same, shall be exempted from such acquisition for the reason that using the same rights do not harm the area proposed to be reserved.
- (2) The Minister shall, after completion of the procedure provided for in sub-section (1) declare, by order published in the Gazette that such area is a reserved area. Such order shall specify :
 - (a) whether the reserved area is a national or regional or other forest;
 - (b) the non-acquired rights and the name of the person or persons or body enjoying such rights.

Acquisition of land for the purpose of Reservation

6. (1) With the exception of the areas mentioned in sections 4 and 5 the Minister shall not declare any area(s) reserved unless the land in such area has been acquired according to the Land Acquisition Act 1930; provided that the land acquisition officer shall, before acting under section 14 of such Act, send to the Corporation a statement of the alleged rights of any person in such area for the purpose of establishing the rights that it does not want to acquire so as to acquire such land subject to such rights.
- (2) The Minister shall after completion of the procedure provided for by sub-section (1) declare, by order published in the Gazette that such area is reserved area. Such order shall specify
 - (a) whether the reserved area is a national or regional or other forest;
 - (b) the non-acquired rights and the name of the person or persons or body enjoying such rights.

Declared Reserve Areas on Request of Owners thereof

7. When the owner or number of owners of parts of such land not less in total than two thirds of the said land request from the Minister through the Council to declare such land a reserve Area subject to such agreement as regards compensation and the period of reserve, the Minister may, after taking the opinions of those persons concerned who may object to such request, specify and declare by order issued in the Gazette that such land is a reserve Area.

Declared Reserve Areas Presumed for Public Interest

8. There shall be deemed to be made for public purpose in the meaning given thereto by the Land Acquisition Act 1930, any declaration of any land as Reserve Area in accordance with the Provisions of this Act.

Revocation of Reservation

- 9 The reservation of any area or part thereof which has been declared as national reserve forest, after completion of the procedure of such reserve may not be revoked; provided that the Minister, by order published in the Gazette may declare on such date as specified by him, the revocation of the declaration of any reserved area or part thereof as regional or other forest; such order shall not return any rights in such area being acquired or deleted at the time of reservation of the area except those rights of the owners of the land declared reserve area in accordance with the provisions of section 7.

Use of the Reserve Area

10. The Reserve Area or Areas under reservation the procedure thereof is not yet completed may be used only for :
- (a) production of forest produce;
 - (b) any purpose necessary for the production of forest produce;
 - (c) the purpose of protection, recreation, pasture or cultivation in accordance with the regulations; provided that this shall not affect its main role of production and protection.

Management of an Area declared Reserve

11. (1) A declared reserve area shall be managed as follows :
- (a) the national forest reserve shall be managed by the Corporation or delegate thereof;
 - (b) the regional forest reserve shall be managed by the Corporation for and on behalf of the region.
 - (c) individual forest reserves constituted under section 7 shall be managed by their owners thereof subject to the conditions relating to reserve forest contained in this act or any regulations or rules made thereunder.

- (d) other forest reserve :
- (i) individually owned forests shall be managed by the owners thereof.
 - (ii) the communally owned forest shall be managed by committees elected by the people in the area.
 - (iii) the forests of institutions shall be managed by the institution or delegate thereof.
- (2) Notwithstanding the provisions of sub-section (1) all Areas declared as reserve shall be subject to the technical supervision of the Corporation, and in this respect it may issue any directions or take any procedure for the protection of forests in the reserve area.
- (3) The Corporation or the area Council with the approval of the Corporation may, by contract, grant privileges to any government or non-government body, to manage all or part of the reserve area as specified by the regulations.

Public Roads, Water courses and Watering places to be specified in the Order declaring area reserve

12. (1) Where an Order declares land to be a forest reserve under the provisions of this Act such order shall in each case specify :
- (a) the roads, tracks and waterways through or over such land which shall be open to public traffic;
 - (b) the water places or sources in such lands, which shall be open to public use;
 - (c) the conditions, if any, subject to which such use of such roads, tracks, waterways and water places will be allowed, and save to the extent and on the conditions so declared the same shall not be open for use whether hitherto so used or not.
- (2) In respect of the areas provided for by section 4 the roads, tracks, waterways and watering places through, over and in such areas and no other shall be open to public use to the extent and on the conditions set forth in the order of declaration of reserve of such areas.

