

RULES OF COURT

Under section 6 (6)

G.N. 1959
No. 250

THE FORESTS (APPEALS) RULES, 1959

1. These Rules may be cited as the Forests (Appeals) Rules, 1959.
2. For the purpose of these Rules—
“District Commissioner” means the person from whose determination an appeal is preferred to a Resident Magistrate pursuant to the Ordinance;
“Resident Magistrate” means the magistrate to whom an appeal lies pursuant to the Ordinance.
3. (1) Every appeal to the Resident Magistrate shall be preferred in the form of a memorandum signed by the appellant or his advocate and presented to the Court of the Resident Magistrate.
(2) The memorandum shall set forth concisely and under distinct heads the grounds of objections to the determination appealed from, without argument or narrative, and such grounds shall be numbered consecutively.
4. The Resident Magistrate on receipt of the memorandum shall forthwith send notice of the appeal to the District Commissioner, who shall on being served with such notice transmit with all practicable dispatch to the Resident Magistrate all papers and exhibits relevant to the appeal, including the record of evidence, together with any material which may be specially called for.

[Subsidiary]

Such papers and other material (if any) shall be incorporated in the record of the appeal for the purposes of hearing the appeal but shall be returned to the District Commissioner after the determination of the appeal.

5. Order XLI of the Indian Code of Civil Procedure, in so far as it is not inconsistent with the provisions of these Rules, shall apply to appeals under the Ordinance.

RULES

Under section 30

THE FOREST RULES, 1959

G.Ns. 1959
Nos. 76, 138,
243 and 267

1. These Rules may be cited as the Forest Rules, 1959, and shall come into force on the 1st day of April, 1959.

Short title
and
commence-
ment

2. The expressions used in these Rules shall, unless the context otherwise requires, have the meanings respectively assigned to them in section 2 of the Forests Ordinance (hereinafter referred to as "the Ordinance").

Interpreta-
tion

3. A District Commissioner or other person who has determined rights in relation to land or forest produce under subsection (4) of section 6 of the Ordinance to be lawfully exercisable within any area to be declared a forest reserve, which rights have not been voluntarily surrendered under subsection (8) of section 6 of the Ordinance, shall record such rights in a schedule stating *inter alia* the nature and extent of the rights which have been determined, the names and addresses of the persons lawfully exercising such rights, and, if the rights are confined to a particular locality, the locality in which the rights are lawfully exercisable, and such schedule shall be transmitted to the Chief Conservator who shall cause the said schedule to be published in the *Gazette* at or about the same time as the publication of the order declaring the said forest reserve :

Recording
of rights in
respect of
forest
reserves and
granting of
permits in
respect of
such rights

Provided that where such rights are lawfully exercisable by a group of persons such group may be designated in such a way as the District Commissioner deems fit so as to identify the persons entitled to exercise such rights but without necessarily specifying their names.

4. At any time after the publication of a schedule recording the rights under the provisions of rule 3 of these Rules any person or group of persons named in the Schedule may apply to the Chief Conservator for permission to exercise the right recorded to be exercisable by them—

Application
for permits

[Subsidiary]

- (a) if the application is made by a person on his own behalf on Form A in the First Schedule hereto; and
- (b) if the application is made on behalf of a group of persons on Form B in the First Schedule hereto.
- Classifica-
tion of trees 5. For the purpose of fixing fees which may be charged here-
under, trees shall be classified in the categories set out in the
Second Schedule hereto.
- Disposal of
forest
produce 6. The Chief Conservator and officers so authorized by him may
dispose of forest produce—
- (a) at the fees prescribed in Part A of the Third Schedule hereto
or alternatively in the case of forest produce on unreserved
lands at the fees prescribed in Part B of the Third Schedule
hereto; or
- (b) by public tender; or
- (c) by public auction; or
- (d) by private treaty.
- Disposal of
forest
produce at
prescribed
fees 7. The disposal of forest produce at the fees prescribed in Parts
A or B of the Third Schedule hereto shall be subject to the follow-
ing conditions :—
- (a) where a maximum and minimum fee is prescribed, a Senior
Forest Officer shall fix the fees after considering the species,
size, the accessibility and the potential market value of the
produce concerned;
- (b) the fees prescribed shall apply to produce which is felled and
harvested and collected by the purchaser; where such produce
is felled, prepared, delivered or otherwise dealt with or
disposed of by a government servant acting in the scope of
his employment, the Chief Conservator may, on behalf of
Government, in addition to the fee prescribed for such
produce charge a further fee being not more than three times
the said prescribed fee.
- (c) any Senior Forest Officer may allow remission of all or part
of the fees payable when in his sole discretion he deems
that natural defects in forest produce have materially reduced
the value of such produce to the purchaser, provided that no
defect which the Senior Forest Officer deems to have been
caused by the neglect of the purchaser or his servants shall
be taken into account;
- (d) if when charging the fees set out in Part A of the Third
Schedule the Chief Conservator of Forests is satisfied that
it is necessary for logs to be moved more than twenty-five
miles from the place of felling to the place of sawing or for

