



Republic of Uganda

# **WILDLIFE OFFENCES IN UGANDA**

**“Points to Prove” – A Guide for Prosecutors and Investigators  
including the new Uganda Wildlife Act 2020, Sample Charges  
and Standard Operating Procedures**





# WILDLIFE OFFENCES IN UGANDA

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Investigators including the new Uganda Wildlife Act 2020,  
Sample Charges and Standard Operating Procedures


## APPROVAL

Uganda is well endowed with a diversity of terrestrial and aquatic animals including birds and plants which are the backbone of the country's tourism industry.

Wildlife in Uganda is under serious threats of continued poaching, illegal wildlife trade, and encroachment of wildlife conservation areas, these threats have to be urgently and firmly addressed and the development of wildlife crime prosecution guidelines is one of the ways to curb wildlife crime.

In its meeting held on 22<sup>nd</sup> November, 2016, the 8<sup>th</sup> Board of Trustees of Uganda Wildlife Authority approved the Wildlife crime prosecution guidelines for Uganda. These guidelines are meant to guide investigators of wildlife crimes, prosecutors and judicial officers in the investigation, prosecution and adjudication of wildlife crimes in Uganda. The guidelines shall also be of much help to all other court users in the understanding and appreciation of the penal laws that relate to wildlife in Uganda.

I thank everyone who has been involved in the development of these guidelines.



CHAIRMAN  
BOARD OF TRUSTEES  
UGANDA WILDLIFE AUTHORITY  
Benjamin Otto  
CHAIRMAN BOARD OF TRUSTEES.

## FOREWORD BY THE DIRECTOR OF PUBLIC PROSECUTIONS

I am pleased to be associated with the publication of the first Wildlife Crime Prosecution guidelines in Uganda. This guide will come in handy for investigators, prosecutors and judicial officers in the handling of wildlife crimes as set forth in the various Laws of Uganda.

The guide comprehensively covers key legal issues including; considerations in bail applications, appeals against decisions made, revisions, definition of terms, drafting of charges, jurisdiction, handling of exhibits and ancillary orders applicable in wildlife crime cases. The guidelines therefore present an important contribution towards the prevention, investigation, prosecution and adjudication of wildlife crime in the country.

I recognize the support of the Judiciary of Uganda, the United Nation's Office on Drug and Crime, Uganda Wildlife Authority and Space for Giants for their roles in coming up with these guidelines.

I sincerely thank all the individuals and institutions for their contributions and feedback which, no doubt, enriched the contents of the guidelines at every level of their development. Your dedication to the fight against crime in general, and wildlife in particular, is appreciated.

  
**Mike J. Chibita**  
**DIRECTOR OF PUBLIC PROSECUTIONS**

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The development and facilitation of the Second Edition of the Rapid Reference Guide was led by Ms. Shamini Jayanathan, along with the assistance of Mr. Katto Wambua from Space for Giants, a conservation charity that works to safeguard the continent's mega-fauna and the landscapes they depend on, as part of Uganda's membership of the pan-African wildlife initiative.



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## NOTES/KEY CONTACTS

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This image shows a full page of blank, lined paper. It features approximately 20 evenly spaced horizontal grey lines across its entire width, providing a template for handwriting practice or general note-taking. The margins are consistent on all sides.

# INTRODUCTION

Wildlife crime is an issue of growing and substantial national and international concern. A growing awareness of the links between wildlife crime and organized criminal syndicates has contributed significantly to this concern, particularly given the diversified links within the organized criminal network to human migrant exploitation, money laundering, drugs and arms trafficking and, in some jurisdictions, suggested links to terrorism. Wildlife crime is now thought to be the fourth most lucrative transnational crime after trafficking in people, arms and drugs (Haken 2011).

In Uganda, evidence suggests that poaching for bush meat, firewood collection and timber harvesting are the most widespread wildlife crimes in Uganda<sup>1</sup> with a growing number of illegal wildlife trade and trafficking cases being reported on flora and fauna including elephant tusks, pangolins, tortoises and sandalwood. Uganda is also increasingly being seen as a significant transit country for wildlife products and specimens.

The successful prosecution of those who are apprehended is essential to ensuring that the criminal justice system within Uganda can act as a sufficiently strong enough deterrent to those contemplating commission of such a crime.

Accordingly, this guide has been created to assist investigators and prosecutors to identify what is required to build an evidential case against an accused; it sets out the ancillary powers available and presents alternative legislation as options for prosecution, such as the Anti-Money Laundering Act 2013.

In addition, the inter-agency best practice guidelines contained within is geared towards fostering better coordination and collaboration between all of the agencies involved in the fight against wildlife crime. This guide will be subject to review and amendment as and when circumstances dictate.

It was updated in February 2020 following the passage of the new Uganda Wildlife Act 2019 with the support of Space for Giants and the United Nations Office of Drugs and Crime.

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<sup>1</sup> Executive Summary IIED report April 2015 “Wildlife crime: a review of the evidence on drivers and impacts in Uganda”

## THE DECISION TO CHARGE

The basis for a decision to charge is applicable to all agencies with powers of prosecution: it is the bedrock of any prosecution and it is essential that all agencies holding this important power should apply the same standard, consistently and transparently.

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**The National Prosecution Policy and the Prosecution Performance Standards and Guidelines 2014** set out the test for charging as follows:

**STEP 1. Is there sufficient and admissible evidence to provide a reasonable prospect of conviction?**

**STEP 2. Is a prosecution in the public interest?**

IT IS ESSENTIAL THAT INVESTIGATORS UNDERSTAND THIS TEST AND APPLY IT TO THEIR INVESTIGATIONS PRIOR TO SEEKING A CHARGING DECISION.

IT IS ALSO ESSENTIAL THAT PROSECUTORS RECORD THE REASONS FOR THEIR DECISION TO CHARGE AND KEEP THE CASE UNDER CONTINUOUS REVIEW.

The 'points to prove' approach contained herein can assist prosecutors in writing their review decisions.

According to the policy and standards referred above, once charged, any decision to discontinue must be explained by the prosecutor: 2.1 xvi of the Prosecution Performance Standards and Guidelines 2014. Accordingly, a written recording of that decision should always be made to assist the prosecutor in that explanation and in terms of keeping a contemporaneous record of why the decision to withdraw was made.

## THE FULL CODE TEST

**STEP 1: SUFFICIENCY AND ADMISSIBILITY OF EVIDENCE TEST: FACTORS TO CONSIDER:**

**1. How strong is the case for the State?**

Here, the 'points to prove' approach will enable investigators and prosecutors to go through each offence under consideration and assess whether they have evidence, usually in the form of statements but also exhibits, documentary evidence, expert reports (properly exhibited), to assess each and every one of the points to prove identified. E.g. do you have a statement confirming the type of species involved? Do you have a statement confirming that the weapon is in fact a 'firearm' within the meaning of the Firearms Act?

## 2. Is the evidence obtained admissible under the law?

Here, early engagement with the prosecutor can ensure that the evidence obtained has been obtained in accordance with procedure laid down by law and that any factors that may bar its admission in court can be assessed and alternative methods of proof addressed in advance of trial.

## 3. Are the state witnesses credible?

Consider: what sort of impression is the witness likely to make? Are there any matters that might be put by the defence to attack the credibility of that witness e.g. previous convictions? Are there contradictions between the witnesses that go beyond what is ordinary and expected and materially weaken the prosecution case?

## 4. Is the evidence reliable?

E.g. if identity is in issue, do the statements sufficiently address issues like: lighting, first recording of appearance, distance from the suspect and duration of observation, if recognition, does the statement address how the suspect was recognised, was there an identity parade and was it properly conducted?

## 5. Is the evidence available?

i.e. are witnesses available, competent and willing (and if not, compellable) to give evidence? What will it take to get the witness to court if they are overseas? Are there any dates to avoid for trial e.g. if the witness is pregnant or due to sit university exams or get married, note those dates down and when the case is listed for trial, alert the court and seek an alternative at the earliest opportunity.

