

[1085]

**GOVERNMENT OF THE SOVEREIGN DEMOCRATIC REPUBLIC OF FIJI  
DECREE NO. 31 OF 1992**

**FOREST DECREE 1992**

**A DECREE RELATING TO FOREST AND FOREST PRODUCE**

**PART I—PRELIMINARY**

IN exercise of the powers vested in me as President of the Sovereign Democratic Republic of Fiji and Commander-in-Chief of the Armed Forces, and acting in accordance with the advice of the Prime Minister and the Cabinet, I hereby make the following Decree:

*Short title*

1. This Decree may be cited as the Forest Decree, 1992.

*Interpretation*

2. In this Decree, unless the context otherwise requires:  
"Alienated land" means land the ownership of which is held by a person other than the State and State and native land which has been leased to a person other than the State.  
"Conservator" means the person for the time being performing the duties of the Conservator of Forests.

- "Fire ranger" means any person appointed to be a fire ranger under section 25.  
 "Forestry Board" means the board appointed under section 4.  
 "Forest produce" means timber and uncultivated plants.  
 "Forest reserve" means any area declared to be a forest reserve under section 6.  
 "Licence" means any licence issued under this decree.  
 "Licensing officer" means with respect to any licence the officer authorised to issue such licence in accordance with regulations under this Decree.  
 "Logging plan" means a plan and any revision thereof adopted in accordance with section 14.  
 "Native land" means land which is neither State land nor freehold, and includes such land leased or licensed to any person or the State.  
 "Nature reserve" means any area declared to be a nature reserve under section 6.  
 "Officer" means any officer in the public service appointed to serve in the Forestry Department as a deputy Conservator of Forests, Principal Forestry Officer, Senior Forestry Officer, Forestry Officer, Forester, Forest Ranger or Forest Guard.  
 "Royalty" includes a payment reserved by grantor of a lease or similar rights and payable proportionately to the use made of the right by the grantor.  
 "Timber" means any tree which has been felled or has fallen, and the part of any tree which has been cut off or has fallen, and all sawn or split wood.  
 "Timber licence" means a licence which conveys the right to fell or extract timber.

## PART II—ADMINISTRATION

### *Conservator*

3.—(1) There shall be a Conservator of Forests who shall be appointed by the Public Service Commission.

- (2) Subject to the direction of the Minister, it shall be the duty of the Conservator to:
- (a) generally superintend the working and enforcement of this Decree;
  - (b) where necessary or expedient, himself to take steps to enforce this Decree.

(3) It is the duty of the Conservator, so far as appears to him to be practicable and having regard to the national interest to keep under review and from time to time advise the Minister about the working and enforcement of this Decree.

### *Forestry Board*

4.—(1) There shall be established a Board, to be called the Forestry Board, for the purpose of advising the Minister on matters relating to forestry policy.

(2) The Board shall be composed of the following members:

- (a) the Conservator of Forests who shall be chairman;
- (b) the Permanent Secretary of Primary Industries or his representative;
- (c) the Director of Town and Country Planning or his representative;
- (d) seven other persons appointed by the Minister of whom
  - (i) one shall represent the Native Land Trust Board;
  - (ii) one shall be a member of the Land Conservation Board;
  - (iii) five, being persons not holding any State Office of emolument, shall represent land owners, forest owners, forest users, forest industry and the public interest.

(3) The Forestry Board shall meet as necessary to advise on the preparation and revision of the national forestry plan and at such other times as the chairman considers necessary in order to advise on any other matter.

(4) A member appointed by the Minister shall hold office for two years from the date of his appointment and may be reappointed.

(5) If a member appointed by the Minister is prevented by illness or other cause from exercising his functions on the Board, the Minister may appoint a person to act as deputy for such member during his inability, provided that a person holding a State office of emolument shall not be appointed as deputy to any member who is not a person holding such an office.

(6) The Minister for any reason appearing to him to be sufficient, may remove any member from office.

### *Forestry Committees*

5.—(1) The Forestry Board may appoint Forestry Committees for specific matters relating to forestry.

(2) The functions of a Forestry Committee shall be to advise the Forestry Board on the matter for which the Committee is appointed.

