

CHAPTER 19:04

COMMUNAL LAND FOREST PRODUCE ACT

Act 20/1987, 22/2001 (s. 4).

ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Interpretation.
3. Right of Minister to exploit forest produce in Communal Land.
4. Right of inhabitants and occupants of Communal Land to exploit forest produce.
5. Licences.
6. Agreements.
7. Permits.
8. Special licences and special permits.
9. Non-transferability of authorities.
10. Cancellation and suspension of authorities.
11. Damage caused by holders of authorities.
12. Restriction on making new roads and use of certain roads.
13. Restriction on exploitation near public streams.
14. Establishment of plantations, forest nurseries and other works.
15. Protected forest areas.
16. Designated officers.
17. Powers of police officers, designated officers and forest officers.
18. Exercise of powers by Minister.
19. Delegation of Minister's rights and functions.
20. Application of revenue in respect of forest produce.
21. Forestry Commission and local authorities not to require certain licences.
22. Regulations.
23. Offences and penalties.
24. Presumptions.
25. Amendment of Schedule.

SCHEDULE

Reserved Trees.

AN ACT to regulate the exploitation of and to protect forest produce within Communal Land; to regulate and encourage the establishment of plantations within Communal Land; and to provide for matters connected with or incidental to the foregoing.

[Date of commencement: 8th January, 1988.]

1 Short title

This Act may be cited as the Communal Land Forest Produce Act [*Chapter 19:04*].

2 Interpretation

In this Act—

- “agreement” means an agreement entered into in terms of section *six* for the exploitation of any forest produce;
- “authority” means an agreement, licence, permit, special licence or special permit entered into or issued, as the case may be, in terms of this Act;
- “contractor” means a person who is entitled to exploit any forest produce in terms of an agreement;
- “designated officer” means any person designated as a designated officer in terms of subsection (1) of section *sixteen*;
- “exploit”, in relation to any forest produce, means to cut, fell, take, strip the bark from or remove such forest produce;
- “forest produce” means,
- (a) all vegetation, whether alive or dead, in a plantation, forest or woodland; and
 - (b) any part, whether alive or dead, of any such vegetation, including wood, bark, seeds, fruit, gum, resin or sap;

“Forestry Commission” means the Forestry Commission established by section 4 of the Forest Act [*Chapter 19:05*];

“inhabitant”, in relation to any Communal Land or part thereof, means a person who is entitled, in terms of section 8 of the Communal Land Act [*Chapter 20:04*], to reside in that Communal Land or part thereof and who does reside there;

“licence” means a licence issued in terms of subsection (1) of section *five*;

“local authority”, in relation to any area of Communal Land, means a district council or other local or like authority established for the area concerned;

“major forest produce” means all trees, palms and bamboos or any part thereof, other than leaves, flowers, fruit or seeds;

“Minister” means the Minister of Environment and Tourism or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“natural forest” means a forest that has not been artificially established, but does not include an extension of a plantation resulting from the natural propagation of the tree or trees in such plantation;

“permit” means a permit issued in terms of subsection (1) of section *seven*;

“plantation” means—

(a) any artificially established tree, whether of an indigenous or exotic species, or forest of such trees; or

(b) any extension of a plantation referred to in paragraph (a) resulting from the natural propagation of the tree or trees in such plantation;

“protected forest area” means an area declared in terms of subsection (1) of section *fifteen* to be a protected forest area;

[Definition as amended by section 4 of Act No. 22 of 2001]

“public land” means any land within Communal Land which is under the control of a local authority, but does not include any such land which—

(a) is being occupied or used otherwise than as communal grazing land in accordance with any right, consent or permit granted or issued in terms of the Communal Land Act [*Chapter 20:04*], or any other enactment; or

(b) has been or is deemed to have been set aside in terms of section 10 of the Communal Land Act [*Chapter 20:04*], for any purpose other than that of communal grazing;

“public stream” means a watercourse of natural origin wherein water flows, whether or not—

(a) such watercourse or any portion thereof is dry during any period of the year; or

(b) the conformation of such watercourse has been changed by artificial means;

“reserved tree” means a tree which is—

(a) of a species specified in the first column of the Schedule; and

(b) growing or situated in an area specified in the third column of the Schedule opposite the name of the species concerned;

“special licence” means a special licence issued in terms of paragraph (a) of subsection (1) of section *eight*;

“special permit” means a special permit issued in terms of paragraph (b) of subsection (1) of section *eight*;

“tree” means the whole or any part of—

(a) any tree; or

(b) any seedling, sapling, transplant, re-shoot or re-growth of any tree.