## 6. How strong is the case for the defence?

A record of interview is vital to enabling a proper assessment of this aspect. Do the defendant's answers raise other avenues of reasonable enquiry e.g. alibi?

**A CASE THAT DOES NOT PASS THE EVIDENTIAL TEST MUST NOT PROCEED NO MATTER HOW SERIOUS OR SENSITIVE THE CASE MAY BE. THE ONLY EXCEPTION WILL BE WHERE THE "THRESHOLD TEST" IS PASSED – SEE BELOW**

## STEP 2: THE 'PUBLIC INTEREST TEST'

If there is sufficient evidence, the next question is: is it in the public interest to prosecute this case? Factors listed in the national prosecution policy include: the nature and seriousness of the offence, the interests of the victim and the broader community, the circumstances of the offender, delay between the date of the offence and when the prosecution was instituted taking into account the complexity of the case and the role of the accused in the delay, and whether there are non-criminal justice alternatives to prosecution that would better service the public interest e.g. where juveniles are concerned and the offence is not so serious.



## THE PUBLIC INTEREST TEST IN WILDLIFE CRIME

In the context of wildlife crime, the following factors, if any one or more are present, would mean that it WILL be in the public interest to prosecute the case.

**It shall ALWAYS be in the public interest to prosecute the following types of cases PROVIDED the evidential test is satisfied.**

**Any decision to not prosecute such a case where the evidential test is satisfied, must be recorded with reasons as to why and the DPP informed directly.**

1. The case involves a **protected species** designated under the Uganda Wildlife Act or an animal protected under CITES APPENDIX 1.

In particular, any offence involving elephant or ivory, rhino or rhino horn, gorilla, chimpanzee, pangolin or pangolin scales, shall merit a prosecution in the public interest provided the evidential test is satisfied.

2. Any case involving **bush meat**, no matter how small or isolated, will require a public prosecution in the public interest.
  - Bushmeat commonly refers to illegal taking of wildlife for meat and income.
  - Bushmeat consumption rapidly reduces wildlife populations thereby depriving the wider public and national economies of the benefits of conservation and tourism including foreign exchange, revenue, employment and household incomes.
  - Bushmeat consumption also presents serious public health risks including zoonotic disease transmission since wildlife animals are known reservoirs of several diseases due to their inherent natural immunity.
3. Cases involving **illegal grazing** should always be prosecuted.
  - Grazing in conservation areas provides an avenue for zoonotic disease transmission between wild animals, domestic animals and people.
  - It creates shortage of food for wild animals forcing them to stray into community land where they cause damage.
  - Quite often, grazers may be involved in commission of other offences including illegal entry and or illegal wildlife off take.
  - Grazing in conservation areas undermines ecological integrity of conservation areas.
4. Where an offence involves the **killing of a problem animal**, the prosecutor must first consider whether any previous complaints had been made to UWA, the extent of the damage and what efforts, if any, had been to mitigate the risks posed by the problem animal. Accordingly, where no complaint or call has been made to UWA; where no attempt to mitigate risk has been made and/or where the extent of the damage is limited, it shall always be in the public interest to prosecute that offender.
5. Where the offence involves a **weapon**. In particular, if a firearm is used, consideration must be given to charges under the Firearms Act.

6. Where **two or more suspects** are involved in the commission of the offence, or where there is evidence that the offence was pre-meditated/subject to careful planning and organisation, it shall be in the public interest to prosecute. This is because of the increased understanding of the links between wildlife crime and organised crime.
7. Where the offence involves **import, export or transit** of a wildlife trophy or species (live or dead).
8. Any offence involving **illegal logging or removal of timber** in or near forest reserves given the prevalence of such offending and the damage to Uganda's natural forest resources and economic well-being.
9. Where **poison** was used no matter how small the quantity. This is because of the risks posed to the environment by use of poison and to the human population through sale of contaminated meat.
10. Where the suspect is a **repeat offender** in the context of wildlife crime – this need not be a conviction but where there is evidence of previous arrests, it shall be in the public interest to prosecute such an offender no matter how 'minor' the wildlife offence may appear.
11. Where **members of the armed forces** are accused of wildlife crime, it is the public interest that they are prosecuted within the sphere of the criminal justice system and not by way of court martial. Where such cases come before UWA at first instance, these should be referred immediately to the DPP.

### **INSUFFICIENT EVIDENCE TO APPLY THE FULL CODE TEST? CONSIDER THE THRESHOLD TEST!**

In limited circumstances, it may be necessary to charge a suspect where not all of the evidence establishing all of the points to prove are present in the file. This power must be used sparingly and when used, with stringent and determined follow up with the I.O. to ensure that the required evidence is obtained within a reasonable time. Continuous review of the case must be held at intervals consistent with the accused's attendance at court and a decision to charge on the full code test above must be taken at the earliest available opportunity or the decision to discontinue made without unreasonable delay.

"Holding Charges" are not acceptable. The following factors **MUST** be present where a decision to charge is made in the absence of all of the evidence establishing the 'points to prove'.

1. There is insufficient evidence currently available to apply the evidential test of The National Prosecution Policy and the Prosecution Performance Standards and Guidelines 2014 **AND**
2. The prosecutor has grounds, **BASED ON SOME EVIDENCE** obtained thus far, to have a reasonable suspicion that the accused committed the offence  
**AND**
3. There are **REASONABLE GROUNDS** to believe that further evidence **WILL** be available **WITHIN A REASONABLE TIME**  
**AND**

4. The SERIOUSNESS or circumstances of the offence justify the making of an immediate charging decision

AND

5. The accused presents a SUBSTANTIAL BAIL RISK that justifies withholding bail.
  - The grounds for applying the threshold test must be recorded by the prosecutor in the file and an action plan written for the I.O. with deadlines for completion.
  - A copy of the action plan should be kept in the file with the written review.
  - Upon receipt of each piece of additional evidence, a further written review must be conducted and kept in the file and if necessary, further action plans developed with deadlines set.
  - The prosecutor must ensure that deadlines are adhered to through contact with the I.O.
  - Where it appears that the required evidence is not forthcoming within a reasonable time, the case must be discontinued at the earliest opportunity.

**REMEMBER TO WRITE YOUR REVIEW AND ACTION PLAN**

## REFERRAL BY UWA TO THE DPP AND REFERRAL TO THE HIGH COURT FOR TRIAL

The High Court has original jurisdiction over all crime; furthermore, certain crimes may demand trial in the High Court given certain factors.

In the context of wildlife crime, where the following factors are present, **the DPP should be consulted for consideration of venue of trial.**

1. Where the value of the trophy/species exceeds 50,000,000 Uganda shilling.
2. Where the case involves a member of the armed forces, the case should be immediately referred to the DPP.
3. The complexity of the case suggests the High Court would be the optimal venue e.g. complex matters of law; issues relating to public interest immunity; intelligence and use of covert policing techniques; where mutual legal assistance with other jurisdictions arise.
4. Where the nature of the offence is one that would benefit from legal precedent being set to address lacunae in the law.