(3) Members of a Forestry Committee shall be chosen on the basis of their expertise in the matter for which the Committee is appointed.

## PART III—FOREST RESERVES AND NATURE RESERVES

*Declaration of forest reserves and nature reserves*

6.—(1) The Minister may, upon recommendation of the Forestry Board, declare any of the following classes of land already reserved for another public purpose to be a forest reserve or a nature reserve:

- (a) unalienated State land;
- (b) land leased to the State;
- (c) unalienated native land, with the prior consent of the owners of the land and of the Native Land Trust Board.

(2) The Minister may, upon recommendation of the Forestry Board, declare that any forest reserve or nature reserve or part thereof shall cease to be a forest reserve or a nature reserve respectively.

(3) The Minister may, upon recommendation of the Forestry Board, cause alienated land to be acquired as for a public purpose under the provisions of the Crown Acquisition of Lands Act and may thereafter declare it to be a forest reserve or a nature reserve.

(4) Any land declared to be a reserved forest or a nature reserve under the Forest Act, Chapter 150, shall be considered to be respectively a forest reserve or a nature reserve under this Decree.

*Management of forest reserves and nature reserves*

7.—(1) Forest reserves shall be managed as permanent forest in order to provide on a permanent basis the optimum combination of benefits of protection and production of which they are capable.

(2) Nature reserves shall be managed for the exclusive purpose of permanent preservation of their environment, including flora, fauna, soil and water.

(3) Any buildings, fences or enclosures erected in or maintained on a forest reserve or in a nature reserve without the permission of the Conservator shall be deemed to be the property of the State and may be disposed of in such manner as the Conservator thinks fit.

## PART IV—UTILIZATION OF FOREST RESOURCES

*Activities prohibited*

8.—(1) Unless authorised under this Decree by a licence or otherwise, no person shall

- (a) in a forest reserve or a nature reserve
  - (i) fell or extract timber;
  - (ii) take other forest produce;
  - (iii) take peat, rock, sand, shells and soil other than minerals as defined in the Mining Act;
  - (iv) clear land;
  - (v) cut, burn, uproot, damage or destroy vegetation;
  - (vi) erect any buildings or livestock enclosures;
  - (vii) allow any domestic animal to enter therein;
  - (viii) plant any crops or trees;
  - (ix) construct or obstruct any roads, paths or waterways;
  - (x) set any trap, snare, or net or use or be in possession of any gun, poison or explosive substance;
  - (xi) hunt or fish;
- (b) on State land not being alienated land or land in a forest reserve or nature reserve:
  - (i) fell or extract timber;
  - (ii) take other forest produce;
  - (iii) clear land;
- (c) on native land not being alienated land or land in a forest reserve or nature reserve:
  - (i) fell or extract timber;
  - (ii) take other forest produce;
  - (iii) clear land;
- (d) on alienated land:
  - (i) fell or extract timber;

(2) The Conservator may authorise activities otherwise prohibited under sub-section (1) (a) where such activities are consistent with the purposes set out in section 12 (1) in the case of a forest reserve.

*Licences*

9. Upon application in the prescribed form, a licensing officer may issue a licence authorising the holder thereof to perform such of the following acts as may be specified in the licence:

- (a) in a forest reserve:
  - (i) to fell or extract timber;
  - (ii) to take other forest produce;
  - (iii) to take peat, rock, sand, shells and soil other than minerals as defined in the Mining Act;
  - (iv) to graze animals or permit them to be therein;
  - (v) to erect any buildings or livestock enclosure;
  - (vi) to plant any trees;
  - (vii) to hunt or fish;
- (b) on State land not being land in a forest reserve or nature reserve or alienated land:
  - (i) to fell or extract timber;
  - (ii) to take other forest produce;
  - (iii) to clear land;
- (c) on native land not being alienated land or land in a forest reserve or nature reserve:
  - (i) to fell or extract timber;
  - (ii) to take other forest produce;
  - (iii) to clear land;
- (d) on alienated land:
  - (i) to fell or extract timber.