3 Right of Minister to exploit forest produce in Communal Land

(1) Subject to this Act and to the terms and conditions of any authority, the right to exploit forest produce—

(a) in any natural forest on public land; or

(b) in any plantation controlled by the State;

within Communal Land is vested in the Minister on behalf of the State.

(2) In the exercise of his rights in terms of subsection (1), the Minister shall exploit, or allow the exploitation of, only such forest produce as he considers reasonable having regard to the needs of the inhabitants of the Communal Land within which the forest produce concerned is growing or has grown.

4 Right of inhabitants and occupants of Communal Land to exploit forest produce

(1) The inhabitants of any Communal Land shall have the right, within that Communal Land, to exploit for their own use any forest produce:

Provided that—

(i) such right shall not extend to the exploitation by any inhabitant of—

(a) major forest produce within a protected forest area, except in accordance with the terms and conditions of a permit; or

- (b) forest produce which some other person has been authorized to exploit in terms of a licence or agreement, except with the consent of that other person; or
 - (c) any reserved tree except in accordance with the terms and conditions of a special licence or special permit; or
 - (d) forest produce in a plantation which is not controlled by the inhabitant, except with the consent of the person who controls the plantation;
- (ii) no forest produce exploited in the exercise of such right shall be—
- (a) sold to anyone; or
 - (b) supplied to anyone who is not an inhabitant of that Communal Land.

(2) An inhabitant of any Communal Land may exploit any forest produce, including reserved trees, on any land which he is permitted to occupy and use in terms of the Communal Land Act [*Chapter 20:04*], in the course of clearing such land for residential purposes or for the purpose of planting crops:

Provided that he shall not exploit any major forest produce within a protected forest area except in accordance with the terms and conditions of a permit.

(3) A person who is entitled to occupy and use land within Communal Land that has been set aside or is deemed to have been set aside for any purpose in terms of section 10 of the Communal Land Act [*Chapter 20:04*], may exploit any forest produce, including reserved trees, on such land if such exploitation is essential in order to develop the land for the purpose concerned.

5 Licences

(1) Subject to this Act, the Minister may issue a licence to any person authorizing that person, subject to this Act and any other enactment and to the terms and conditions of the licence, to exploit any forest produce situated—

- (a) in any natural forest on public land; or
- (b) in any plantation controlled by the State;

within Communal Land.

(2) A licence shall be in writing in the prescribed form and shall state—

- (a) the kind, size and quantity of forest produce that may be exploited; and
- (b) the area within which the forest produce may be exploited; and
- (c) the period of validity of the licence; and
- (d) any conditions subject to which the licence is issued; and
- (e) the amount payable for the forest produce the exploitation of which is authorized by the licence; and
- (f) details of the payments made for the forest produce the exploitation of which is authorized by the licence.

(3) The Minister shall not issue a licence to any person except upon payment by that person of the amount shown on the licence for the forest produce listed thereon, and any licence issued without such payment having been made shall be void.

(4) A licence shall not authorize the exploitation of—

- (a) any reserved tree; or
- (b) any major forest produce situated within a protected forest area.

6 Agreements

(1) Subject to this Act, the Minister may enter into an agreement with any person for the exploitation, subject to this Act and any other enactment and to the terms and conditions of the agreement, of forest produce situated—

- (a) in any natural forest on public land; or
- (b) in any plantation controlled by the State;

within Communal Land.

(2) Every agreement shall be in writing and shall specify the area within which forest produce may be exploited.

(3) Save to the extent specifically provided therein, an agreement shall not authorize the exploitation of—

- (a) any reserved tree; or
- (b) any major forest produce situated within a protected forest area.

7 Permits

(1) Subject to this Act, the Minister may issue a permit to an inhabitant of Communal Land who resides in a protected forest area authorizing that inhabitant, subject to this Act and any other enactment and to the terms and conditions of the permit, to exploit any major forest produce situated on public land within the protected forest area concerned.

(2) The Minister shall not levy any fee or charge for the issue of a permit nor require any payment to be made in respect of any exploitation of forest produce by the permit holder in terms of his permit.

(3) A permit shall be in writing in the form prescribed and shall state—

- (a) the kind, size and quantity of major forest produce that may be exploited; and

- (b) the area within which the major forest produce may be exploited; and
 - (c) the period of validity of the permit; and
 - (d) any conditions subject to which the permit is issued.
- (4) A permit shall not authorize the exploitation of—
- (a) any reserved tree; or
 - (b) more major forest produce than the Minister considers is necessary for the well-being of title inhabitant concerned and his family.

