

ROLE OF AUTHORISED PERSONS UNDER THE NATIONAL FORESTRY AND TREE PLANTING ACT

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What is the duty of an authorized person who seizes and detains any item capable of being forfeited under this Act?

The authorized person who seizes and detains any of the aforementioned items shall commence administrative proceedings leading to prosecution of the suspected offender without delay. This means that the officer must report the matter to the his/ her administrative set up (office), go to the police and have a criminal complaint filed, statements taken by the investigating Officer (*assigned to him/her by the Police*) from those involved in the seizure (*impoundment*), detention of the item and the suspected offender. The Police will upon completion of investigations send the file to the Resident State Attorney (RSA) who is a representative of the Director Public Prosecutions, who is charged with a duty of sanctioning criminal charges against any suspected offender by evaluating the evidence recorded on the police file and advising on whether it will substantiate the criminal charges sought to be preferred.

If the RSA is of the opinion that the evidence is sufficient, he/she shall sanction charges against the suspected offender, who will then be issued with criminal summons to go and answer to the charges in a court of law. At all material times the authorized person shall in conjunction with his/ her office ensure that they are available to give evidence so as to ensure the proper and effective handling and determination of such criminal cases.

For more information, please contact our Legal Unit under the Executive Director's Office located at:-

The National Forestry Authority

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- ◆ package or;
- ◆ parcel or;
- ◆ conveyance or;
- ◆ vehicle or;
- ◆ tent or;
- ◆ building under the control of that person only if he/she suspects that such a person is in possession of any forest produce which has been unlawfully obtained.

❖ **Power to seize and detain any of the following:-**

- ◆ Forest produce or;
- ◆ Livestock or;
- ◆ Tools or;
- ◆ Boats or;
- ◆ Conveyance or;
- ◆ Machinery or;
- ◆ Other implements.

provided he/she reasonably suspects are liable to be forfeited under this Act.

❖ **Power to sell any item which has been seized and detained only if:-**

- ◆ it is subject to speedy and natural decay, or;
- ◆ it will entail avoidable expenses on the part of the Government.

No action can be brought against an authorized person or person acting upon his/her direction in respect of any deterioration in quality or value of any forest produce, instrument or item seized while executing his/her power to seize and detain any such item as allowed by law.

The proceeds from such a sale shall be forfeited by the suspected offending party in the same way as; the item would have been treated had it not been sold under these circumstances.

Who is an authorized person?

An authorized person under the National Forestry and Tree Planting Act means any of the following:-

- ❖ A Forestry Officer
- ❖ A Police Officer
- ❖ A Wildlife Protection Officer
- ❖ An Honorary Forestry officer

What do we understand, by the term “Forestry”?

The term “Forestry” as used under the National Forestry and Tree Planting Act means the management and conservation of forests and trees, and includes the management of land that does not have trees growing on it yet, but which is intended for the development of forestry and forms part of the area reserved for or dedicated to forestry, e.g not all forest reserves in the country bear forests one may find those areas of the reserves that are yet to be forested or used for forestry purposes.

What is meant by the term “Forestry Officer” under this Act?

A forestry officer is one who works for or is engaged by any entity which manages and conserves forests and trees, and may also be involved in the management of land which does bear trees but is reserved and dedicated to development of the Forestry. Examples of some Forestry Officers include but are not limited to staff of the National Forestry Authority and the District Forestry Service.

What is meant by the term “Police Officer” under this Act?

A police officer is not defined under this Act. However, this term is defined by the Interpretation Act, Cap 3, Laws of Uganda as meaning an attested member of a Police Force established by the Constitution or the Police Act Cap 303, Laws of Uganda.

What is meant by the term “Honorary Forestry Officer” under this Act?

The term “Honorary Forestry Office” is not defined under the Act.

However, the Minister responsible for Forestry has powers to appoint Honorary Forestry Officers from suitably qualified persons on such conditions and terms as the Minister will determine for the specific purpose of assisting in the implementation of this Act. They shall be appointed by the Minister by a notice in the Uganda Gazette. The Honorary Forestry Officer’s appointment shall only be restricted to the area or function as the Minister shall determine.

Who is capable of being designated as an authorized person under the National Forestry and Tree Planting Act?

The National Forestry and Tree Planting Act allows for the designation of duly qualified public officers as authorized persons for purposes of enforcing the law in addition to those who are expressly recognized by the Act, e.g Forestry Officer, Police Officer.

What do we mean by the term “Public Officer”?

A “Public Officer” is not defined under this Act. However, the term is defined in Article 257 (x) of the Constitution of the Republic of Uganda 1995 as meaning:-

“a person holding or acting in any public office”

A “public office” is defined by Article 257 (w) of the same Constitution as meaning:-

“an office in the Public Service”.

Who has power to designate any other category of persons as authorized persons under this Act and how are they designated?

The Minister responsible for Forestry has power to designate as many officers as he/she may deem fit, from duly qualified public officers, whether by name or by title of office, to be Authorized Persons for purposes of this Act. The Minister shall clearly state the area, functions and limits of the operations of this category of authorized persons in the Gazette Notice bearing their designation

Powers of an authorized person under this Act

An authorised person under this Act has a number of powers namely:-

- ❖ **Power to arrest, without warrant, any person whom he/she reasonably suspects has either:-**
 - ◆ Committed an offence under this Act, or;
 - ◆ Is in the process of committing an offence under this Act.
- ❖ **Power to search any person’s**
 - ◆ bugbage or;