*Need of prior consent for the issue of licences*

10.—(1) A licence relating to native land which is part of a forest reserve, if no provisions for royalties are made or royalties are envisaged at a rate lower than that prescribed, shall only be issued with the prior consent of the Native Land Trust Board.

(2) A licence relating to State land other than state land in a forest reserve shall only be issued with the prior consent of the Director of Lands.

(3) A licence relating to native land other than native land in a forest reserve shall only be issued with the prior consent of the Native Land Trust Board.

(4) A licence to fell or extract timber on alienated native land shall only be issued with the prior consent of the Native Land Trust Board and the lessee of such land.

(5) A licence to fell or extract timber on alienated State land shall only be issued with the prior consent of the Director of Lands and the lessee of such land.

(6) A licence relating to alienated land not being State land nor native land shall only be issued with the prior consent of the owner.

*Duration of licences*

11.—(1) Except for a licence issued under sub-section (2), a licence may be issued for such period of time not exceeding ten years as may be stated therein or prescribed by regulations.

(2) The Conservator may issue a timber licence for a period of time exceeding ten years but not exceeding thirty years where the applicant undertakes to establish and operate processing facilities for the timber authorised to be taken under the licence.

(3) Any applicant for the timber licence under sub-section (2) aggrieved by the Conservator's refusal to issue such a licence may appeal to the Minister within one month of such refusal.

*Provision related to planted trees*

12.—(1) The planting of trees, the management of the land on which trees have been planted and the harvesting of the planted trees shall be subject to applicable standards under this Decree.

(2) A licence to fell or extract planted timber shall be issued upon verification that the applicant is entitled to the timber and that the logging plan submitted is in compliance with any applicable logging standards under this Decree.

(3) A licence to fell or extract planted timber shall not be subject to the payment of royalties prescribed under section 16 (2) of this Decree.

(4) The prior consent of the Native Land Trust Board shall not be necessary for the issue of a licence to fell or extract planted timber on State Land.



*Contents of all licences*

13.—(1) Every licence shall specify

- (a) the date of issue;
- (b) the date of expiry;
- (c) the latest date at which the activities authorised under it shall be started;
- (d) the area in respect of which the licence is issued;
- (e) such conditions as the licensing officer thinks fit in accordance with good logging practice.

(2) In addition to the matters referred to in sub-section (1), a timber licence shall

- (a) state the type and size of any wood conversion and processing facilities which the licensee may be required to construct and operate and the schedule for their operation;
- (b) include reference and compliance with any agreement between the landowner and the licensee population in any phases of the operation;
- (c) specify the amount and form of any bond or other surety which the licensee may be required to post to guarantee his performance under the licence;
- (d) specify the compensation to be paid by the licensee for any failure to fulfil the terms or conditions of the licence.

*Logging plan*

14.—(1) The issue of a timber licence is subject to the approval by the licensing officer of a logging plan prepared by the applicant in accordance with this section.

(2) The logging plan shall

- (a) specify an annual cut and any periodic limits within which the rate of timber harvesting shall be maintained;
- (b) specify any trees to be left in place;
- (c) specify any minimum utilizable sizes of timber to be felled;
- (d) indicate the layout of roads and skidding trails which the licensee undertakes to construct;
- (e) specify any reforestation or other post-harvest operations.

(3) The licensing officer may require revision of the logging plan relating to that licence at intervals of not less than one year.

(4) Compliance with the contents of the logging plan shall be a condition of any timber licence.

*Existing timber licences*

15.—(1) All timber licences issued under the Forest Act, Chapter 150, shall be valid under this Decree until their expiry or cancellation. The renewal of such licences is subject to the provisions of sections 15, 16, 17, 18 and 19 for the issue of new licences.

(2) Holders of timber licences issued before the entry into force of this Decree and valid for more than one year after such entry into force shall prepare a logging plan within six months. If a logging plan is not submitted within such time to a licensing officer or if the licensing officer does not approve such Plan within six months after the submission of the Plan, the Conservator may suspend or revoke the licence.

*Fees and royalties*

16.—(1) A licence shall be subject to the payment of such fees as may be prescribed.

(2) A licence relating to State or Native land shall be subject to the payment of such royalties as may be prescribed, except as provided in section 12 (3) of this Decree.

