



ZIMBABWE

ACT

To provide for the amendment of the Forest Act [*Chapter 19:05*] and to provide for matters connected with or incidental to the foregoing.

ENACTED by the Parliament and President of Zimbabwe as follows.

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Forest Amendment Act, 2021.

2 Amendment of section 2 of Cap. 19:05

Section 2 (“Interpretation”) of the principal Act is amended—

- (a) by the deletion of “Chief Executive” and substitution with “Director-General”.
- (b) by the insertion after the definition of “protected private forest” of the following—

“Provincial-Head” means a Forest Officer in charge of a particular province;”.

3 New Section inserted in Cap. 19:05

The principal Act is amended by the insertion after section 2 of the following section—

Printed by the Government Printer, Harare

“2A Guiding Principles

(1) The biodiversity, ecological integrity of forest areas and ecosystems must be protected, conserved and used sustainably.

(2) Plantation forests should be increased and their contribution to national and local economies should be enhanced sustainably.

(3) The many economic, environmental, social, cultural, spiritual and aesthetic functions and values of forests and woodlands need to be maintained through reduction of deforestation and accrual of benefits from forests by rural and urban communities.

(4) Planting and conserving trees on farmlands improves land productivity and provision of forest goods and services.

(5) The value of urban tree resources is multifaceted as they enhance environmental, social, economic and aesthetic values.

(6) Trade in competitive wood forest products offers potential for increased economic development through employment creation and income generation as well as export earnings but requires an enabling environment for commercial activities, incentives and investment in the wood manufacturing industry.

(7) Sustainable harvesting of non-timber forest resources for nutrition, health and income generation contributes to poverty reduction.

(8) Given the complexities and uncertainties inherent in the functioning of natural systems, sustainable management of forests needs to be flexible, adaptive and based on sound science.

(9) A knowledgeable and well-informed public on forestry issues is essential for effective forest conservation and sustainable management. In addition, indigenous knowledge and practices have valuable contributions to the sustainable use of forest resources.

(10) The role of forests and trees in climate change should be recognised, given their unique ability to contribute to both climate change adaptation and mitigation.

(11) Laws are an essential component of effective management of forest resources; therefore they should be dynamic, locally and internationally accountable and should set demands, impose duties and create obligations to society for sustainable use, management and protection of forest resources.

(12) Efficient, and coordinated institutions at community, district, provincial and national levels are key to effective forest resource conservation and management.

(13) Mainstreaming of forestry in other sectors' policies and activities in government, private, community and civil society organisations is vital for an effective forest management system.

(14) The participation multiple stakeholder, the public sector, private sector, local communities, and civil society in forest management has the potential to improve forest conservation and productivity.

(15) Inclusion of women and gender balance is vital to forest management; hence the role of women should be recognised and promoted.

(16) Commitments made at regional and multilateral forums on forests and their use should be reflected in national policies, legislation and practice to ensure sustainable forest management.

(17) The Commission shall endeavour to provide an equal and fair opportunity in employment of all competent persons and to prohibit discrimination in employment on grounds of race, gender, ethnic background, disability and religious affiliation.”.

4 New section substituted for section 3 of Cap. 19:05

Section 3 (“Minister may appoint Forest Officers”) of the principal Act is amended by the repeal of section 3 and substitution of the following—

“3 Director-General may appoint Forest Officers

The Director-General may appoint any person in the employment of the Commission as a Forest Officer for the purpose of this Act.”.