**PROSECUTION REVIEW FORM – FOR INTERNAL USE ONLY - CONFIDENTIAL**

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NAME OF THE ACCUSED:	
POLICE NUMBER:	
COURT NUMBER:	
CHARGE (S):	
I.O. CONTACT DETAILS:	
STATEMENTS/EVIDENCE CONSIDERED AT TIME OF REVIEW:	
EVIDENTIAL TEST:	DATE:
INITIALS OF THE PROSECUTOR	
PUBLIC INTEREST TEST	
INITIALS OF THE PROSECUTOR	
ACTION PLAN (to be given to the I.O. with date specified for return).	
DATE FOR RETURN/FOLLOW-UP:	
DATE AND INITIALS OF THE PROSECUTOR	

# STANDARD OPERATING PROCEDURES ON INVESTIGATION AND PROSECUTION OF WILDLIFE CRIME

## 1. PRE-ARREST CONFERENCE BETWEEN PROSECUTION AND THE INVESTIGATION

Where an arrest is being contemplated, the prosecution and I.O. will ensure that a pre-arrest conference is held as soon as possible after notification from the investigating officer to the prosecutor. At the conference, the prosecution may address the following issues:

- a. Identifying a prosecutor and the investigator to handle the matter.
- b. Possible offences to charge.
- c. Lines of inquiry.
- d. Admissibility of the evidence.
- e. Potential need for expert evidence.
- f. Possible legal preliminary applications e.g. restraining orders, mobile data production orders, inspection of bank accounts, liaison with customs and immigration regarding movement of goods or persons.
- g. Identification of likely issues in the case e.g. relations between accused and witnesses, compellability of witnesses, age of suspects and witnesses, jurisdiction and venue of possible trial.
- h. Consideration of issues regarding witness protection and care (e.g. screens in court, protection of informants etc).
- i. Cross border investigations e.g. extradition processes, mutual legal assistance, use of Interpol data.
- j. Whether a parallel financial investigation should be involved e.g. contacting the Financial Intelligence Authority, Inspectorate of Government.
- k. Evidential and legal consequences of a proposed investigative technique e.g. surveillance, controlled delivery.
- l. The need for regular meetings between prosecution and investigation to track the progress of the investigation.
- m. Preservation of crimes scenes, collection and handling of exhibits.
- n. Use of informants and how best to encourage information sharing from sources.

## 2. POST ARREST ACTIONS

Where an arrest is made in the absence of prior consultation with the prosecution, the following shall occur (note, this is not an exhaustive list):

- a. Recording of the accused statements.
- b. Recording charge and caution statements.

- c. Conduct of identification parades where necessary (see guidance below).
- d. Lifting of fingerprints from the objects and suspects involved.
- e. Interviewing and recording of witness statements (see guidance below).
- f. Consideration of bail and any other relevant applications (see guidance below)
- g. Any further inquiries by the investigator.
- h. Give consideration to the need for liaison with any other relevant agencies e.g. immigration.
- i. Consideration of granting the suspect a police bond where the file is not ready for charge.
- j. Drafting of the charge sheet.
- k. Consider the need for advice listed in (1) above.

### Minimum requirement of a file to be submitted by the I.O. to the DPP/UWA

Pre- charge	Plea stage
Date, location, name of the accused, proposed charge(s).	A sanctioned charge sheet by the DPP or an authorized officer.
Affidavits containing grounds for opposing bail. E.g. Nature and sensitivity of the case, possibility of interfering with witnesses (see guidance on page 18).	Antecedents of the accused persons, affidavit regarding bail. See TEMPLATE on page 22.
	Witness statements including arresting officers and Investigating Officer and scene of crime officers in the file.
	Expert reports or indication if one is required and anticipated date of completion of analysis and report.
	List of exhibits. Any expert reports available at this time; photographs, bank statements, any recording e.g. on disc (properly labelled), any mobile phone records if available, exhibits slips.
	Sketch plan if relevant.
	Defence statements and charge and caution statements if applicable.
	Brief facts of the case.
	File index.
	Witness contacts recorded on a separate page (see guidance on page 13).
Date of registration in court.	
Name and contact of the investigating officer.	
Name and contacts of the prosecutor if assigned at this stage.	



### 3. POST CHARGE CONFERENCE

After first appearance, the DPP will consider the need for a post charge conference depending on the nature of outstanding investigations and complexity of the case.

### 4. LISTING THE CASE FOR TRIAL

At the Magistrates Court: where the accused enters a plea of 'Not Guilty', the prosecution should address the following criteria when listing the matter for trial - these are similar to the matters that should be addressed at a pre-trial conference within the High Court when a wildlife crime is held at that venue :

- a. Set time frames for disclosure of evidence and need for further investigations if any.
- b. Confirm the number of witnesses and their availability.
- c. Agreeing on the trial date and schedule.
- d. Inform court whether locus visits are required and advise on the need for exhibit stores.
- e. Agree on procedure of tendering evidence where exhibits are involved.
- f. Preservation and handling of perishable and live exhibits.
- g. Confirm the requirement of expert evidence.
- h. Address issues regarding the suspects legal representation.
- i. Address the issues relating to release of exhibits to their owners where required and clarify to owners the obligation to return to court with exhibits as and when required.
- j. Alert court on the issues regarding forfeiture applications and any other ancillary orders that may be sought post-conviction such as deportation, unclaimed assets and identification of the appropriate agency to which forfeiture may be made.
- k. Address issues of witness protection concerns.
- l. Considering logistical requirements in prosecution of the case such as retrieving expert reports, transportation of witnesses and exhibits.
- m. Considering the possibility of a plea bargain.

### 5. PRE-TRIAL CONFERENCE WITH THE INVESTIGATING OFFICER

Where the case involves a protected species or where there is an international element e.g. where the case involves trafficking across borders or mutual legal assistance, this pre-trial conference should take place not less than fourteen days in advance of trial but continued engagement with the I.O. is likely required throughout. For all other cases, the need for a pre-trial conference should be considered by the DPP and where deemed appropriate, the I.O. and DPP should hold a pre-trial conference to ensure the matter is trial ready.

## 6. ORDERS POST CONVICTION

- a. Where forfeiture is involved, the prosecutor must stipulate the specific agency to which any such asset is to be forfeited.
- b. In case of cases involving foreign nationals, upon conviction, the prosecution shall inform the immigration and Interpol about the duration of the sentence so that they follow up the deportation process.
- c. Prosecution must consider orders for disposal of exhibits.
- d. Other ancillary powers post-conviction as outlined in the guidance below e.g. disqualification; assessment of benefit etc.

## 7. DISPUTE RESOLUTION BETWEEN THE I.O AND THE PROSECUTOR

In case of a dispute or a disagreement between the I.O and the prosecutor that cannot be resolved between the two of them, the matter should be referred to the head of DPP Environmental Crimes Unit; and in relation to the I.O his superior officer in the relevant agency.

# GENERAL GUIDANCE

## REQUIREMENTS WHEN TAKING WITNESS STATEMENTS

Telephone number, address for the witness and a next of kin should NOT be recorded in the body of the statement but on a separate page that can be kept in the file and but NOT to be disclosed to the defence.

The I.O. should capture the following information when taking a statement from ANY witness (professional or non-professional alike):

1. Dates when the witness knows that he/she will not be available to attend the trial. This will enable the prosecutor to, as far as possible, seek to avoid listing the trial when it is known that the witness will not be available e.g. market days, holidays, weddings etc.
2. For sensitive cases, witness details should be retained by the DPP, but this should be done in early consultation between the I.O. and the DPP.
3. Whether facilitation is required in monetary terms to enable the witness to come to court.
4. Whether the witness is vulnerable in any way and requires assistance either in getting to court or whilst at court e.g. disability, impaired hearing or sight.
5. Whether an interpreter is required and if so in what language.
6. Whether the witness wrote the statement him/herself, whether the statement was taken by way of 'questions and answers' or as a narrative and whether the witness was able to read through his/her statement before signing or whether the I.O. had to read the statement to the witness before signing.
7. Whether there are any witness protection requirements. This should be brought to the immediate attention of the prosecutor.
8. That the I.O. has explained to the witness that he or she may be required to attend court, at the time of taking the statement.

## ENSURING WITNESSES ARE WARNED FOR TRIAL

The DPP shall follow up with the I.O. within 7 days of the case being listed for trial to check that summons have been served PERSONALLY (whether by the I.O. or another officer whom she/he shall name). The DPP shall record on the file that this has been done and when and by whom.

## PRE-TRIAL WRITTEN REVIEW

Not later than five days before trial – and ideally earlier – the DPP shall obtain the police file and check that witnesses have been informed of the trial date; the prosecutor shall prepare a pre-trial written review on the file to confirm if the case is trial ready or not.

If there is anything that suggests that the case will not proceed, the DPP shall take all reasonable steps to do the following in order to minimize inconvenience to witnesses and all parties to the case.