[Subsidiary]

sawn timber to be moved more than twenty-five miles from the place of sawing to the nearest point of sale, railage or shipment, whichever is the nearest, a rebate of fees may be allowed at the rate set out in the Fourth Schedule hereto :

Provided that no rebate for distance shall be allowed when the fees prescribed in Part B of the Third Schedule are charged.

8. The marks, brands, and tags delineated in the Fifth Schedule hereto shall be the registered Forest Department marks, brands and tags respectively for the purposes of identifying—

Registered
Forest
Department
marks,
brands and
tags

- (a) forest produce authorized to be taken from territorial forest reserves or unreserved land;
- (b) forest produce which has been seized or forfeited;
- (c) livestock licensed to graze in territorial forest reserves;
- (d) territorial forest reserves.

9.—(1) Any person who, unless authorized to do so by a Senior Forest Officer, removes from a territorial forest reserve or from the place of felling or collection on unreserved land any trees, timber, logs, poles or firewood for the taking of which a licence or permit is required unless and until such trees, timber, logs or poles have first been marked by a Forest Officer with the appropriate registered Forest Department mark or unless and until such firewood has first been measured by a Forest Officer, shall commit an offence against these Rules.

Removal of
forest
produce

(2) Any person who, without lawful authority, removes from the place in which it is situate any forest produce marked with the registered Forest Department mark denoting that such produce has been seized or forfeited, shall commit an offence against these Rules.

10.—(1) The Chief Conservator of Forests and officers authorized by him may issue licences for the cultivation of crops and the grazing of livestock within forest reserves and the fees for such licences shall be those set out in Part A of the Sixth Schedule. The cultivation fees shall be determined according to the fertility of the soil, the nature of the crop, the accessibility of the area, the availability of water and the amount of clearing to be done by the Licensee, and the grazing fees shall be determined according to quality and accessibility of the grazing, the water available and the amount of clearing to be done by the Licensee. The Chief Conservator of Forests may waive the fees if, in his opinion, it is to the advantage of the management of the forest reserve to do so.

Cultivation,
grazing,
building
and
residence in
forest
reserves

[Subsidiary]

(2) The Chief Conservator of Forests, and officers authorized by him, may issue licences to reside or to erect buildings for other purposes within a forest reserve and the fees shall be those set out in Part B of the Sixth Schedule. The fees shall be determined according to the nature of the buildings, accessibility of the area, and the use to which the buildings are to be put. The Chief Conservator of Forests may waive fees for residing or for erecting buildings within a forest reserve when, in his opinion, it is to the advantage of the management of the forest reserve to do so.

Identifica-
tion of
livestock
licensed to
graze in
forest
reserves

11.—(1) A Senior Forest Officer may at his discretion require to be branded or tagged with a registered Forest Department brand or tag any livestock which is licensed to graze in a territorial forest reserve.

(2) In any territorial forest reserve in respect of which livestock licensed to graze is required to be branded or tagged in accordance with paragraph (1) of this rule, no person shall graze any livestock which has not been so branded or tagged:

Provided that the provisions of this paragraph shall not apply to the offspring of livestock licensed to graze in a territorial forest reserve which, in the opinion of the Chief Conservator, are too young to be branded or tagged.