Map of Area declared Reserve

- 13 On publication of an order declaring an area to be a reserve the General Manager shall :
- (a) cause a map including the area declared a reserve and all roads, tracks, firelines and waterways and watering places to be open for public use, to be deposited in the Central Land Registry and the office of the Area Council;
 - (b) cause the area to be demarcated by boundary posts of stone, concrete, iron or such other material or in such other manner as he may direct and shall cause the position of such boundary to be marked on the maps deposited in accordance with the provisions of paragraph (a);
 - (c) direct that firelines of not less than two metres in width shall be opened around the perimeter of such area.

Power to Close Public Roads, Waterways or Watering Places

- 14 The General Manager, or whoever he may delegate may, with the approval of the Council, order the closing of any road, track, waterway or watering place open to public use in a reserve provided that a reasonably convenient alternative therefor exists or be provided.

Acts Prohibited in a Reserved Area

15. (1) No person shall act or cause any of the following acts in a reserved area or in an area the reservation procedure of which has not yet been completed :
- (a) kindling, keeping, carrying or causing a fire in a reserve;
 - (b) entering into a reserved area or staying therein except for those persons who manage such reserve in accordance with section 11;
 - (c) cutting, collecting, taking, destroying, injuring, converting to private benefit or otherwise interfering in any other way with forest produce.

- (d) pasturing animals or admitting them or causing their entrance or allowing them to remain within a reserved area;
 - (e) introduction of any harmful materials, liquids or otherwise, or throwing or burying any waste material;
 - (f) removing or transferring, destroying, altering or damaging or interfering with any boundary mark or blazed tree or fence of a reserve;
- (2) Notwithstanding the provisions of sub-section (1) the body responsible for the management of reserved areas in accordance with section 11 may permit any person to do any of the acts mentioned in paragraphs (a), (b), (c) and (d) for scientific or recreational purposes or for purposes which are necessary for the development and production of the forest produce subject to such conditions and restrictions as provided for in such permit.

Acts Prohibited outside a Reserve

16. (1) No person shall transport or attempt to transport any forest produce by any means of transport without obtaining a permit from the competent authority; provided that such forest produce transported or about to be transported shall conform with that included in the permit as regards, kind, quantity, date, place transported thereto place and any other information contained in such permit in the form specified by the regulations.
- (2) For the purposes of subsection (1) the general manager or to whom he may delegate his powers shall be the authority issuing permits in the case of forest produce taken from the national forests and the area council or to whom it may delegate its powers shall be the authority issuing permits in case of the regional forests or other forests falling within its area of jurisdiction.
- (3) The driver of the means of transport shall carry with him throughout the time he is transporting the forest produce the permit and shall present it as and when he is asked to do so.
- (4) Purchasing or obtaining forestry produce is not allowed unless it is accompanied with a removal pass from the competent authority.

Chapter III

General Protection of Forests and Produce

Outside the Limits of the Reserved Areas

Protection of Trees for Special Purposes

17. The Minister, whenever he deems it necessary for the protection of any particular species of trees or confining tree felling to reserved Areas only or within areas where regeneration is assured for the protection of soil, water resources and pasture and any other natural resources within a particular area; or for the protection of highways, bridges, river banks and any other lines of communication, may issue orders to be published locally with provisions which prohibits or regulates any of the following things :
- (a) the cutting of trees in general or of a particular species of tree or of any age-class of that species of tree;
 - (b) the kindling of fires in or near reserved forest areas;
 - (c) producing collecting and removal of forest produce.

Licence required where trees Cut or Consumed for trade purposes

18. (1) No person shall cut, take, consume or utilise for any purpose any growing or fallen tree in any land under the disposal of the government outside the reserved areas or utilise or consume any tree or the produce thereof, save with the permission of the general manager or delegate thereof.
- (2) Notwithstanding the provisions of sub-section (1) but subject to the provisions of section 17, individuals, groups, communities and institutions who plant trees in areas described in section 3 hereof shall be entitled to use and deal with such trees and the produce thereof for such purposes as they may deem fit without any interference on the part of the corporation or its representatives.

Wood and Wood-based Industries using Mechanical Means

19. No person shall construct any Saw-mill that uses mechanical means for modulating local round wood (natural & planted logs) save with a permit from the Board of Directors of the Corporation as specified by the regulations.

