



Tonga

FORESTS ACT

Chapter 44.06

2016 Revised Edition



FORESTS ACT

Arrangement of Sections

Section

PART I – PRELIMINARY	5
1 Short title	5
2 Interpretation	5
PART II – FOREST RESERVES AND FOREST PRODUCE GENERALLY	6
3 Forest reserves	6
4 Regulations	6
5 Revocation	7
6 Licences	8
PART III – TOWN AND VILLAGE FOREST AREAS	8
7 Village forest areas	8
8 Regulations for village forest areas	8
PART IV – GENERAL PROVISION	8
9 Powers of forest officers and police officers	8
10 Offences	9
11 Additional penalties	9
12 Free access to trees or forest	9
13 Civil rights	10
14 Offences	10



Tonga

FORESTS ACT

AN ACT TO PROVIDE FOR THE SETTING ASIDE OF AREAS AS FOREST AREAS OR RESERVED AREAS AND FOR THE CONTROL AND REGULATION OF SUCH AREAS AND OF FOREST PRODUCE AND RELATED MATTERS¹

Commencement [2nd November, 1961]

PART I – PRELIMINARY

1 Short title

This Act may be cited as the Forests Act.

2 Interpretation

In this Act, unless the contrary intention appears—

“**Chief Executive Officer**” means the Government chief executive officer responsible for forests;²

“**forest officer**” includes any officer of the Ministry and any person upon whom the powers of a forest officer under this Act may be conferred by the Minister;³

“**forest produce**” includes trees, timber, firewood, branchwood, poles, bamboos, slabs, chips, sawdust, plants, grass, reeds, rushes, peat, thatch, bedding, creepers, fibres, leaves, moss, fruits, seeds, galls, roots, bark, rubber,

resin, sap, charcoal, honey, wax, earth, and such other things as the Minister may, by notice in the Gazette, declare to be forest produce;⁴

“**forest reserve**” means any demarcated forest or proclaimed forest reserve but shall not include a village forest reserve;

“**livestock**” includes cattle, horses, mules, donkeys, pigs, goats and sheep;

“**Minister**” means the Minister responsible for forests;⁵

“**Ministry**” means the Ministry responsible for forests;⁶

“**reserved area**” means any demarcated area of land or proclaimed area of land which may be under grass or scrub but which may be needed for afforestation in the future;

“**timber**” means any tree which has fallen or has been felled and any part of a tree which has been cut or has fallen, and all wood whether sawn, split, hewn or otherwise fashioned;

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

“**unalienated**” in relation to land means land which at the time of the exercise of any of the powers conferred by this Act is not leased or otherwise disposed of.

PART II – FOREST RESERVES AND FOREST PRODUCE GENERALLY

3 Forest reserves⁷

The Cabinet may declare any unalienated land to be a forest reserve or reserved area.

4 Regulations

The Minister with the consent of Cabinet may make regulations not inconsistent with this Act prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for prescribing matters providing for or in relation to —

- (a) protection, control and management of forest reserves;
- (b) fostering and encouraging growth of forest produce;
- (c) prohibiting or regulating felling, cutting, taking, working, burning, injuring or removing any forest produce;
- (d) prohibiting or regulating residing, camping, squatting, building huts or livestock encloses in a forest reserve or reserved area;

- (e) prohibiting or regulating the grazing or depasturing of livestock;
- (f) prohibiting or regulating the clearing, cultivation or breaking up of land for cultivation or other purposes in a forest reserve;
- (g) prohibiting or regulating the entering of any part of a forest reserve;
- (h) prohibiting or regulating within a forest reserve pursuing, killing, taking or injuring any animals, birds, insects, fish or the eggs or spawns thereof;
- (i) prohibiting or regulating any acts or omissions as are likely to endanger by fire or otherwise a forest reserve;
- (j) prescribing the fees and royalties to be paid upon the felling of any trees or the collection or removing of any forest produce and generally in respect of any matters dealt with under this Act;
- (k) prescribing the granting of licences and permits in relation to forest produce, and matters relating to the administration of this Act generally;
- (l) prescribing the manner in which the persons to whom and generally the conditions upon which licences and permits to take, sell, purchase or export forest produce are to be granted, terminated, revoked or forfeited;
- (m) requiring the holders of licences and permits to render returns of forest produce received;
- (n) providing for the establishment and maintenance of nurseries for afforestation and authorizing the payment of grants and bonuses out of public revenue for the encouragement of forestry;
- (o) providing for the survey and demarcation of forest reserves and reserved areas;
- (p) prescribing the persons who shall be entrusted with carrying this Act into effect;
- (q) providing for the appointment and control of forest guards;
- (r) prescribing that forest produce shall include forest produce anywhere in the Kingdom; and
- (s) penalties, not exceeding the penalties specified in section 14 of this Act, for offences against this Act or the regulations and for the recovery of those penalties.