5 Amendment of section 5 of Cap. 19:05

Section 5 (“Constitution of Commission and terms of Office of Commissioners”) of the principal Act is amended by the insertion of the following—

(a) after subsection (1)—

“(1a) The Minister shall appoint members of the Commission as follows—

- (a) a chairperson;
 - (b) a deputy chairperson who shall be of the opposite gender to the chairperson;
 - (c) a person holding a recognised qualification or demonstrable knowledge in forestry;
 - (d) persons recognised for their qualification, ability or experience in the following—
 - (i) environmental planning and management;
 - (ii) finance;
 - (iii) business and administration;
 - (iv) ecology;
 - (v) human resources;
 - (e) a legal practitioner registered in terms of the Legal Practitioners Act [*Chapter 27:07*];
 - (f) a representative from the Ministry responsible for environment;
 - (g) a Chief nominated by the National Council of Chiefs.”;
- (b) in subsection (2) by the deletion of “such periods, not exceeding three years, and on such terms and conditions as he thinks fit” and the substitution of “a period of four (4) years”;
- (c) after subsection (7) by the insertion of the following subsection—
- “(8) In appointing commissioners, the Minister shall endeavour to ensure that at least half of the membership so appointed comprises of women.”.

6 Amendment of section 8 of Cap. 19:05

Section 8 (“Duties of the Commission”) of the Forest Act [*Chapter 19:05*] (hereinafter called the principal Act) is amended by the insertion of the following after paragraph (h) —

- “(h1) the serving of orders on any persons requiring such persons to undertake or adopt such measures as are specified in the orders to protect the forest.”.

7 Amendment of section 17 of Cap. 19:05

Section 17(1) (“Lease of Demarcated Forests”) of the Principal Act is amended by —

- (a) the repeal of subsection (1) and the substitution of the following —
“(1) The Commission may lease any portion of a demarcated forest with the approval of the Minister.”;
- (b) subsection (2) is repealed.

8 Amendment of section 21 of Cap. 19:05

Section 21 (“Funds of the Commission”) of the Principal Act is repealed and substituted with the following —

“21 The Funds of the Commission

The Funds of the Commission shall consist of —

- (a) any money that may be payable to the Commission from moneys appropriated for the purpose by Act of Parliament; and
- (b) any loans, donations and grants made to the Commission by any person or Agency or by any Government of any country; and
- (c) any fees or charges in respect of any service rendered by the Commission or received by the Commission in terms of this Act; and
- (d) any other moneys that may accrue to the Commission, within the course of its operations or otherwise.”.

9 Amendment of section 25 of Cap. 19:05

Section 25 (“Accounts and Audit”) of the principal Act is amended in section 25(3)(a) by the deletion of “Comptroller and”.

10 Amendment of section 26 of Cap. 19:05

Section 26 (“Procedure”) of the principal Act is amended by the repeal of subsection (2) and the following is substituted —

- “(2) The Commission shall hold a meeting —
- (a) at least once every quarter; and
- (b) a special meeting as and when circumstances require.”.

11 Amendment of section 27 of Cap. 19:05

Section 27 (“Appointment and functions of chief executive officer of Commission”) of the principal Act is amended by the insertion of the following after subsection (7) —

“(8) In appointing the Director-General and any deputy, the Commission shall endeavour to ensure that the Director-General and the deputy are persons of the opposite gender.”.

12 Amendment of section 27A of Cap. 19:05

Section 27A (“Other staff of Commission”) of the principal Act is amended by the insertion of the following after subsection (3)—

“(4) In appointing members of staff, the Commission shall endeavour to ensure equitable gender distribution.”.

13 Amendment of section 55 of Cap 19:05

Section 55(2)(c) (“Owner or occupier of private land shall give notice of intention to dispose of indigenous timber”) of the principal Act is amended by the addition of a new paragraph (c)—

“(d) after satisfying the above, the Commission shall carry out an inspection of the private land concerned.”.

14 Amendment of section 66 of Cap. 19:05

Section 66 (“Power of Commission to make by-laws”) of the principal Act is amended in subsection (2) by insertion of the following paragraph after (c)—

“(d) the development of forest conservation and demarcation programmes.”.