Conversion of the trees Cut to Forest Produce

20. (1) On allocating land to any project for any purpose, the Corporation shall be notified in adequate time for obtaining its approval as regards the existence or absence of forests, the number of trees and possibility of disposal of such trees and the effect of removal of the same on the environment.
- (2) Subject to the provisions of subsection (1) the owner or tenant of the land shall convert the trees of such forests, when cut, to forest produce, and shall also inform the Corporation of the felling operations so as to revise the percentages provided for in subsection (3)(a) and (b).
- (3) Subject to the provisions of subsection (2) the following percentages shall be left in the case of agricultural investment, as green belts for the purposes of protection and production :
- (a) a percentage not less than 10% of the total area of a rain fed project;
- (b) a percentage not less than 5% of the total area of an irrigated project.

Chapter IV

Power to levy fees and royalties on forest produce

21. The corporation shall have the power, by resolution of the Board and with the prior approval of the Minister and the Minister of Finance and Economic Planning, to levy, alter, amend and collect fees and royalties for forest produce in accordance with the regulations published from time to time.

Chapter V

Punishments and Procedures

Public to report on the Incidence of fire and on Forest Offences

22. Every person who knows of the incidence of fire in or near a forest reserve or of the commission of or of the intention to commit a forest offence shall, as soon as reasonably possible, report the same to the nearest Forest Officer, policeman or magistrate.

Public to Assist in Extinguishing Fire

23. In case of occurrence of fire or a disaster or any accident which results in danger posing threat to a reserved area or to any property therein, every person, being in or near the reserve, shall assist any Forest Officer, policeman or magistrate or other public official who may ask him for reasonable assistance, to extinguish such fire or protect such property from danger or loss, and, in the absence of any public official, he shall take what reasonable measures he can with a view to achieving the aforesaid purposes.

Power to Arrest without Warrant

4. (1) Any forest officer, policeman or Sheikh may, without warrant, arrest any person reasonably suspected of having been involved in a forest offence, if such person refuses to give his name and address or there is a reasonable doubt to believe that the name and address he gives are incorrect, or, if there is reason to believe that he will abscond.
- (2) Every person making an arrest in the manner set out in sub-section (1) shall, forthwith, take or send the person arrested before a magistrate or before the officer in charge of the nearest police station.

**Seizing of Property used in Commission
of Forest Offence**

- 25 (1) Where there is reason to believe that a forest offence has been committed in respect of any forest produce, any forest officer, policeman or Sheikh shall seize such produce, together with all means of transport, or any other thing used, or suspected to have been used, in the commission of such offence.
- (2) Every person seizing any forest produce, means of transport or any, other thing, under sub-section (1), shall place on the seized property a mark indicating that the same have been seized and shall forthwith report the matter, to a magistrate or to the officer in charge of the nearest police station.
- (3) All property seized shall be put under the custody of the police or the forest authority and shall not be released unless the case is dismissed or the competent court passes its judgement of acquittal
- (4) (a) where any perishable forest produce, or any living animals are seized the same may be sold by the General Manager or any person authorised by him, after obtaining permission to that effect from the competent magistrate and fulfilling the procedure provided for by the Civil Procedure Act 1983.
- (b) the produce mentioned in paragraph (a) may be destroyed if it cannot be sold, after obtaining permission to that effect from the competent magistrate.
- (c) no seized produce or means of transport shall be released save after the trial is over and by order of the magistrate.

Confiscation

26. In addition to any other punishment, the court, on the conviction of any accused under this Act shall order the confiscation for the benefit of the Corporation of any property seized under Section 25 hereof including the means of transport used in the commission of the forest offence concerned.

Forest Produce Presumed to Belong to the Corporation

27. When, in any proceedings taken under this Act, or in consequence of anything done thereunder, a dispute arises as to the ownership by the Corporation of any forest produce, such produce shall be presumed to be the property of the Corporation until the contrary is proved.

Power to Impound Livestock Trespassing in Reserved Areas

28. (1) Livestock trespassing in a reserve may be seized and impounded by any forest officer or policeman.
- (2) The Council shall make rules for each pound providing for the payment of a determined fine for each animal impounded and for expenses in the pound and for the sale of the livestock in default of payment of fines and fees.