- a. Where the accused is represented, seek agreement from his/her counsel to adjourn the case and seek advance agreement before a judicial officer;
- b. Where the accused is unrepresented, take all reasonable steps to inform the accused that the prosecution is not ready to proceed on the scheduled trial date.

## STATEMENT OF SUSPECT

1. I.O. to record voluntary verbal statement of the suspect.
2. Inform suspect during and after arrest of his/her right to silence and caution.
3. If any confession is to be relied upon, it must have been obtained in accordance with the Evidence Act.
4. Where possible, video recording should be used in recording a confession. The A.I.P. should be present in the interview in case a confession is made. Suspect should know he/she is being recorded and the caution should be captured on the recording. He/she should be asked if he/she is comfortable and whether he/she has been or feels intimidated or uncomfortable. He/she should be told that if he/she wants to take a break, he/she can; he/she should be offered a drink of water and asked if has been forced to take part of the interview. All of these questions and answers should be captured on the recording.
5. It is advisable that a female suspect has a female officer present in the interview. A statement from that female officer should be taken to confirm her presence and her role within that interview.
6. Where a defence is raised by the suspect (e.g. alibi) the I.O. has a duty to investigate its authenticity.

## DISCLOSURE

1. Timing of disclosure is key.
2. Disclosure is required but there are restrictions. The decision in *Soon Yeon Kong Kim and Kwanga Mao versus Attorney General Constitutional Reference No. 6 of 2007* the Court of Appeal held:

*Article 28(1) requires an accused person charged with any criminal offence to be presumed innocent and to be afforded all material statements and exhibits to enable him or her prepare his or her defence without any impediment. This is pretrial disclosure. The disclosure is not*

*limited to reasonable information only. Such disclosure is subject to some limitations to be established by reasonable information only. Such disclosure is subject to some limitations to be established by evidence by the state on grounds of **state secrets, protection of witnesses from intimidation, protection of identity of informers, from disclosure or that due to the simplicity of the case disclosure is not justified for purposes of a fair trial.** This means that an accused person is prima facie entitled to disclosure, but the prosecution may, by evidence, justify denial on any of the above grounds. It is the trial court that has the discretion whether the denial has been established or not. What provision allows for protection of informants? Section 124 of the Evidence Act Cap 6.*

In summary:

- Whatever evidence the prosecution wishes to rely upon at trial must be disclosed unless the exceptions outlined above, apply.
- The DPP should call for the police file in advance of trial to make disclosure of the evidence to be relied upon.
- THE PROSECUTOR MUST record what is disclosed, when and to whom in the prosecution file.
- The way in which disclosure is made should also be recorded e.g. by hand, by post.
- That disclosure must occur sufficiently in advance of trial to allow a reasonable time for the defence to prepare their case.
- It is recommended that information that undermines the prosecution case or assists the defence case as far as the prosecutor can reasonably ascertain from the papers should be disclosed in the interests of justice.

## GUIDELINES ON IDENTIFICATION

- When taking a statement from an identifying witness, the officer must address the following within the statement:
- Distance between the witness and the suspect at the time of sighting.
- Whether that distance remained constant or not e.g. was the suspect running away or getting closer.
- General description of the suspect (height, build, weight, hair colour etc).
- Lighting.
- Gender.
- Distinguishing marks or features.
- Duration of observation.
- Familiarity – is this a ‘recognition’ case?
- A description of the type and colour of the clothing worn by the suspect.
- If there were any obstructions between the witness and the suspect.
- The witness has not been tainted by other factors or opinions of third parties.

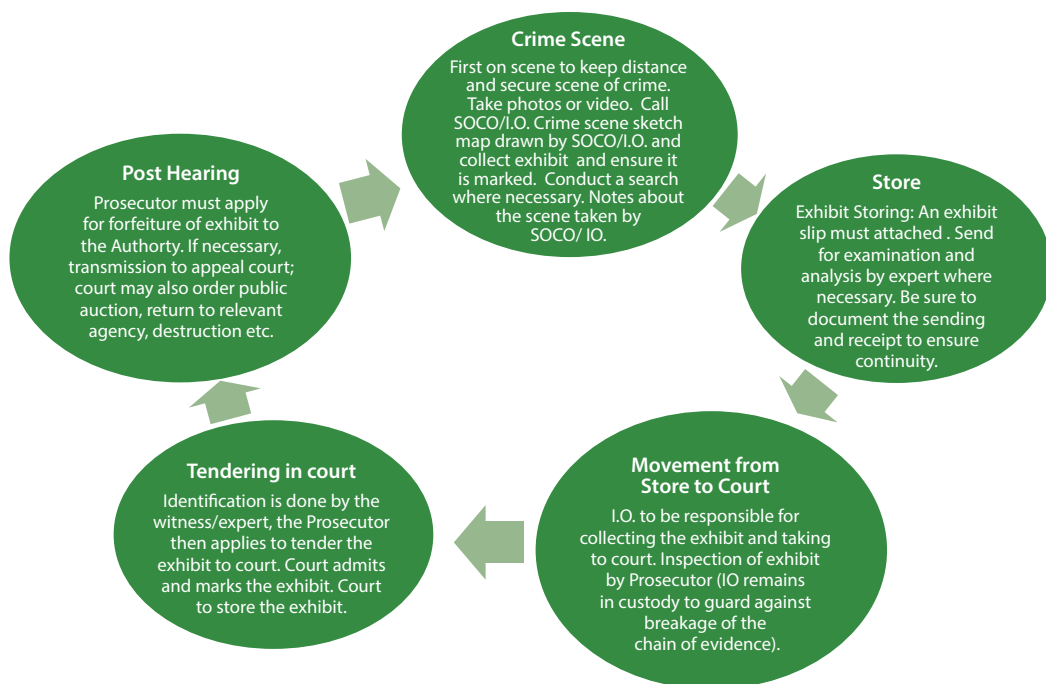
The police officer conducting the parade is required to ensure the following:

- The identity parade should be held as soon as possible after arrest.
- That the accused person is always informed that he/she may have an advocate or friend present when the parade takes place.
- That the officer in charge of the case, although he/she may be present, does not influence, directly or indirectly, the witness in making an identification.
- That the witness does not see the accused again at any time before the parade.
- That the accused is placed among at least eight persons as far as possible, of similar age, height, general appearance, race and class of life as the accused.
- That the accused is allowed to take any position he or she wishes after each identifying witness has left if he/she so desires.
- Care should be exercised that the witnesses are not allowed to communicate with each other after they have been to the parade.

Exclude every person who has no business there.

- Make a careful note after each witness leaves the parade, recording whether the witness identifies the suspect or not, the exact words used and any other relevant fact.
- If the witness desires to see the accused walk, hear him/her speak, see/her him with his/her hat on or off, see that this is done. As a precautionary measure, it is being suggested the whole parade be asked to do this.
- See that the witness touches the person he or she identifies.
- At the preparation of the parade or during the parade ask the accused if he or she is satisfied that the parade is being conducted in a fair manner and make a note of his or her reply.
- In introducing the witness, tell him or her that he or she will see a group of people who may or may not contain the suspected person. Do not say "Pick out somebody" or influence him or her in any way whatsoever.
- Act with scrupulous fairness, otherwise the value of the identification as evidence will depreciate considerably.

**Reference: See police standing orders governing conduct of Identity parades**



## TEMPLATE FOR POLICE REGARDING BAIL

The I.O. should give early consideration to the issue of bail and have regard to the factors set out below, giving consideration to issues such as bond, surety, security and conditions that may be attached. The I.O. should complete a written proposal regarding bail and attach it to the file when presenting the case to the DPP for a charging decision. This will enable the DPP to better prepare arguments relating to bail in advance of any hearing.

## GROUNDINGS FOR OPPOSING BAIL

### Likelihood that the accused will abscond

1. The nature of the accusation; e.g. offence involving personal violence, massive destruction of property, threat to life, etc.