15 Amendment of section 68 of Cap. 19:05

Section 68 (“Provision and maintenance of fire guards on common boundaries”) of the principal Act is amended—

(a) by the repeal of subsection (4) and the substitution of the following—

“(4) if any fireguard is of the width required by subsection (3), but its sufficiency for the purposes of this section is disputed on the ground that such fireguard is not sufficiently cleared of inflammable matter, the dispute shall be referred for decision to the designated Forest Officer. Appeals shall lie with the Provincial Head and thereafter the Director-General whose decisions shall be made within ten (10) working days respectively.”;

(b) by the repeal of subsection (6) and the substitution of the following—

“(6) If a dispute arises as to the boundaries of the land in respect of which an occupier who is a miner is liable, under the provisions of this section, to assist in the establishment of a common fireguard or to contribute labour or towards the cost necessary to provide and maintain fireguards, such dispute shall be referred for decision to the designated forest officer who shall consult with a local environmental officer, as defined in section 2 of the Environmental Management Act [*Chapter 20:27*]. Appeals shall lie with the Provincial Head and thereafter the Director-General whose decisions shall be made within ten (10) working days respectively.”.

16 New section substituted for section 69 of Cap. 19:05

Section 69 (“Orders in relation to fireguards”) of the principal Act is repealed and the following is substituted—

“69 Orders in relation to fireguards

(1) A forest officer, may after due consideration of the surrounding environment and any fire suppression measures put in place by the owner or occupier of land, order that the owner or occupier—

- (a) construct a fireguard on the boundary of his or her land, of at least nine meters in width from the boundary line with adjacent property;
- (b) undertake any other preventative measures as the forest officer may deem fit under the circumstances.

(2) No order shall be valid until it is approved by the Provincial Head of the Forestry Commission, who may, if he or she deems it fit, liaise with the Director General of the Environmental Management Agency established under the Environmental Management Act [*Chapter 20:27*] before making a final decision.

(3) Any owner or occupier in receipt of an order made in terms of subsection (1) may appeal to the Director-General on any of the following grounds that the—

- (a) circumstances do not justify the making of the order;
- (b) terms of the order are unreasonable.

(4) The Minister shall make an appropriate order.

(5) Any person who fails to comply with an order made in terms of subsection (1) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not less than three months for each hectare or to both such fine and such imprisonment:

Provided that the extent of the danger posed by the size of the land and vegetation on the land shall be of paramount consideration, in any case the fine shall not exceed level eleven and the period of imprisonment shall not exceed five years.

(6) If the Minister considers that such a course of action is necessary or expedient for the conservation or protection of the natural resources within the area of a rural district council he or she may—

- (a) authorise the concerned council to prepare a plan, dealing with such matters as may be prescribed, for the prevention of fires within that area; and
- (b) after the consultation with the Secretary as defined in section 2 of the Environmental Management Act [*Chapter 20:27*], authorise that the Secretary give written orders to the owners, occupiers or users of any land within that area to act in accordance with the plan prepared in terms of paragraph (a).”.

17 Amendment of section 70 of Cap. 19:05

Section 70 (“Fires kindled on land of another to be controlled and extinguished”) of the principal Act is amended by the insertion of a new subsection, the existing section becoming subsection (1)—

“(2) Failure to take appropriate action, in terms of subsection (1), shall constitute an offence and the provisions of section 78 shall apply, *mutatis mutandis*, to this section.”.

18 Amendment of section 72 of Cap. 19:05

Section 72 (“Liability of servant acting under direction of employer”) of the principal Act is amended by the insertion of a new subsection, the existing section becoming subsection (1)—

“(2) The provisions of section 78 shall apply, *mutatis mutandis*, with regards to this section.”.

19 Amendment of section 75 of Cap. 19:05

Section 75 (“Procedure in regard to extinguishing a fire”) of the principal Act is amended—

- (a) in subsection (2) by the deletion of the words “Any such owner or occupier who fails to comply with the provisions of this subsection shall be guilty of an offence” and the substitution of “Any such owner or occupier who fails to comply with the provisions of this subsection, and the fire becomes dangerous to life and property, shall be guilty of an offence and the provisions of section 78 shall apply, *mutatis mutandis*.”;
- (b) in subsection (5) by the deletion of the words “not exceeding level five” and the substitution of “not less than level 4 and not exceeding level 6”;
- (c) by the addition, after, “forest officer” of “environmental officer or inspector, or traditional leader, or an official of a local authority or other authority” wherever it appears.