8 Special licences and special permits

- (1) Subject to this section, the Minister may issue—
- (a) a special licence to any person authorizing him, subject to this Act and any other enactment and to the terms and conditions of the special licence, to injure or exploit any reserved tree outside a protected forest area;
 - (b) a special permit to any inhabitant of Communal Land who resides within a protected forest area, authorizing him, subject to this Act and any other enactment and to the terms and conditions of the special permit, to injure or exploit any reserved tree within the protected forest area.
- (2) The Minister shall not issue—
- (a) a special licence or special permit unless he is satisfied that the injury or exploitation authorized thereby will not endanger the survival of the species of the reserved tree concerned; or
 - (b) a special permit authorizing the exploitation of more major forest produce than he considers is necessary for the well-being of the inhabitant concerned and his family
- (3) Subsections (2) and (3) of sections *five* and *seven* shall apply, *mutatis mutandis*, to the form and issue of special licences and special permits as they do to the form and issue of licences and permits.

9 Non-transferability of authorities

- (1) Without the consent of the Minister, the holder of a licence, permit, special licence or special permit shall not—
- (a) transfer his licence, permit, special licence or special permit to any other person; or
 - (b) permit any person, other than an employee of his on his behalf, to exercise his rights or perform his obligations under his licence, permit, special licence or special permit;
- and any purported such transfer or permission effected or given without the consent of the Minister shall be void.
- (2) Without the consent of the Minister, a contractor shall not, unless expressly permitted by his agreement to do so—
- (a) cede or transfer to any other person any of his rights or obligations under the agreement; or
 - (b) permit any person, other than an employee of his on his behalf, to exercise any of his rights or perform any of his obligations under the agreement;
- and any purported such cession, transfer or permission effected or given without the consent of the Minister shall be void.

10 Cancellation and suspension of authorities

- (1) If at any time the Minister considers that a contractor or the holder of a licence, permit, special licence or special permit has contravened any provision of this Act or has failed to comply with any term or condition of his authority, the Minister may, by written notice to the contractor or holder concerned—
- (a) warn the contractor or holder that his authority may be suspended if the contravention or failure continues after a date specified in the notice; and
 - (b) subject to subsection (2), suspend the authority if the contravention or failure has continued after the date specified in terms of paragraph (a):

Provided that, subject to subsection (2), the Minister may suspend the authority without such a warning if he is satisfied that it is necessary to do so in order to avoid irreparable or extensive harm to the natural resources of the area concerned.

(2) If the Minister suspends an authority in terms of subsection (1), he shall in the same notice inform the contractor or holder concerned that his authority will be cancelled on grounds specified in the notice unless the contractor or holder satisfies the Minister within a reasonable period specified in the notice that his authority should not be cancelled.

- (3) After considering any representations made by a contractor or holder within the period specified in terms of subsection (2), the Minister may—
- (a) withdraw the suspension of the authority concerned; or
 - (b) further suspend the authority concerned for such further definite or indefinite period as the Minister may determine; or
 - (c) cancel the authority concerned;
- and the Minister shall advise the contractor or holder concerned of any such action taken.

(4) During any period that an authority is suspended in terms of this section, the contractor or holder, as the case may be, shall not exercise any of his rights thereunder except to the extent that he may be authorized to do so by the Minister.

(5) No part of any fee, charge or payment made to the Minister by a contractor or the holder of a licence or special licence shall be refundable as a result of the cancellation or suspension of the agreement, licence or special licence in terms of subsection (3).

11 Damage caused by holders of authorities

(1) If a contractor or the holder of any licence, permit, special licence or special permit, or any employee or agent of such a contractor or holder, wilfully or negligently injures or destroys any forest produce situated—

- (a) in a natural forest on public land; or
- (b) in a plantation controlled by the State;

within Communal Land, and such injury or destruction is not authorized by the authority concerned, the Minister may, by proceedings in a competent court, recover from the contractor or holder concerned the cost of making good such injury or destruction or damages in the amount by which the value of the natural forest or plantation concerned has been diminished, as the court may think appropriate in the particular case.

(2) A contractor or holder who is in default in paying any amount of costs or damages referred to in subsection (1) shall not continue to exploit any forest produce in terms of his authority until he has paid such amount.