5 Revocation⁸

The Cabinet may declare that the whole or part of a forest reserve or reserved area shall no longer be a forest reserve or a reserved area.

6 Licences

- (1) The Minister may with the consent of Cabinet authorize the Chief Executive Officer subject to such general or special directions as the Minister may think fit to issue licences in respect of forest produce —
 - (a) granting the exclusive right to take such produce; or
 - (b) granting the exclusive right to purchase such produce from persons duly authorized to take the same; and
 - (c) granting the right to take or purchase such produce free of any fee or royalty or at a reduced fee or royalty.⁹
- (2) Every licence issued under subsection (1) of this section shall specify the area of land and the type of forest produce to which it relates.

PART III – TOWN AND VILLAGE FOREST AREAS**7 Village forest areas**

A District Officer appointed under the District and Town Officers Act may with the approval of the Minister demarcate in unalienated land a village forest area which shall be registered at the office of the Ministry.¹⁰

8 Regulations for village forest areas

Village forest areas shall be governed by such regulations concerning the protection, control and management of forest produce as the Minister may prescribe.

PART IV – GENERAL PROVISION**9 Powers of forest officers and police officers**

A forest officer or a police officer may —

- (a) interrogate any person found in possession of forest produce within a forest reserve or reserved area;
- (b) call upon any person committing or reasonably suspected by the officer of having committed an act for which a licence, permit or pass is required, to produce such licence, permit or pass;
- (c) seize and detain any forest produce which he reasonably suspects has been obtained or removed in contravention of this Act;
- (d) seize and detain any property which he reasonably suspects has been used in committing an offence against this Act.

10 Offences

It shall be an offence under this Act for any person without authority to —

- (a) make upon or affix to any forest produce a mark used in connection with forest produce by the forest officers of the Ministry;¹¹
- (b) remove, injure, alter, obliterate, deface or tamper with in any way whatsoever any stamp, mark or sign placed upon forest produce by the forest officers or any notice relating to forest produce affixed by a forest officer;
- (c) counterfeit or alter any licence, permit or pass issued by a forest officer;
- (d) knowingly receive or be in possession of any forest produce in respect of which an offence against this Act has been committed;
- (e) obstruct or impede in the execution of his duties under this Act any person authorized to enter upon any land for the purpose of this Act.

11 Additional penalties

Where a person is convicted of an offence against this Act the Court may in addition to the imposition of any lawful penalty —

- (a) assess the value of any damage or injury unlawfully committed to any forest produce by such person and order payment by him accordingly;
- (b) order the restitution of any forest produce unlawfully removed by such person or, alternatively, order payment of such forest produce;
- (c) make such order as to forfeiture or disposal of any forest produce or any property or thing in respect of which the offence has been committed, or used in committing the offence, as the Court thinks fit;
- (d) cancel or suspend any licence, permit or pass relating to forest produce held by such person;
- (e) make such order with regard to the demolition and removal of any building, enclosure, hut, stable, cowshed or structure or thing erected, standing or being in any area in contravention of this Act as the Court shall deem fit;
- (f) make such order with regard to the destruction, uprooting or removal of any crops standing or being in any area in contravention of this Act as the Court shall deem fit.

12 Free access to trees or forest

In any grant, lease or other disposition excepting tax allotments upon which there is reserved to His Majesty a right to any trees of forest produce, free access to such trees or forest produce by the most direct or convenient route shall be afforded to all authorized persons engaged in inspecting, obtaining or removing such trees or forest produce, with or without animals or vehicles.

13 Civil rights

No proceedings or conviction under this Act shall affect any civil right or remedy to which the Crown or any person aggrieved by the offence may be entitled.

14 Offences

- (1) A person who contravenes, or fails to comply with, any provision of this Act shall be guilty of an offence against this Act.
- (2) Subject to the regulations, the punishment for an offence against this Act shall be a fine not exceeding \$50 or imprisonment for a term not exceeding 12 months, or both.

ENDNOTES

¹ 1988 Revised Edition, Chapter 126 – Act 7 of 1961

Amending Acts	Commencement
Act 6 of 2005	Gazette publication not found, passed by Legislative Assembly 26 September 2005
Act 42 of 2010	24 November 2010
Act 5 of 2012	30 July 2012

² Inserted by Act 5 of 2012

³ Amended by Act 6 of 2005

⁴ Amended by Acts 6 of 2005 and 5 of 2012

⁵ Amended by Acts 6 of 2005 and 5 of 2012

⁶ Inserted by Act 6 of 2005 and Amended by Act 5 of 2012

⁷ Amended by Act 42 of 2010

⁸ Amended by Act 42 of 2010

⁹ Amended by Act 6 of 2005

¹⁰ Amended by Act 6 of 2005

¹¹ Amended by Act 6 of 2005