20 New section inserted in Cap 19:05

The principal Act is amended by the insertion of the following section after section 75—

“75A Appeals against decision of Commission

(1) Subject to this section, any person who is aggrieved by any decision of the Commission in terms of this Act, may within twenty-eight (28) days after being notified of the decision or action of the Commission, appeal in writing to the Minister:

Provided that such appeal shall not suspend the operation of a decision of the Commission.

(2) For the purpose of determining an appeal noted in subsection 1, the Minister may require the Commission to furnish him or her with the reasons for a decision or action that is the subject of the appeal and a copy of any evidence upon which the reasons are based.

(3) The Minister may, after due and expeditious enquiry, make such a decision on any appeal noted in terms of subsection (1).

(4) An appeal from the decision of the Minister shall lie with the Administrative Court and Part IX of the Environmental Management Act [Chapter 20:27] shall apply, *mutatis mutandis*, accordingly.”.

21 Amendment of section 78 of Cap. 19:05 (Clause 12 now 19)

Section 78 (“Major offences”) of the principal Act is amended in subsection (2)—

- (a) by the repeal of paragraphs (a) and (b) and the substitution of the following—
 - “(a) where damage has been wilfully caused, to a level ten (10) fine or imprisonment for a period not less than five (5) years or both such fine and such imprisonment;

- (b) in any other case, to a level six (6) fine or imprisonment for a period not less than two (2) year or both such fine and such imprisonment.”;
- (b) in subsection (3) by the repeal of paragraphs (i) and (ii) and the substitution of the following —
 - (i) where has been wilfully caused, to a level ten (10) fine or to imprisonment for a period not less than five (5) years or to both such fine and such imprisonment;
 - (ii) in any other case, to a level six (6) fine or to imprisonment for a not less than two (2) year or both such fine and such imprisonment any other case, to a fine not less than level four or to imprisonment for a period not less than six months or to both such fine and such imprisonment.”;
- (c) by the insertion of a new subsection after subsection (3) as follows —

“(4) The Court shall take into account such aggravating factors as loss of human life, livestock, wildlife, trees/forest and other property.”.

22 Amendment of section 81 of Cap. 19:05

Section 81 (“Offences relating to smoking or negligent use of matches”) of the principal Act is amended by the deletion of the words “not exceeding level four or to imprisonment for a period not exceeding three months” and the substitution of “of not less than level seven (7) or to imprisonment for a period of not less than three months.”.

23 Amendment of section 86 of Cap. 19:05

Section 86 (“Special powers of various officers”) of the principal Act is amended in subsection (2), by the insertion after “police officers” of “including but not limited to, powers of arrest, search, issuance of fining tickets and seizure of any item used in the commission of an offence under this Act.

24 Amendment of section 89 of Cap. 19:05

Section 89 (“Powers of Minister”) of the principal Act is amended by the insertion of a of the following after subsection (2a)—

“(2b) In making regulations under subsection (1) and where the matter concerns the management and control of veld fires, the Minister may consult Ministers responsible for agriculture, local government, transport, energy, women affairs, mines or any other relevant Ministry as the Minister may determine from time to time:

Provided that in all matters which have a bearing on the management and control of veld fires and involves the application of any other law, this Act shall take precedence.”.

25 Amendment of Second Schedule to Cap. 19:05

The Second Schedule (“Powers of Commission”) of the principal Act is amended by the insertion of the following paragraph after paragraph 24—

“24A On behalf of the State, to institute and maintain proceedings in any Court or tribunal for the recovery of revenues, and to take such other steps as may be necessary to recover revenues.”.