(3) Nothing in subsection (1) shall be construed as limiting in any way the liability in terms of any other law of a contractor or the holder of a licence, permit, special licence or special permit towards any person for any act or omission by him or by any of his employees or agents.

12 Restriction on making new roads and use of certain roads

No authority shall authorize, and no provision of this Act shall be construed as authorizing—

- (a) the construction of any road or track outside a natural forest or plantation without the consent of any local authority established for the area concerned; or
- (b) the use of any road or track, other than a public road, for the transportation of forest produce without the consent of the person who or authority which controls the land on which the road or track is situated.

13 Restriction on exploitation near public stream

No authority shall authorize, and no provision of this Act shall be construed as authorizing, the exploitation of forest produce within one hundred metres from the bank of any public stream, unless the Minister has given written permission for such exploitation to take place.

14 Establishment of plantations, forest nurseries and other works

(1) With the approval of the Minister to whom the administration of the Communal Land Act [*Chapter 20:04*], has been assigned, a local authority may establish and control plantations, forest nurseries and buildings or works connected with forestry on public land controlled by it.

(2) The Forestry Commission may establish and control plantations, forest nurseries and buildings or works that are necessary for its operations in Communal Land—

- (a) on public land in accordance with the terms and conditions of a permit issued to it by a local authority in terms of section 9 of the Communal Land Act [*Chapter 20:04*], or
- (b) on land set aside in terms of section 10 of the Communal Land Act [*Chapter 20:04*], where the establishment of such plantations, forest nurseries, buildings or works is consistent with the purposes for which the land was set aside or with the terms and conditions of any lease of such land.

(3) With the approval of any local authority established for the area concerned, an inhabitant or association or group of inhabitants may establish and control plantations, forest nurseries and buildings or works connected with forestry on any land which the inhabitant, association or group, as the case may be, is entitled to occupy and use in terms of the Communal Land Act [*Chapter 20:04*],

(4) Nothing in this section shall derogate from any power vested in any person by any other law to establish and control plantations, forest nurseries and buildings or works connected with forestry in Communal Land.

15 Protected forest areas

(1) The Minister may, by notice in the *Gazette*, declare any area of natural forest described in the notice to be a protected forest area wherein the exploitation of all major forest produce, by all persons or any classes of persons that may be specified in the notice, is prohibited:

Provided that no such notice shall prohibit a contractor from exploiting such forest produce to the extent that he may be specifically authorized to do so in terms of his agreement.

(2) Any person who exploits, injures or destroys any major forest produce within a protected forest area shall be guilty of an offence unless—

- (a) he is authorized to do so by a permit or special permit or by the express terms of an agreement; or
- (b) he is not prohibited from doing so in terms of a notice published in terms of subsection (1);

and shall be liable to a fine not exceeding level eight or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Subsection as inserted by section 4 of Act No. 22 of 2001]

16 Designated officers

- (1) The Minister may designate persons or classes of persons employed—
- (a) in the Public Service; or
 - (b) by the Forestry Commission; or
 - (c) by a local authority;

to be designated officers for the purposes of this Act:

Provided that—

- (i) the Minister shall not designate a person employed—
 - (a) in a Ministry the administration of which has not been assigned to him, without the consent of the Minister to whom the administration of that Ministry has been assigned; or
 - (b) by the Forestry Commission or a local authority, without the consent of the Forestry Commission or that local authority respectively;
- (ii) an employee of a local authority so designated shall be a designated officer only within the area of that local authority.

(2) A designated officer shall be furnished with a certificate, signed by or on behalf of the Minister, which shall state that the holder is a designated officer for the purposes of this Act.

(3) A designated officer exercising any function conferred or imposed upon him by or in terms of this Act, or about to do so, shall, on demand by any person concerned, produce the certificate issued to him in terms of subsection (2).

17 Powers of police officers, designated officers and forest officers

(1) A police officer, a designated officer or a person who is a forest officer in terms of the Forest Act [*Chapter 19:05*] may—

- (a) at all reasonable times require the holder of a licence, permit, special licence or special permit to produce for inspection his licence, permit, special licence or special permit, as the case may be;
- (b) require any person—
 - (i) found inside any Communal Land transporting or selling forest produce or supplying forest produce to anyone who is not an inhabitant of that Communal Land; or
 - (ii) found outside Communal Land in possession of forest produce that is reasonably suspected of having come from any Communal Land;

to give his name and address and such other information as the police officer, designated officer or forest officer, as the case may be, may reasonably require concerning any person from whom he obtained the forest produce and the place at which and the circumstances in which he obtained it.