*Payment of royalties*

17.—(1) Royalties relating to native land shall be paid either to the Forestry Department or to the Native Land Trust Board, provided that, when received by the Forestry Department, they shall be paid by it to the Native Land Trust Board to be distributed to the owners of such land.

(2) When any royalty or fee is due and payable in respect of any produce under a licence, the amount thereof shall be a first charge on such produce, and such produce may be taken possession of by the Conservator and may be retained by him until such amount has been paid.

(3) If such amount is not paid within one month of such seizure, the Conservator may sell the said produce by public auction and the proceeds of sale shall be applied in the first instance in payment of the amount due and of any expenses incurred in the seizure and sale.

(4) The surplus of a sale under sub-section (3) shall, if not claimed within two months of the sale by the person entitled thereto, be forfeited to the State.

*Transfer of licences or of rights conveyed by licences*

18.—(1) A licence under this Decree shall not be transferable. The employment by any licensee of any other parties to carry out any logging or related operations shall be subject to the prior approval of the licensing officer.

(2) Any activities carried out on any land during the time for which a licence is in force in relation to that land shall be deemed to be carried out under the authority of the holder of the licence, unless the holder of the licence proves the contrary.

*Power to suspend or revoke licences*

19.—(1) In addition to any power under this Decree, the Conservator may suspend in whole or in part operations under a licence at any time that a violation of the terms or conditions of the licence or a violation of this Decree has occurred or is likely to occur.

(2) The Conservator shall serve notice to the licensee specifying the reasons for suspension or revocation and requiring him to take all necessary measures to remedy or prevent the violation, allowing a reasonable period of time for the licensee to take the required measures.

(3) Following such period of time, if the Conservator is not satisfied that the required measures have been taken, the Conservator may revoke or suspend the licence.

(4) The Conservator shall, if so requested, allow the licensee an opportunity to be heard before a licence is revoked or suspended.

*Damage caused by lack of compliance with terms or conditions of a licence*

20. The licensee shall be responsible for any damage caused by lack of compliance with the terms or conditions of the licence.

## PART V—CUSTOMARY RIGHTS

*Saving of customary rights*

21.—(1) Subject to the provisions of sub-sections (3) and (4), nothing in this Decree shall be deemed to prohibit or restrict:

- (a) On native land, not including native land in a forest reserve or in a nature reserve,
- (i) the exercise of any rights established by native custom to hunt, fish, or collect fruits and vegetables growing wild;
  - (ii) the cutting or removal by any native in accordance with native custom of forest produce which may be necessary for the permanent abode of himself and his family, for the construction of temporary huts on any land lawfully occupied by him, for the upkeep of his fishing stakes and landing places, for the construction and upkeep of any work for the common benefit of the native inhabitants of his village or for firewood to be consumed for domestic purposes.

(b) on alienated native land, with the consent of the lessee of such land; the cutting or removal in accordance with native custom of forest produce which may be necessary for the purposes specified in paragraph (a) (i).

(2) Fees or royalties shall not be payable by any native in respect of any forest produce cut or removed in accordance with sub-section (1).

(3) The Minister may by notice in the *Gazette* prohibit the felling or removal of timber of a class, description or dimension specified in such notice in any area and for such period of time as specified in the notice. Such notice may specify that the felling or removal of such timber shall not be allowed in accordance with native custom.

(4) Nothing in this section shall be deemed to authorise any person to set fire to grass or undergrowth.

## PART VI—DISPOSAL OF ABANDONED OR SEIZED PROPERTY

*Seized property and abandoned timber*

22.—(1) Any items seized under the provisions of section 36, and any timber which appears to have been abandoned shall be taken possession of by the Conservator.

(2) The Conservator shall make such enquiry as appears reasonable in the circumstances and either release the items referred to under sub-section (1) to any claimant whom he has reason to believe to be the owner of such items or establish that the property of such items shall vest in the State free from all encumbrances.

(3) The Conservator may authorise the immediate sale or disposal in any other way of any of the objects referred to in subsection (1) which are perishable.

(4) If any of the objects referred to in sub-section (1) is claimed by more than one person, the Conservator may refer the claimants to the competent court.