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2. The gravity of the offence charged and the severity of the punishment which conviction might entail; e.g. offences attracting death penalty or life imprisonment.

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3. The circumstances of arrest; e.g. accused was in hiding after the commission of the offence; attempted to run away to evade arrest; fought with police; had concealed his/her identity (masking, man dressing in woman clothes, skin bleaching etc.)  
.....  
.....
4. The antecedents of the accused so far as they are known; e.g. having jumped police bond, previous conviction, failure to respond to police summons, resisting arrest etc.  
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.....
5. Whether the accused has a fixed place of abode within the jurisdiction of court or is ordinarily resident outside Uganda or is a vagabond.  
.....  
.....
6. Whether the accused has sound sureties within the jurisdiction of court to undertake that the accused will comply with the conditions of bail.  
.....  
.....
7. Whether the accused has jumped bail/bond on a previous occasion.  
.....  
.....
8. The stage/status of the trial; e.g. where prosecution has closed its case and a prima-facie case is made out. Or substantial evidence against the accused has been adduced.  
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.....
9. Where suspects are committed for trial to the High Court, the conditions for grant of bail fall under The Trial on Indictment Act Cap 23 namely: exceptional circumstances, grave illness, infancy, advanced age or certificate of no objection from the DPP.  
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10. The family attachment of the suspect, including family obligations.  
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11. Confirmation of any employment.  
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**Likelihood of interference with witnesses**

- 12. Whether the applicant is likely to interfere with any of the witnesses for the prosecution or any of the evidence to be tendered in support of the charge; e.g. whether she/he is a person in authority over the witness, she/he is a reputed serial offender, she/he stays with or near the witnesses, etc.

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**Likelihood of accused committing another offence while on bail**

- 13. Whether there are any other charges pending against the accused.

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- 14. The conduct of the suspect, in committing the offence, at arrest, and while in detention. E.g. attempt to break out of police cells, resisting arrest, previous conviction etc.

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- 15. Character conduct and background of the accused.

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**Other considerations**

- 16. The period spent on remand.

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- 17. Whether there are exceptional circumstances to warrant release on bail; e.g. advanced age, grave illness, infancy, existence of a certificate of no objection issued by the DPP.

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- 18. The age of the accused.

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- 19. The health of the applicant and whether this can be managed if remanded in custody e.g. diabetes.

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## Detention necessary for accused's safety

20. Where detention is in the interest of the accused that he/she be remanded; e.g. threat to kill the suspect, suspects with suicidal tendencies.

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## THE REPUBLIC OF UGANDA

In the ..... court of Uganda at .....  
criminal miscellaneous application No. .... of .....  
(arising from ..... criminal case No. .... of ..... )  
..... applicant

Versus

Uganda ..... respondent

### **AFFIDAVIT IN OPPOSITION TO GRANT OF BAIL**

I, ..... of c/o .....  
(Name of deponent) (address of deponent)

do solemnly make oath and state as hereunder:

1. That I am ..... (status of deponent) an adult Ugandan of sound mind and depone to the contents herein in that capacity.
2. That on the ..... (date), the applicant was produced at ..... (name of court) Court and charged with the offences of ..... contrary to ..... (law) and thereafter remanded to ..... Government prison.
3. ....
4. ....
5. ....
6. That I believe it would be in the interest of justice that bail be denied
7. That I swear this affidavit in opposition of the application for Bail by .....
8. That what is stated herein above is true and correct to the best of my knowledge and belief.

Sworn at .....

This ..... day of .....

.....(names)

.....(signature)

**DEPONENT**

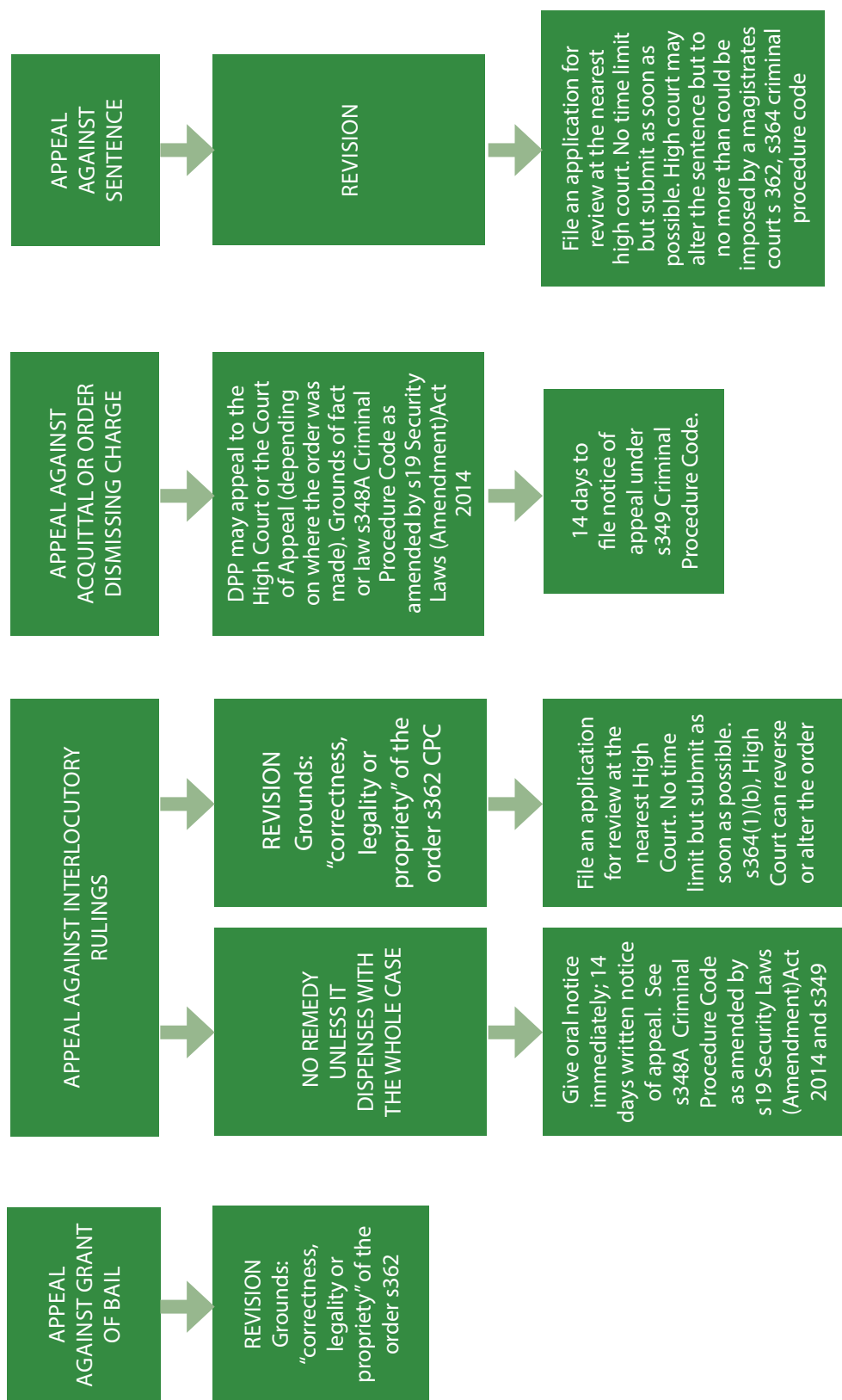
**BEFORE ME:**

.....  
**COMMISSIONER FOR OATHS/MAGISTRATE/JUSTICE OF THE PEACE**

**Drawn and Filed by:**

The Directorate of Public Prosecutions  
12<sup>th</sup> Floor, Workers House  
Plot 1/2 Pilkington Road  
P. O. Box 1550  
KAMPALA