Carrying and use of Weapons

29. (1) The General Manager or the Council may, subject to the approval of the competent authorities issue a licence for the carrying and use of weapons by forest guards and officers; provided that such officials shall be defined by name and the type of weapons to be carried and used must be specified.
- (2) Any policeman or forest officer who is authorised to carry weapons, may in good faith, use such weapons to such extent as may be required in each situation against :
- (a) any person whom he is authorised to arrest if that person resists arrest, or absconds;
- (b) any person who obstructs him while discharging his official duty with a view to evade the seizure of any means of transport used, or he has good reason to believe that it has been used in the commission of a forest offence or an offence of removing any forest produce.

Punishment of Certain Prohibited Acts

30. (1) Every person who commits any act prohibited by paragraphs (a), (e), (f) and (g) of section 15 shall be punished with imprisonment for a period not less than six months, and not exceeding two years or with a fine not less than two hundred pounds and not exceeding two thousand pounds, or with both.
- (2) Every person who commits any act prohibited by paragraphs (b), (c) and (d) of section 15 and also prohibited by section 16 shall, on conviction for the first time, be punished with imprisonment for a period not less than six months and not exceeding five years or with a fine not less than double the value of the

seized produce or with both; and in case of repetition of the offence he shall be punished with imprisonment for a term not less than one year and not exceeding ten or with fine not less than twice the value of the seized produce or with both.

Penalty for Counterfeiting Marks

31. Every person who, without the authority of a forest officer, affixes to any tree or timber any mark, or alters, defaces, obliterates or adds to any such mark lawfully placed on any tree or timber, shall be punished with imprisonment for a period not less than six months and not exceeding two years or with fine not less than LS. 500 (Five hundred pounds) and not exceeding LS. 3000 (three thousand pounds) or with both.

Penalty for other Offences

32. Every person who commits a breach of any provision of this Act or of any regulation or rule made hereunder, shall be punished with imprisonment for a period not less than six months and not exceeding two years or with a fine of not less than LS. 500 (Five hundred pounds) and not exceeding LS. 3000 (three thousand pounds) or with both.

Power of the Court to Order Payment Compensation for Damage Caused

33. Where any person is convicted of cutting any tree or injuring it by fire or otherwise in contravention of this Act, the Court may, in addition to any other punishment, order the person convicted, to pay the body managing the reserve under section 11 (1) hereof, compensation not less than LS. 1000 (one thousand pounds) for each tree in respect of which the offence was committed.

Lien on Forest Produce for Money Due to the Corporation or the Council

34. (1) The Corporation and the Council, as the case may be, shall have the first charge on forest produce for the fulfilment of the amounts of all sums payable to any of them in respect of such produce, and such produce may be seized and retained by the Corporation or the Council until any such amount due and payable has been paid.

- (2) If the amount due is not paid within one month of the due date for payment, the produce may be sold by auction and the proceeds of sale shall be applied first in defraying the costs of sale by auction and secondly towards payment of the amount due.
- (3) The surplus, if any, of proceeds of the sale, shall, if not claimed by the person entitled thereto within two months of the date of sale, be vested in the Corporation or the Council as the case may be.

The Competent Court

35. Any person accused under this Act shall be tried, and the procedure made hereunder shall be determined by the court of a magistrate of the second grade or any other higher court.

Chapter VI

Miscellaneous Provisions

Power to make Rules and Regulations

36. (1) In addition to any power of making rules herein vested in him, the General Manager may, with the approval of the Minister, make rules in accordance with the provisions of this Act for the implementation of the objects thereof, such rules shall not come into force save after being published in the Gazette. Where such rules are of local effect only, the same shall be made by the General Manager with the approval of the Council, and shall come into force as from the date of local publication thereof.
- (2) Any rules made under sub-section (1) may provide for punishment of any breach of the provisions thereof, with imprisonment for a period not exceeding six months or with fine not exceeding LS. 1000 or with both.
- (3) The Minister may make regulations for the implementation of the provisions of this Act; and without prejudice to the generality of the foregoing, such regulations may provide for :

- (a) the nature of the job, the holder of which is authorised to carry and use weapons,
- (b) the method, place and time of training persons licenced to carry and use weapons, and the government unit to which supervision over such training is entrusted;
- (c) the procedure for obtaining, keeping, maintaining and inspecting such weapons;
- (d) forms of removal pass for transporting forest produce.

Corporation Not Responsible for losses

37. Corporation shall not be responsible for any loss or damage which may occur to any property while detained under the provisions of this Act and no Corporation employee, policeman or Sheikh shall be responsible for any such loss or damage unless he shall have caused the same negligently, maliciously or fraudulently.