(5) Any person aggrieved by any decision of the Conservator under this section may, within one month after such decision, appeal to the Minister.

(6) No person shall be entitled to recover possession of any timber under the provisions of this section until the amount of any expenses incurred in collecting, moving, storing and disposing of the timber has been paid to the Conservator.

(7) Any of the functions under this section, if not exercised directly by the Conservator, may be exercised exclusively by or any Deputy Conservator of Forests, Principal Forestry Officer, Senior Forestry Officer or Forestry Officer.

## PART VII—FIRES

### *Areas in which fires are prohibited*

23.—(1) Unless authorised by a licence issued under section 24, no person shall light or cause to be lit a fire in any:

- (a) forest reserve
- (b) nature reserve
- (c) Fire Hazard Area declared under subsection (2) except in a place established for the purpose of lighting fires.

(2) The Conservator may, where he finds that the hazard of forest fire warrants such action, declare any area a Fire Hazard Area for such time as the hazard persists.

### *Fire licences*

24. The Conservator may issue fire licences for any area where the lighting of fires is prohibited under section 23 of this Decree.

### *Fire rangers*

25.—(1) The Conservator may appoint fire rangers with respect to specified forest reserves, nature reserves or fire hazard areas within his Division.

(2) A fire ranger may, subject to the instructions of the Conservator, issue fire licences for the area in respect of which they have been appointed.

(3) All officers and police officers shall be *ex officio* fire rangers and may exercise the powers under sub-section (2) with respect to any area of Fiji.

### *Liability for damage caused by fire*

26.—(1) Any person who lights a fire in violation of the provisions of section 30 shall be liable for any damage caused by the fire, notwithstanding any efforts he may have made to prevent such damage.

(2) Where a fire escapes from an area owned or occupied by any person, that person shall be liable for any damage caused by that fire unless he proves that neither he nor anyone in his employ lit the fire and that he took all possible measures to prevent such damage.

### *Duty to extinguish fires*

27. Any person who is in the vicinity of and is aware of a fire which is occasioning damage or is likely to spread shall assist to the best of his possibilities in extinguishing the fire. For this purpose he may enter upon any land where the fire may be or to which there is reason to believe the fire may spread and may do such things as are reasonably necessary to control or extinguish the fire.

## PART VIII—OFFENCES AND PENALTIES

### *Offences*

28.—(1) Any person who:

- (a) negligently causes any damage in felling or extracting any tree;
- (b) damages, alters, shifts, removes or interferes in any way whatsoever with any beacon, boundary mark or fence, notice or notice board;
- (c) forges or fraudulently uses upon any forest produce any registered hammer mark or any mark used by any officer to indicate that such forest produce is the property of the State or of some person or that it may lawfully be felled or removed; or
- (d) makes a material misrepresentation, omission or misstatement of fact in an application for a licence;

- (e) without lawful authority alters, obliterates, remove or defaces any stamp, mark, sign, licence or other document lawfully issued under the authority of this Decree; or
- (f) counterfeits or issues any licence or document purporting to be a licence or document issued under the provisions of this Decree;
- (g) wears any uniform or part of a uniform or any badge or other mark issued by the Forestry Department to be worn by officers;
- (h) in any forest reserve or nature reserve, damages or destroys vegetation, obstructs any roads, paths or waterways, sets any trap, snare or net or uses or is in possession of any gun, poison or explosive substance, or, without lawful authority, clears land, fells or extracts timber, takes other forest produce, takes peat, rock, sand, shells and soil other than minerals as defined in the Mining Act, grazes animals or allows them to be therein, erects any buildings

of fishes, lights a fire or causes to be lit a fire, cuts or uproots vegetation, constructs any roads or paths.