## PROSECUTION APPEAL PATHWAYS - UGANDA







# UGANDA WILDLIFE ACT, 2019

## Section 29 (a)-(f) General Offences in wildlife conservation areas

- (a) Hunts, takes, kills, injures or disturbs any wild plant, wild animal or domestic animal;
- (b) Takes, destroys, damages or defaces any object of geomorphological, archaeological, historical, cultural or scientific interest, or any structure lawfully placed or constructed;
- (c) Prepares land for cultivation, prospects for minerals or mines or attempts any of these operations;
- (d) Drives, conveys or introduces any wild animal into a wildlife conservation area;
- (e) Willfully drives, conveys, introduces any domestic animal into a national park or negligently permits any domestic animal, of which he or she is for the time being in charge, to stray into a wildlife conservation area; or
- (f) Starts or maintains a fire without lawful authority

### Penalty: Section 70

- (a) In the case of a first offence, fine of not exceeding (350) three hundred and fifty currency points or to a term of imprisonment not exceeding (10) ten years or both;
- (b) In the case of a second or subsequent offence, fine not exceeding (500) five hundred currency points or to a term of imprisonment not exceeding (20) twenty years or both

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offence.</p> <p>Identity of the accused.</p> <p>The area is a 'wildlife conservation area' - see the definition Section 1.</p> <p>That the accused did any of the following activities:</p> <p>a) Hunting/taking/killing/injuring or disturbing a wild plant OR an animal OR any domestic animal.</p> <ul style="list-style-type: none"><li>• Identify that plant or animal.</li><li>• The plant or animal is 'wild' see the definition of wild in the Act. (Section1 wild means untamed).</li><li>• That accused did any of the following:<ul style="list-style-type: none"><li>- Hunted (includes any act directed at capturing, wounding or injuring an animal);</li></ul></li></ul>	<p>Section 72 Court can make an order of destruction and obliteration of devices used for purpose of hunting and any expenditure incurred shall be recoverable from the convicted person as a civil debt.</p> <p>Section 73 Forfeiture of anything used in connection with the offence. Where such an article is one where ownership requires registration e.g. a car.</p>

- Was taking or had taken (includes in relation to an animal drug, catch, capture, trap or kill and in relation to plant specimen or any part of a plant specimen, pick, gather, cut or uproot).
  - The accused had no lawful authority.
- b) Damaging of an object etc.
- Identify the object.
  - That object is of either 'geomorphological, archaeological, historical, culture or scientific interest
  - OR
  - If a structure, identify the structure AND show that structure was lawfully placed or constructed within that area.
  - AND in the case of an object or a structure, show that the accused took it, destroyed it, damaged it or defaced it.
  - The accused had no lawful authority to so do.
- c) Cultivation or prospecting.
- Act of preparing land for cultivation or 'prospecting' mineral or mines OR attempting any of these operations.
  - If a case of prospecting, show that prospecting was aimed at minerals or mines.
  - Accused had no lawful authority to so do.
- d) Driving/conveying or introducing a wild animal.
- Must be a wild animal.
  - Identify wild animal (wild animal means any non-domestic animal whether living in a natural habitat or in captivity).
  - That the accused brought the wild animal into a wildlife conservation area i.e. by driving, conveying or introducing.
  - Location: In a wildlife conservation area as defined under Section 1 of the Act.
- e) Willfully drives, conveys, introduces any domestic animal into a national park or negligently permits any domestic animal of which he or she is for the time being in charge, to stray into a wildlife conservation area.
- Identify the animal.
  - Identify that it is a 'domestic' animal within the meaning of the Act – see definition in Section 1.
  - In the case of a 'national park', confirm that it is a 'national park' AND

Section 75 Where ownership is unclear, the court should make a 'conditional forfeiture order' under Section 74. Likewise, for anything seized as a result of the offence under this act and the person responsible is unknown or cannot be found.

Section 76 If an offence is committed as part of a process of 'illegal trading' accused can be required to disclose assets and can order forfeiture of profits.

Section 77 Court shall also order immediate surrender of the license, permit or certificate issued under this Act and associated with the offence.

- Identify the means by which the accused conveyed or introduced the said animal into that park AND
  - That the accused did so WILFULLY.
- OR
- That the accused allowed a domestic animal to stray into a wildlife conservation area.
  - He/she was negligent in doing so within the meaning of the law i.e. a foreseeable risk.
  - Domestic animal was under the accused charge.

f) Starting/Maintaining a Fire without lawful authority.

1. Confirm that the area is a 'wildlife conservation area' within the meaning of the Act.
2. That the accused started a fire or 'maintained' a fire therein AND
3. Accused had no lawful authority to so do.

#### EVIDENCE:

**Likely to include but not limited to:** Eyewitness evidence, civilian witnesses, arresting officer, I.O. scene of crimes photographs and the expert report by the crime scene officer. Expert evidence in relation to the species or in the case, the nature of the object being of archaeological or other interest IN the case of damage/destruction e.g. under f) by fire, quantifying the cost of damage is relevant and it may be helpful in the case of introduction of wild animals/domestic animals, to have expert testimony as to the impact or potential impact of such a practice. The legal instrument/document declaring the area as a 'wildlife conservation area'. The GPS Coordinates.

#### NOTES:

1. A currency point is equivalent to twenty thousand shillings. See First Schedule of the Act.
2. Where one is charged under Section 29 (a), it is a Defence if a person kills or attempts to kill a wild animal in defence or in defence of another person. The burden of proof lies upon the one who claims this Defence. See Section 56.
3. Where a person kills a wild animal through accident or error, he must report the facts to an officer and shall where possible hand over the carcass or part of the carcass as the officer may direct. Failure to do so is an offence. See Section 59.
4. To hunt is defined as any act directed at capturing, killing, wounding or injuring an animal; See Section 1.
5. To "take" includes (a) in relation to an animal, drug, catch, capture, trap or kill; (b) in relation to a plant specimen or any part of a plant specimen, pick, gather, cut or uproot; Section 1.
6. Where one is charged under Section 29 (d), reference should be made to the definitions of a wild animal and wildlife conservation area as per Section 1.
7. Charges under Section 29 (e), the terms national park, domestic animal and wildlife conservation area are defined under Section 1.
8. Further, take note that the requirement for lawful authority is only applicable to Section 29 (f).

STATEMENT OF OFFENCE	Hunting, taking, killing, injuring/disturbing <b>[delete as appropriate]</b> a wild plant/wild animal/domestic animal <b>[delete as appropriate]</b> within a wildlife conservation area, contrary to Sections 29 (a) and 70 of the Uganda Wildlife Act, 2019.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> being a wildlife conservation area, hunted/took/killed/injured/disturbed <b>[delete as appropriate]</b> a wild plant/wild animal/domestic animal <b>[delete as appropriate]</b> , namely a (identify the plant or animal and quantity if appropriate) without lawful authority or reasonable excuse.
STATEMENT OF OFFENCE	Unlawfully causing damage/destroying/defacing/taking an object <b>[delete as appropriate]</b> within a wildlife conservation area, contrary to Sections 29 (b) and 70 of the Uganda Wildlife Act, 2019.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> being a wildlife conservation area, took/damaged/destroyed/took/defaced <b>[delete as appropriate]</b> an object of geomorphological/archaeological/ historical/ cultural/scientific interest <b>[delete as appropriate]</b> , namely <b>(identify the object)</b> without lawful authority.
STATEMENT OF OFFENCE	Cultivation within a wildlife conservation area, contrary to Sections 29 (c) and 70 of the Uganda Wildlife Act, 2019.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> being a wildlife conservation area, engaged in cultivation of <b>(identify what was being cultivated)</b> therein without lawful authority.
STATEMENT OF OFFENCE	Prospecting for minerals or mines within a wildlife conservation area, contrary to Sections 29 (c) and 70 of the Uganda Wildlife Act, 2019
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> being a wildlife conservation area, engaged in prospecting for mines/minerals <b>[delete as appropriate]</b> therein without lawful authority.
STATEMENT OF OFFENCE	Driving/conveying/introducing <b>[delete as appropriate]</b> wild animal into a wildlife conservation area, contrary to Section 29 (d) and Section 70 of the Uganda Wildlife Act, 2019.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> being a wildlife conservation area, drove/conveyed/introduced <b>[delete as appropriate]</b> wild animal therein, namely <b>(identify the species)</b>