(2) A person who has been required in terms of subsection (1) to produce a licence, permit, special licence or special permit or to give his name and address or any other information and who fails without just cause forthwith to comply with the requirement shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection substituted by section 4 of Act No. 22 of 2001]

(3) The powers conferred by subsection (1) shall be additional to any powers that may be conferred on police officers, designated officers or forest officers by any other enactment relating to the obtaining or supplying of information or the investigation or detection of offences.

18 Exercise of powers by Minister

(1) Before exercising any right or power conferred upon him in terms of section *three, five, six, seven, eight, nine, ten* or *fifteen*, the Minister shall consult any local authority that will be affected by the exercise of such right or power.

(2) When exercising any right or power in terms of this Act, the Minister shall pay due regard to the interests of present and future inhabitants of any Communal Land that will be affected by the exercise of such right or power.

19 Delegation of Minister's rights and functions

(1) Subject to this section, the Minister may delegate, by notice in the *Gazette*, either absolutely or subject to conditions, all or any of his rights or functions in terms of sections *three, five, six* and *eleven* to—

- (a) the Forestry Commission, in respect of any plantation controlled by it or by the State; or
- (b) a local authority, in respect of any plantation controlled by it or any natural forest on any public land within the area of such local authority;

and may in like manner amend or revoke any such delegation.

(2) The Minister shall not make any delegation in terms of subsection (1) without the approval of the Minister to whom the administration of the Communal Land Act [*Chapter 20:04*], has been assigned.

(3) No agreement entered into by a local authority in accordance with a delegation made in terms of subsection (1) shall authorize the contractor to exploit—

- (a) any reserved tree; or
- (b) any major forest produce within a protected forest area, if the contractor is otherwise prohibited from exploiting such major forest produce in terms of a notice published in terms of section *fifteen*.

(4) Where the Minister has made a delegation in terms of subsection (1) to the Forestry Commission or a local authority, any reference to the Minister in section *three, five, six, nine, ten* or *eleven* shall be construed as a reference to the Forestry Commission or the local authority, as the case may be, for the purpose of applying such sections to the right or function so delegated or to any licence issued or agreement entered into by the Forestry Commission or the local authority, as the case may be, in accordance with such delegation.

20 Application of revenue in respect of forest produce

(1) Notwithstanding the Audit and Exchequer Act [*Chapter 22:03*], any moneys received by the Minister in respect of—

- (a) the sale or disposal of forest produce situated in Communal Land; or
- (b) agreements entered into or licences or special licences issued in terms of this Act;

shall, after the deduction of any costs or charges in terms of subsection (5), be paid to—

- (i) any local authority within whose area the forest produce concerned is situated; or
- (ii) if there is no such local authority, to the District Development Fund referred to section 3 of the District Development Fund Act [*Chapter 29:06*].

(2) Notwithstanding the Forest Act [*Chapter 19:05*], any moneys received by the Forestry Commission in respect of—

- (a) the exploitation of forest produce from any plantation established or controlled by it in terms of subsection (2) of section *fourteen* shall form part of the revenues of the Commission;
- (b) the exploitation in terms of this Act of forest produce from any natural forest on public land or from any plantation controlled by the State or a local authority, or in respect of any agreement entered into or licence or special licence issued in respect of such natural forest or plantation, shall be paid, after the deduction of any costs and charges in terms of subsection (5), to—

- (i) any local authority within whose area the forest produce concerned is or was situated; or
- (ii) if there is no such local authority, to the District Development Fund referred to in section 3 of the District Development Fund Act [*Chapter 29:06*].

(3) Any moneys received by a local authority in respect of—

- (a) the exploitation in terms of this Act of any forest produce situated on public land within the area of such local authority; or
- (b) any agreement entered into or licence issued by such local authority;

shall form part of the revenues of such local authority.

(4) Any moneys received by any person, other than a person referred to in subsection (1), (2) or (3), in respect of the exploitation of forest produce situated within any plantation established and controlled by him in terms of this Act shall be his property.

(5) The Minister or the Forestry Commission may deduct from any moneys payable to a local authority or the District Development Fund in terms of subsection (1) or (2) the cost of rendering any service to the local authority concerned in relation to forest produce within its area.