Decree, lights a fire or causes to be lit a fire, in a fire hazard area, unless authorised under this Decree, fells or extracts timber, takes other forest produce or clears land;

not being land in a forest reserve or nature reserve, unless authorised under this Decree, fells or extracts timber, takes other forest produce or clears land;

brushwood or earth or by any other means whatsoever conceals, destroys or removes or attempts to conceal, destroy or remove any tree stump or any part thereof;

as prescribed under section 27. Any person who contravenes any provision of this Decree, lights a fire or causes to be lit a fire, in a fire hazard area, unless authorised under this Decree, shall be guilty of an offence against this Decree;

- (i) in a fire hazard area, unless authorised under this Decree, lights a fire;
- (j) on unalienated State land or unalienated native land or unalienated native land in a nature reserve, unless authorised under this Decree, fells or extracts timber, takes other forest produce or clears land;
- (k) in any unalienated land covers any tree stump or any part thereof by any means whatsoever conceals, destroys or removes or attempts to conceal, destroy or remove any tree stump or any part thereof;
- (l) violates any terms or conditions of a licence;
- (m) unreasonably refuses to assist in extinguishing a fire;
- (n) refuses to produce or make available for inspection any licence or other document required to be produced under this Decree.

shall be guilty of an offence against this Decree.

*Penalties*

29.—(1) Any person guilty of an offence against this Decree shall be liable to a fine not exceeding \$10,000 or to a term of imprisonment not exceeding two years or to both such fine and imprisonment.

(2) Any person guilty of felling or extracting timber in contravention of this Decree shall be liable to a fine equal to the amount of any royalties and fees which would have been payable unless he had obtained a licence under section 33.

*Compensation*

30. Where any person is convicted of an offence against this Decree and any property has been damaged or injured or taken to court may in addition to any other penalty order that he pay to the owner of such forest produce compensation not exceeding the value thereof.

*Forfeiture of property used in commission of offence*

31. Where any person is convicted of an offence against this Decree and any property has been used in the commission of such offence, the court may, in addition to any other penalty, order that all forest produce and other things taken from such person and all tools, boats, conveyances and livestock used in the commission of such offence be forfeited to the State.

*Onus of proof for livestock offences*

32. Any livestock found on any land shall be deemed to be the property of the owner thereof, unless the owner proves the contrary and under the charge of such livestock.

*Compounding*

33.—(1) The Conservator and such Deputy Conservator or Senior Forestry Officer, Forestry Officer or Forester as he may determine may, if he is satisfied that a person has committed an offence against this Decree, compound such offence by accepting from such person a sum of money not exceeding one half of the value of the property taken from such person in respect of that offence.

(2) Where any property has been seized in connection with an offence against this Decree, the officer compounding the offence may:

- (a) if such property belongs to the offender, either return it to him or sell it and pay the proceeds to the offender, or
- (b) if such property belongs to any other person, pay to that person a sum of money not exceeding the value thereof, or forfeit it to the State.

*Compounding of offence*

33.—(1) The Conservator and such Deputy Conservator or Senior Forestry Officer, Forestry Officer or Forester as he may determine may, if he is satisfied that a person has committed an offence against this Decree, compound such offence by accepting from such person a sum of money not exceeding one half of the value of the property taken from such person in respect of that offence.

(2) Where any property has been seized in connection with an offence against this Decree, the officer compounding the offence may:

33.—(1) The Conservator and such Deputy Conservator or Senior Forestry Officer, Forestry Officer or Forester as he may determine may, if he is satisfied that a person has committed an offence against this Decree, compound such offence by accepting from such person a sum of money not exceeding one half of the value of the property taken from such person in respect of that offence.

(2) Where any property has been seized in connection with an offence against this Decree, the officer compounding the offence may:

- (a) if such property belongs to the offender, either return it to him on payment of a sum of money not exceeding the value thereof, or
- (b) if such property belongs to any other person, pay to that person a sum of money not exceeding the value thereof, or forfeit it to the State.