STATEMENT OF OFFENCE	<p>Wilfully driving/conveying/introducing a domestic animal <b>[delete as appropriate]</b> to enter into a national park or wildlife conservation area contrary to Section 29 (e) and Section 70 of the Uganda Wildlife Act, 2019.</p> <p>OR</p> <p>Negligently permitting domestic animal under one's care to stray into a wildlife conservation area contrary to Section 29 (e) and Section 70 of the Uganda Wildlife Act, 2019.</p>
PARTICULARS OF OFFENCE	<p><b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> being a national park/wildlife conservation area <b>[delete as appropriate]</b>, wilfully drove/conveyed/introduced <b>[delete as appropriate]</b> a domestic animal, namely <b>(identify)</b> into that national park/wildlife conservation area.</p> <p>OR</p> <p><b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> being a wildlife conservation area negligently permitted a domestic animal under his charge, namely <b>(identify)</b> to stray into that wildlife conservation area.</p>
STATEMENT OF OFFENCE	<p>Starting/Maintaining a fire without lawful authority within a wildlife conservation area contrary to Section 29 (f) and Section 70 of the Uganda Wildlife Act, 2019.</p>
PARTICULARS OF OFFENCE	<p><b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> being a wildlife conservation area <b>[delete as appropriate]</b>, wilfully and without lawful authority started/maintained <b>[delete as appropriate]</b> a fire therein.</p>

Section 30 Entering a Wildlife Protected Area without authority

Penalty: Section 70

(a) In the case of a first offence, fine of not exceeding (350) three hundred and fifty currency points or to a term of imprisonment not exceeding (10) ten years or both;

(b) In the case of a second or subsequent offence, fine not exceeding (500) five hundred currency points or to a term of imprisonment not exceeding (20) twenty years or both

POINTS TO PROVE	ANCILLARY POWERS
Date and location of offence. Identity of the accused. That the area is a wildlife protected area as defined in Section 1 of the Act. The accused entered into that area or resided within that area or attempted to so do. The absence of lawful authority.	Section 73 Forfeiture of anything used in connection with the offence e.g. the residential structures erected in the conservation area. Where such an article is one where ownership requires registration e.g. a car.  Section 75 Where ownership is unclear, the court should make a 'conditional forfeiture order' under Section 74. Likewise, for anything seized as a result of the offence under this act and the person responsible is unknown or cannot be found.

**EVIDENCE:**  
***Likely to include but not limited to:*** Eyewitness evidence, arresting officer, I.O., scene of crimes photographs and the expert report by the crime scene officer. The document declaring the area as a 'wildlife protected area'- See Sections 25 and 26 of the Act. GPS coordinates for location of arrest.

**NOTES:**  
This section shall not apply to a member of staff of the Ministry, Authority, Police, Prisons or the Army on official duty requiring his or her presence in a wildlife protected area or any person issued with a permit by the Authority.

STATEMENT OF OFFENCE	Entering into/Residing in/Attempting to enter into/Attempting to reside in [delete as appropriate] a wildlife protected area without permission by the authority, contrary to Section 30 (1) and Section 70 of the Uganda Wildlife Act, 2019.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> being a wildlife protected area <b>(specify the area)</b> attempted to enter into/entered into/ was residing in/attempted to reside in <b>[delete as appropriate]</b> without permission by the authority.

**Section 36 (3) Engaging in (any activity under Section 35) without a wildlife use right**

**Hunting wildlife, farming of wildlife, ranching of wildlife, trading in wildlife and wildlife products,**

**Using wildlife for educational or scientific purposes, community resource access,**

**Use of wildlife as pets or ornaments,**

**Use of wildlife for tourism and recreation**

**Penalty: Section 70**

**(a) In the case of a first offence, fine of not exceeding (350) three hundred and fifty currency points or to a term of imprisonment not exceeding (10) ten years or both;**

**(b) In the case of a second or subsequent offence, fine not exceeding (500) five hundred currency points or to a term of imprisonment not exceeding (20) twenty years or both**

POINTS TO PROVE	ANCILLARY POWERS
Identity of the accused. Date. Location. Specific activity as under Section 35. Absence of a wildlife use right; OR Any other activity of a similar nature.	Section 72 Court can make an order of destruction and obliteration of devices used for purpose of hunting and any expenditure incurred shall be recoverable from the convicted person as a civil debt.  Section 73 Forfeiture of anything used in connection with the offence. Where such an article is one where ownership requires registration e.g. a car.

**EVIDENCE:**

**Likely to include but not limited to:** eyewitness evidence, arresting officer, I.O., list of licensed use rights holders, wildlife expert on the fact of utilization of wildlife and or wildlife products.

This Section has a nexus to Section 35 wherein the activities form the basis of the offence in the absence of a use right.

STATEMENT OF OFFENCE	Engaging in hunting wildlife/farming of wildlife/ranching of wildlife/trading in wildlife and wildlife products/using wildlife for educational or scientific purposes/use of wildlife as pets or ornaments/use of wildlife for tourism and recreation <b>[delete as appropriate]</b> without a wildlife use right contrary to Section 36 (3) and Section 70 of the Uganda Wildlife Act, 2019.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> , on or about <b>(insert date)</b> at <b>(insert location)</b> engaged in hunting wildlife/farming of wildlife/ranching of wildlife/trading in wildlife and wildlife products/using wildlife for educational or scientific purposes/use of wildlife as pets or ornaments/use of wildlife for tourism and recreation <b>[insert relevant activity as appropriate]</b> without a wildlife use right.

Section 43 (7) Failure to comply with a stop notice or any part of the stop notice

Penalty: Section 43 (7)

Fine not exceeding (10,000) ten thousand currency points or to life imprisonment or both

POINTS TO PROVE	ANCILLARY POWERS
<p>Stop notice issued by the authority prohibiting the activity.</p> <p>A copy of the compliance notice must be attached to the stop notice.</p> <p>The person must have failed to comply with the stop notice or part of it.</p>	<p>Section 43 (7) Forfeiture of specimen (definition section) and paying 3 times the value of the specimen that court is satisfied to have been obtained as a result of the activities prohibited in the compliance notice and stop notice.</p>
<p><b>EVIDENCE:</b> <b><i>Likely to include but not limited to:</i></b> Statement from officer from UWA, IO. Exhibits; 1. Stop notice 2. Compliance notice 3. Affidavit of service.</p>	

STATEMENT OF OFFENCE	Failure to comply with a stop notice issued by the Authority contrary to Section 43 (1) and Section 43 (7) of the Uganda Wildlife Act, 2019.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> being a holder of a wildlife use right Class A failed to comply with the stop notice issued by the Authority.



**Section 47 (10) & (11) Transfer, attempts to transfer or accepts or attempts to accept a quota without permission**

**Penalty: Section 47 (11)**

**A fine not exceeding (50) fifty currency points or to imprisonment for a term not exceeding (6) six months or both**

POINTS TO PROVE	ANCILLARY POWERS
<p>Legal holder of the quota.</p> <p>Wildlife use right by the legal holder.</p> <p>That the quota is transferred or an attempt to do so to another person other than the legal holder.</p> <p>That the said transfer or attempt to do so has been accepted by a 3rd party.</p> <p>That there was no permission from UWA or as per the Act or Regulations.</p>	
<p><b>EVIDENCE:</b>  <b><i>Likely to include but not limited to:</i></b> Wildlife use right as per the Act or Regulations, Lack of certificate of transferability. A use right to the legal holder transferrable with permission of the Authority or as specified under Section 43 of the Act or under the Regulations.</p>	
<p><b>NOTES:</b></p> <ol style="list-style-type: none"> <li>1. A wildlife use right shall not be transferable, but a quota issued in accordance with this Act or regulations made under the Act, may with permission from the Authority, be transferred from one holder of wildlife use right to another. Section 47 (9).</li> <li>2. "Quota" means an allocated quantity of a wildlife specimen; Section 1.</li> </ol>	

STATEMENT OF OFFENCE	Transfer/attempt to transfer/accepts/attempts to accept <b>[delete as appropriate]</b> a quota of a wildlife use right contrary to Sections 47 (10) and 47 (11) of the Uganda Wildlife Act, 2019.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> being a holder of a wildlife use right unlawfully transferred/attempted to transfer/accepted to transfer/attempted to accept <b>[delete as appropriate]</b> a quota his right to one <b>(provide the details of said person)</b> without permission of the Authority.