21 Forestry Commission and local authorities not to require certain licences

Neither the Forestry Commission nor a local authority shall be required to hold a licence or permit in terms of the Shop Licences Act [*Chapter 14:19*], or any other enactment in respect of the sale or disposal of forest produce in terms of this Act.

22 Regulations

(1) The Minister may by regulation provide for all matters which by this Act are required or permitted to be prescribed or which, in his opinion, are necessary or convenient to be provided for in order to carry out or give effect to the provisions of this Act.

(2) Regulations made in terms of subsection (1) may provide for—

- (a) the fees to be paid for forest produce exploited under licence and for the use of public land or buildings on public land;
- (b) the manner in which forest produce may be exploited;
- (c) the precautions to be taken by any person exploiting forest produce to guard against damage or injury to forests, plantations or forest produce by fire or otherwise;
- (d) the manner in which persons exploiting forest produce in terms of this Act shall, for the purposes of measurement, stack or prepare forest produce preparatory to its removal;
- (e) prohibiting or restricting the sale or other disposal of any forest produce for particular purposes.

(3) Regulations made in terms of subsection (1) may provide penalties for contraventions thereof, but no such penalty shall exceed a fine of level five or imprisonment for a period of six months or both such fine and such imprisonment.

[Subsection as inserted by section 4 of Act No. 22 of 2001]

23 Offences and penalties

(1) Any person who exploits, injures or destroys any reserved tree shall be guilty of an offence unless he is authorized to do so—

- (a) in terms of subsection (2) or (3) of section *four*; or
- (b) by a special licence or special permit; or
- (c) by the express terms of an agreement entered into by the Minister;

and shall be liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

(2)...

[Subsection repealed by section 4 of Act No. 22 of 2001]

(3) Any person who, in a plantation situated on Communal Land—

- (a) without the authority of the person who controls such plantation—
 - (i) exploits, injures or destroys any forest produce; or
 - (ii) trespasses in any part thereof where entry is prohibited by notice; or
 - (iii) lights or assists in lighting or uses, rekindles or adds fuel to, any fire; or
 - (iv) depastures any livestock or causes or permits any livestock belonging to him to be depastured; or
 - (v) wilfully damages, alters, moves or in any way interferes with a notice or notice-board;

or

- (b) leaves unattended any fire which, whether with or without authority, he has lighted or assisted in lighting or rekindled or to which he has added fuel, before such fire is thoroughly extinguished;

shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

(4) Any person who, in circumstances other than those specified in subsection (1) or (3), exploits, injures or destroys any forest produce situated within Communal Land shall be guilty of an offence unless he is authorized to do so by or in terms of this Act, and shall be liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

(5) Any person who contravenes—

- (a)

[Paragraph repealed by section 4 of Act No. 22 of 2001]

(b) any term or condition of a licence, agreement, permit, special licence or special permit; in a manner that does not involve the unlawful exploitation of forest produce shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

24 Presumptions

(1) The possession of any forest produce by any person accused of contravening any provision of this Act shall be *prima facie* proof that he has exploited such forest produce.

(2) If any person who has authority to exploit any forest produce by or in terms of this Act is found in possession of forest produce in excess of the quantity so authorized or of a species or kind not so authorized, he shall be presumed, unless the contrary is proved, to have exploited such forest produce in contravention of this Act.

(3) If any person is found in possession of—

- (a) any reserved tree or part thereof within the area in which the species of tree concerned is a reserved tree;
- or

- (b) any major forest produce within a protected forest area;

he shall be presumed, unless the contrary is proved, to have exploited such reserved tree within the area concerned or to have exploited such major forest produce within the protected forest area, as the case may be.

(4) If any person is found in possession of any freshly exploited major forest produce within one kilometre from a protected forest area, he shall be presumed, unless the contrary is proved, to have exploited such major forest produce within the protected forest area.

(5) For the purpose of any criminal proceedings in respect of a contravention of subparagraph (ii) of paragraph (2) of subsection (3) of section *twenty-three*, entry into any part of a plantation shall be deemed to have

been sufficiently prohibited by notice if a notice prohibiting entry into that part of the plantation is prominently displayed at or near every place where a road or track enters the part concerned.

25 Amendment of Schedule

The Minister may at any time, by notice in the *Gazette*, amend the Schedule by adding thereto or removing therefrom the name of any indigenous tree or the name or description of any area.