- (e) without lawful authority alters, obliterates, remove or defaces any stamp, mark, sign, licence or other document lawfully issued under the authority of this Decree; or
- (f) counterfeits or issues any licence or document purporting to be a licence or document issued under the provisions of this Decree;
- (g) wears any uniform or part of a uniform or any badge or other mark issued by the Forestry Department to be worn by officers;
- (h) in any forest reserve or nature reserve, damages or destroys vegetation, obstructs any roads, paths or waterways, sets any trap, snare or net or uses or is in possession of any gun, poison or explosive substance, or, without lawful authority, clears land, fells or extracts timber, takes other forest produce, takes peat, rock, sand, shells and soil other than minerals as defined in the Mining Act, grazes animals or allows them to be therein, erects any buildings or livestock enclosures, plants any crops or trees, hunts or fishes, lights a fire or causes to be lit a fire, cuts or uproots vegetation, constructs any roads or paths;
- (i) in a fire hazard area, unless authorised under this Decree, lights a fire or causes to be lit a fire;
- (j) on unalienated State land or unalienated native land, not being land in a forest reserve or nature reserve, unless authorised under this Decree, fells or extracts timber, takes other forest produce or clears land;
- (k) in any unalienated land covers any tree stump with brushwood or earth or by any other means whatsoever conceals, destroys or removes or attempts to conceal, destroy or remove such tree stump or any part thereof;
- (l) violates any terms or conditions of a licence;
- (m) unreasonably refuses to assist in extinguishing a fire as prescribed under section 27.
- (n) refuses to produce or make available for inspection by any officer authorised under this Decree a licence or other document required to be kept under this Decree;

shall be guilty of an offence against this Decree.

#### *Penalties*

29.—(1) Any person guilty of an offence against this Decree shall be liable to a fine not exceeding \$10,000 or to a term of imprisonment not exceeding twelve months or to both such fine and imprisonment.

(2) Any person guilty of felling or extracting timber in contravention of this Decree shall be liable, in addition to the fine imposed under sub-section (1), to a fine equal to the amount of any royalties and fees which would have been payable unless he has agreed to compounding under section 33.

#### *Compensation*

30. Where any person is convicted of an offence against this Decree whereby any forest produce has been damaged or injured or taken to court may in addition to any other penalty order such person to pay to the owner of such forest produce compensation not exceeding the value thereof.

#### *Forfeiture of property used in commission of forest offence*

31. Where any person is convicted of an offence against this Decree, the court may, in addition to any other penalty, order that all forest produce and other things in respect of which such offence has been committed, and all tools, boats, conveyances and livestock used in the commission of such offence be forfeited to the State.

#### *Onus of proof for livestock*

32. Any livestock found on any land shall be deemed to be there under the authority of the owner thereof, unless the owner proves the contrary and under the authority of the person, if any, actually in charge of such livestock.

#### *Compounding*

33.—(1) The Conservator and such Deputy Conservator of Forests, Principal Forestry Officer, Senior Forestry Officer, Forestry Officer or Forester as he may empower for the purposes of this section may, if he is satisfied that a person has committed an offence against this Decree, and such person consents in writing to compounding under this section, compound such offence by accepting from such person a sum of money not exceeding one half the amount of the fine prescribed for that offence.

(2) Where any property has been seized in connection with the offence compounded under this section, the officer compounding the offence may:

- (a) if such property belongs to the offender, either release it to him on payment of a sum of money not exceeding the value thereof, or forfeit it to the State;

(b) if the property does not belong to the offender, require that such property be returned to its owner at the expense of the offender.

(3) In any proceedings brought against any person for an offence against this Decree it shall be a good defence if such person proves to the satisfaction of the court that he has compounded the offence under the provisions of this section.

## PART IX—POWERS OF OFFICERS

### *Power of inspection*

34.—(1) Any officer or police officer may without a warrant enter any land on which activities subject to a licence or other authorisation under this Decree are being conducted, and any timber yard or sawmill, and inspect such activities and any forest produce found in such places.

(2) Any officer, police officer or any person authorised in this behalf by the Native Land Trust Board may:

- (a) where any person is engaged in an activity for which a licence or other authorisation is required under this Decree, require the production of such licence or other authorisation by such person;
- (b) stop and inspect any log carrier or other vehicle which is carrying any forest produce or anything for which a transport document is required under this Decree or which he reasonably suspects has been obtained in contravention of this Decree.

### *Power of arrest*

35.—(1) Any officer or police officer may without a warrant arrest any person who he reasonably suspects has committed an offence against this Decree, if such person refuses to give his name and address or gives a name and address which the officer has reason to believe is false.

(2) Any officer or police officer making an arrest under this section shall, without unnecessary delay, take or send the person arrested to the police officer in charge of the nearest police station or, if the offence is compoundable under the provisions of section 33 before an officer authorised to compound offences under that section.