Identifica-
tion of
forest
produce
taken from
local
authority
forest
reserves

12.—(1) Any local authority which disposes of trees, timber, logs and poles from a local authority forest reserve shall, before such produce is removed from the said reserve, cause it to be marked with a distinctive mark, for the purpose of identifying such produce.

(2) For the purposes of this rule, any local authority which disposes of forest produce shall adopt a distinctive mark which shall differ from the registered Forest Department marks, and shall notify the Chief Conservator of the pattern of such mark.

Closure of
roads

13.—(1) Any Senior Forest Officer may—

(a) close to traffic any roads or tracks, other than public highways, in territorial forest reserves for such period as he may consider necessary either for the purpose of repair, maintenance or protection of such roads or tracks, or for the protection of forest produce or Government property within the reserve from damage caused by the condition of the roads or tracks, or for the protection of forest produce or Government property within the reserve against fire or theft;

(b) restrict the types, weights and sizes of vehicles which may use any road, track or bridge, other than public highways, in territorial forest reserves.

[Subsidiary]

(2) Any such closure or restriction shall be notified to the public by notices in English and Kiswahili placed in conspicuous positions at all entrances to the forest reserve affected by such closure or restriction, and any person who causes or permits any vehicle to use any road or track in contravention of such closure or restriction shall, provided that such closure or restriction has been notified in accordance with the provisions of this paragraph, be guilty of an offence against these Rules and shall be liable on conviction to a fine not exceeding two hundred shillings.

14. Any person who lights fires, smokes, carries, kindles or throws any fire or inflammable material in any forest reserve or area of any forest reserve where such acts have been notified as being forbidden by a written notice placed in a conspicuous position in such forest reserve or area in English and Kiswahili upon the instructions of or purporting to be issued by order of the Chief Conservator shall be guilty of an offence against these Rules.

15.—(1) The Chief Conservator of Forests may for such period as, in his opinion, is necessary make orders for the closure of any forest reserve or area within a forest reserve to protect such reserve or area from fire and it shall be an offence against these Rules punishable on conviction by a fine not exceeding two hundred shillings, for any person to enter or be in any such reserve or area other than officers of the Government or of a local authority managing the reserve acting in the execution of their duties or other persons authorized by a Senior Forest Officer or by the local authority forest manager if the reserve be a local authority forest reserve.

(2) Any order for the closure of a forest reserve or area within a forest reserve made under the provisions of paragraph (1) of this rule shall be notified to the public by the exhibition of notices in English and Kiswahili at the office of every District Commissioner within whose district any part of the said area is situate or by notices placed at intervals along the boundaries of the said area and in such manner as may be customary in the area concerned.

16. The form of agreement set out in the Seventh Schedule shall be used in compounding offences under section 21 (iii) of the Ordinance, and the form of receipt to be given to a person who compounds an offence shall be a General Revenue Receipt.

17. Any person who is convicted of an offence against these Rules shall, unless some other penalty is provided, be liable to a fine not exceeding three thousand shillings or imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

[Subsidiary]

FIRST SCHEDULE

(Rule 4)

FORM A

APPLICATION BY AN INDIVIDUAL TO EXERCISE A RIGHT IN A FOREST RESERVE

In accordance with section 8 of the Forests Ordinance I, ... s/o of ... do hereby apply for the right(s) to ... in the ... Forest Reserve in ... District. I certify that this right/these rights have been recorded in G.N. of ...

Signature or Mark

Witness

FORM B

APPLICATION BY A GROUP OF PERSONS TO EXERCISE A RIGHT IN A FOREST RESERVE

In accordance with section 8 of the Forests Ordinance I, ... s/o of ... do hereby apply on behalf of the group of people known as ... and ask that a permit be given to me in writing authorizing the said group of people to exercise the following right(s) in the ... Forest Reserve in ... District

I certify that this right/these rights have been recorded in G.N. of ... as being exercisable by the group of people known as ... and I certify that I have been authorized by this group of people to apply for this right on their behalf.

Signature.....

Date.....

Witness.....

Witness.....

SECOND SCHEDULE

(Rule 5)

CLASSIFICATION OF TREES

Table with 2 columns: Botanical Name and English Vernacular or Trade Name. Includes entries for Chlorophora excelsa (Iroko, Mvule) and Dalbergia melanoxylon (African Blackwood, Mpingo, Mugembe).