SCHEDULE (Sections 2 and 25)

RESERVED TREES

Botanical name	Common names	Area
1. <i>Acacia abyssinica</i> Benth.	Inyanga flat-top acacia	All Communal Lands
2. <i>Acacia albida</i> Del.	White thorn, winter thorn, apple-ring acacia, mutsangu, umpumbu hlofungu, mukalaunga	All Communal Lands
3. <i>Acacia nigrescens</i> Oliv.	Knobthorn, munanga, muguunga, mukuu, mupumbu, umkhaya omhlope, chinanga, nkoho, mukotokoto, mukaya, gakaunga	All Communal Lands
4. <i>Azelia quanzensis</i> Welw.	Pod mahogany, mukamba, chamfuti, mujarakamba, mungongoma, mungoriondo, mungwingwi, umkamba, shenhe	All Communal Lands
5. <i>Albizia gummifera</i> (J.F. Gmel.) C.A. Sm.	Smooth-bark flat crown, mupambangoma, mucherenje	All Communal Lands
6. <i>Aporrhiza nitida</i> Milne-Redhead	Aporrhiza	All Communal Lands
7. <i>Baikiaea plurijuga</i> Harms	Gusi, teak, umkusu	All Communal Lands except Tsholotsho Communal Land
8. <i>Bolusanthus speciosus</i> (Bolos) Harms	Tree wistaria, mupaka, mukweshangoma, munyati, murutsa, musvingamhara, impaca, umbambangwe	All Communal Lands
9. <i>Brachystegia glaucescens</i> Burt Davy & Hutch	Mountain-acacia, muunze, umbuze tsotso, gughe	All Communal Lands
10. <i>Breonadia salicina</i> (Vahl) Hepper & Wood	Redwood, muora, limbo, matumi	All Communal Lands
11. <i>Cassine schlechterana</i> Loes	Large-leafed cassine	All Communal Lands
12. <i>Catophractes alexandri</i> D. Don	Trumpet thorn	All Communal Lands
13. <i>Celtis gomphophylla</i> Bak.	Forest celtis, mugumduzi, guneti	All Communal Lands
14. <i>Milicia excelsa</i> (Welw.) Berg	Mvule	All Communal Lands
15. <i>Combretum imberbe</i> Wawra	Leadwood, muchenarota, mutsviri, umchenalota umtswili, muyando, mbwele, ubimba, monzo	All Communal Lands
16. <i>Cordyla africana</i> Lour.	Wild mango, mutondo, ntondo	All Communal Lands
17. <i>Dalbergiella nyasae</i> Bak. f.	Mane-pod, murima, muswati, munyamhanji, munyenza	All Communal Lands
18. <i>Diospyros mespiliformis</i> A.DC.	Ebony, diospyros, mushenje, mushuma, umdlawuzo, musuma, mukula toma	All Communal Lands
19. <i>Drypetes mossambicensis</i> Hutch.	Lowveld drypetes, mururugwi, mulukwa, shakwari	All Communal Lands
20. <i>Entada pursaetha</i> DC.	Sea-bean	All Communal Lands
21. <i>Erythrophleum suaveolens</i> (Guill. & Perr.) Brenan	Forest ordeal tree, gomati, musanka, musande	All Communal Lands
22. <i>Faurea saligna</i> Harv.	Beechwood, mutsatsati, kapfutsa, mugarahorwe, mugarahungwe, munyanganza, muzhenje, umdwadwa	All Communal Lands

23.	<i>Ficus vallis-choudae</i> Delile	Haroni fig	All Communal Lands
24.	<i>Funtumia africana</i> (Benth.) Stapf	Silk rubber	All Communal Lands
25.	<i>Galpinia transvaalica</i> N.E. Br.	Wild pride-of-India	All Communal Lands
26.	<i>Glennia africana</i> (Radlk.) Leenh.	Double-litchi	All Communal Lands
27.	<i>Guibourtia coleosperma</i> (Benth.) J. Leonard	Large false mopane, muchiva, umtshibi	All Communal Lands except Tsholotsho Communal Land
28.	<i>Guibourtia conjugata</i> (Bolle) J. Leonard	Small false mopane, mungonya, tsotso, mungenje	All Communal Lands
29.	<i>Haplocoelum foliolosum</i> (Hiern) Bullock	Northern galla plum	All Communal Lands
30.	<i>Hexalobus monopetalus</i> (A. Rich.) Engl. & Diels	Baboon's breakfast, Shakama plum mukorongwa, mukwingwiziri, munyani, muponzongwa, musakama, mukukuma ntumbula	All Communal Lands