(3) If the arrested person refuses to compound the alleged offence, the arrested person shall forthwith be taken or sent to the police officer in charge of the nearest police station.

### *Power of seizure*

36. Any officer or police officer may without a warrant seize and detain:

- (a) any forest produce or any peat, rock, sand, shells and soil other than minerals as defined in the Mining Act, in respect of which there is reason to believe that an offence has been committed against this Decree, together with any objects or livestock used in the commission of such offence;
- (b) any livestock found trespassing or found without any person in charge of them in any forest reserve or nature reserve.

### *Non-liability of officers*

37. No officer shall be responsible for any loss or damage which may occur in respect of anything detained for the purposes of this Decree unless he causes the same maliciously or fraudulently or by gross negligence.

## PART X—REGULATIONS

### *Regulatory power of the Minister*

38.—(1) The Minister may make regulations to carry out the purposes of this Decree.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may:

- (a) provide for the appointment of licensing officers;
- (b) regulate the manner in which licences may be issued, the terms and conditions of licences, and restrict or prohibit the issue of such licences in respect of classes or species of forest produce, or in respect of specified areas, or, on land within forest reserves, in respect of peat, rock, sand, shells and soil other than minerals as defined in the Mining Act;
- (c) prescribe:
  - (i) the royalties due on produce cut or collected under licence on State land or on native land in forest reserves;
  - (ii) the fees and any other charges due to the State on produce cut or collected under a licence on any land;



(b) if the property does not belong to the offender, require that such property be returned to its owner at the expense of the offender.

(3) In any proceedings brought against any person for an offence against this Decree it shall be a good defence if such person proves to the satisfaction of the court that he has compounded the offence under the provisions of this section.

## PART IX—POWERS OF OFFICERS

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- (c) prescribe:
  - (i) the royalties due on produce cut or collected under licence on State land or on native land in forest reserves;
  - (ii) the fees and any other charges due to the State on produce cut or collected under a licence on any land.

- (d) provide for the remission or exemption from payment, in whole or in part, of any fees, royalties or other charges due to the State;
- (e) prohibit any dealings in specified kinds of forest produce;
- (f) prescribe the route by which forest produce may be exported from or moved within Fiji;
- (g) provide for the issue of passes for the removal of forest produce and other produce whose taking is prohibited under this Decree except if authorised by licence, for the establishment of checking stations and for the stoppage, reporting, examination and marking of such produce;
- (h) regulate the use of marks for timber and of marking hammers;
- (i) prescribe forms to be used under regulations made under this Decree;
- (j) control the entry of persons into any forest reserve or nature reserve;
- (k) regulate the floating of timber or other forest produce and the storing of timber or forest produce on river banks;
- (l) require the holders of licences to maintain and render returns and accounts;
- (m) regulate the seasoning, treatment, grading and storage of forest produce;
- (n) provide for the registration and licensing of sawmills;
- (o) establish additional requirements to those included in this Decree.

(3) A regulation made under this Decree may provide that any specified **regulation or regulations** shall not apply to any particular species or class of forest produce or to any particular area.

(4) A regulation made under this Decree may provide that any breach of such regulations shall be an offence punishable by such fine not exceeding \$10,000 and such term of imprisonment not exceeding twelve months as the regulations may prescribe.

(5) The Minister may by notice in the *Gazette* specify the botanical equivalents of any English, Fijian or other vernacular names used in any regulations made under this section to denote any tree or forest produce. In any proceedings under this Decree any botanical equivalent so assigned shall be deemed to correspond with any such name unless the contrary is proved.

#### PART XI—FINAL PROVISIONS

##### *Repeals, revocations and amendments*

- 39.—(1) The Forest Act, Cap. 150, is repealed.
- (2) The Prevention of Fires Act, Cap. 145, is repealed.
- (3) The Land Conservation and Improvement (Fire Hazard Period) Order of 1969 is revoked.

Made this 12th day of May 1992.

PENAIA K. GANILAU  
President of the Sovereign Democratic  
Republic of Fiji and Commander-in-Chief  
of the Armed Forces