Botanical name	Common names	Area
31. <i>Hyphaene benguellensis</i> Welw. var. <i>ventricosa</i> (Kirk) Furtado	Vegetable ivory, northern ilala palm southern ilala palm, murara muzira, ilala, ngumba, mahanga, kwangali, rara	All Communal Lands
32. <i>Hyphaene natalensis</i> Kunze		All Communal Lands
33. <i>Khaya nyasica</i> Bak.	Red mahogany, mubawa, mururu, muwawa, mubaba	All Communal Lands
34. <i>Maprounea africana</i> Muell. Arg	Redskin	All Communal Lands
35. <i>Newtonia buchananii</i> (Bak.) Gilbert & Boutique	Forest newtonia, mupfomoti, mujertiro, mujairaya	All Communal Lands
36. <i>Newtonia hildebrandtii</i> (Vatke) Torre	Lowveld newtonia	All Communal Lands
37. <i>Olea europaea</i> L. ssp. <i>africana</i> (Mill.) P.S. Green	Wild olive, mubfpungo, mupfuri,	All Communal Lands
38. <i>Oncoba spinosa</i> Forssk.	Fried-egg flower, rattle-bush, mushwawo, musangosango	All Communal Lands
39. <i>Parinari curatellifolia</i> (Planch.) Benth.	Hissing tree, mobola plum, muhacha muchakata, muisha, umkhuna mubuni, mbula	All Communal Lands
40. <i>Pericopsis angolensis</i> (Bak.) van Meeuwen	Afrormosia, muwanga, muvanga, umbanga	All Communal Lands
41. <i>Ptaeroxylon obliquum</i> (Thunb.) Radlk.	Sneezewood, umbengawahonye, umnembu, umpahla umpandula	All Communal Lands
42. <i>Pterocarpus angolensis</i> DC.	Bloodwood, mukwa, mubvamaropa, mubvinzaropa mukambira, mukurambira, mushambaropa, umvagazi, mukwirambira, mukulambira musomba, kwanambila, mukonambiti	All Communal Lands except Tsholotsho Communal Land
43. <i>Ricinodendron rautanenii</i> Schinz	Manketti tree, wild almond, umgoma, umgongo, mundalama, muoma muoma	Tsholotsho Communal Land
44. <i>Sapium integerrimum</i> (Hochst.) J. Leonard	Duiker-berry	All Communal Lands
45. <i>Schefflera umbellifera</i> (Sond.) Baill	Forest false cabbage-tree, muchaka mukisiso	All Communal Lands
46. <i>Schotia brachypetala</i> Sond.	Weeping schotia, african walnut, fuchsia tree, mutondochuru, mutondosvi, nyamari	All Communal Lands
47. <i>Sesamothamnus lugardii</i> N.E. Br.	Sesame bush, isibuyuwana	All Communal Lands
48. <i>Spirostachys africana</i> Sond.	Tamboti, african sandalwood, munhiti ubande, umthombothi, mutivoti, mutomboti, tsomvori	All Communal Lands
49. <i>Stadmania oppositifolia</i> Poir.	Silky plum	All Communal Lands
50. <i>Stereospermum kunthianum</i> Cham.	Pink jacaranda, mukuku kubveve-sango mutandangozi	All Communal Lands

51. <i>Syzygium cordatum</i> Hochst.	Water berry, muisu, mukute, umdoni imiswi, gihlo	All Communal Lands
52. <i>Trichilia emetica</i> Vahl	Banket mahogany, Natal mahog- any, muchichiri, mutsikiri, kuhlu	All Communal Lands
53. <i>Uapaca kirkianana</i> Muell. Arg	Wild loquat, mahobohobo, mushuku, mutongoro, muzhanje, umhobohobo	All Communal Lands
54. <i>Vitex doniaia</i> Sweet	Black plum: mukubvu	All Communal Lands
55. <i>Vitex payos</i> (Lour.) Merr.	Pepper-bark tree, muranga	All Communal Lands
56. <i>Warburgia salutaris</i> (Bertol. f) Chiov.	Mlanje cedar, mountain cedar, mupande, musheza	All Communal Lands
57. <i>Widdringtonia nodiflora</i> (L.) Powrie	Large red-fingers	All Communal Lands
58. <i>Xylopia aethiopica</i> (Dunal) A. Rich	Northern African dog-rose	All Communal Lands
59. <i>Xylothea tettensis</i> (Klotzsch) Gilg	Smooth-fruited zanha	All Communal Lands
60. <i>Zanha golungensis</i> Hiern		