## Section 52 (a) Conducting business as a professional hunter or professional trapper without a licence

**Penalty: Section 52**

**Imprisonment term not exceeding (10) ten years**

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offence.</p> <p>Identity of the accused.</p> <p>Conducting business as a profession hunter/trapper – refer definition section.</p> <p>Without a license issued by UWA.</p>	<p>Sections 73, 74, 75 76 Forfeiture.</p> <p>Section 78 Disposal of specimen and species by UWA. Section 81 Custody and notification of wildlife specimen/species.</p>
<p><b>EVIDENCE:</b>  <b><i>Likely to include but not limited to:</i></b> Eyewitness evidence, civilian witnesses arresting officer, I.O. Scene of crimes photographs and the expert report by the crime scene officer, forensic evidence to prove the nature of the species, digital evidence, documentary evidence, canine evidence, exhibits, call/phone records, financial records.</p>	
<p><b>NOTES:</b>  Refer to Section 1 of the Uganda Wildlife Act, 2019 for definition of a professional hunter and trapper.</p>	

STATEMENT OF OFFENCE	Conducting business as a professional hunter/trapper without a license contrary to Section 52 (a) of the Uganda Wildlife Act, 2019.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on <b>(insert date)</b> at <b>(insert location)</b> conducted business as a professional hunter/trapper without a license from UWA <b>[insert/delete as appropriate]</b> .

## Section 52 (b) Advertising as a professional trapper/hunter without a license

### Penalty: Section 52

Imprisonment term not exceeding (10) ten years

POINTS TO PROVE	ANCILLARY POWERS
Date and location of offence. Identity of the accused. Advertises as a profession hunter/trapper – refer definition section. Without a license issued by UWA.	Sections 73, 74, 75 76 Forfeiture. Section 78 Disposal of specimen and species by UWA. Section 81 Custody and notification of wildlife specimen/species.
<b>EVIDENCE:</b> <b><i>Likely to include but not limited to:</i></b> Eyewitness evidence, civilian witnesses arresting officer, I.O. Scene of crimes photographs digital evidence, documentary evidence, exhibits, call/phone records, online addresses and content, social media profiles and content, financial records.	
<b>NOTES:</b> Refer to Section 1 of the Uganda Wildlife Act, 2019 for definition of a professional hunter and trapper.	

STATEMENT OF OFFENCE	Advertising as a professional hunter/trapper without a license contrary to Section 52 (b) of the Uganda Wildlife Act, 2019.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on <b>(insert date)</b> at <b>(insert location)</b> advertised as a professional hunter/trapper without a license from UWA <b>[insert/delete as appropriate]</b> .

## Section 52 (c) Soliciting a contract or commission to act as a professional hunter or professional trapper without a license

**Penalty: Section 52**

**Imprisonment term not exceeding (10) ten years**

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offence.</p> <p>Identity of the accused.</p> <p>Solicited a contract or commission to act as a profession hunter/trapper – refer definition section.</p> <p>Without a license issued by UWA.</p>	<p>Sections 73, 74, 75 76 Forfeiture.</p> <p>Section 78 Disposal of specimen and species by UWA.</p> <p>Section 81 Custody and notification of wildlife specimen/ species.</p>
<p><b>EVIDENCE:</b>  <b><i>Likely to include but not limited to:</i></b> Eyewitness evidence, civilian witnesses arresting officer, I.O. Scene of crimes photographs digital evidence, documentary evidence, exhibits, call/phone records, financial records, correspondences.</p>	
<p><b>NOTES:</b></p> <ol style="list-style-type: none"> <li>1. Refer to Section 1 of the Uganda Wildlife Act, 2019 for definition of a professional hunter and trapper.</li> <li>2. There is no need of an actual contract but correspondences or discussions soliciting a contract or commission.</li> </ol>	

STATEMENT OF OFFENCE	Soliciting a contract or commission to act as a professional hunter/trapper without a license contrary to Section 52 (c) of the Uganda Wildlife Act, 2019.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on <b>(insert date)</b> at <b>(insert location)</b> solicited a contract or commission to act as a professional hunter/trapper without a license from UWA <b>[insert/delete as appropriate]</b> .

**Section 52 (d) Assisting another person to hunt a protected animal for gain or reward without a license**

**Penalty: Section 52**

**Imprisonment term not exceeding (10) ten years**

POINTS TO PROVE	ANCILLARY POWERS
Date and location of offence.	Sections 73, 74, 75 76 Forfeiture.
Identity of the accused.	Section 78 Disposal of specimen and species by UWA.
Assisting another person to hunt a protected animal for gain or reward.	Section 81 Custody and notification of wildlife specimen/species.
Without a license issued by UWA.	

**EVIDENCE:**

***Likely to include but not limited to:*** Eyewitness evidence, civilian witnesses arresting officer, I.O. Scene of crimes photographs and the expert report by the crime scene officer, forensic evidence to prove the nature of the species, digital evidence, documentary evidence, canine evidence, exhibits, call/phone records, financial records, exhibits (proof of hunting).

**NOTES:**

A guide, a tracker of a potter or someone in like capacity is exempt from prosecution under the above offence.

STATEMENT OF OFFENCE	Assisting another person to hunt a protected animal for gain or reward without a license contrary to Section 52 (d) of the Uganda Wildlife Act, 2019.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on <b>(insert date)</b> at <b>(insert location)</b> assisted another person to hunt a protected animal for gain or reward without a license from UWA.

<b>Section 57 (2) (3) Failure to report killing of a wild animal in self-defense and or hand over of the carcass</b> <b>Penalty: Section 70</b> <b>Fine not exceeding (350) three hundred and fifty currency points, imprisonment to a term not exceeding (10) ten years or both</b>	
POINTS TO PROVE	ANCILLARY POWERS
Date and location of offence. Identity of the accused. Killing of a wild animal in self-defense/defense of another. Failing to report the killing to an officer. Failing to handover the carcass or its parts in contravention of the conditions of any license.	Sections 73, 74, 75 76 Forfeiture.  Section 78 Disposal of specimen and species by UWA.  Section 81 Custody and notification of wildlife specimen/species.
<b>EVIDENCE:</b> <b><i>Likely to include but not limited to:</i></b> Eyewitness evidence, civilian witnesses arresting officer, I.O. Scene of crimes photographs and the expert report by the crime scene officer, forensic evidence to prove the nature of the species, digital evidence, documentary evidence, canine evidence, exhibits, call/phone records, exhibits (proof of killing), relevant licenses.	
STATEMENT OF OFFENCE	Failure to report killing of a wild animal in self-defence/defence of another/failure to handover of the carcass or its parts [delete as appropriate] in contravention of the conditions of a license contrary to Sections 57 (2) (3) and 70 of the Uganda Wildlife Act, 2019.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on <b>(insert date)</b> at <b>(insert location)</b> failed to report killing of a wild animal namely <b>(specify the animal)</b> in self-defence/defence of another/failed to handover of the carcass or its parts <b>[delete as appropriate]</b> in contravention of the conditions of the license issued.

## Section 59 (1) and 51 (3) Failure to report accidental killing of a wild animal

### Penalty: Section 70

**Fine not exceeding (350) three hundred and fifty currency points, imprisonment to a term not exceeding (10) ten years or both**

POINTS TO PROVE	ANCILLARY POWERS
Date and location of offence.	Sections 73, 74, 75 76 Forfeiture.
Identity of the accused.	Section 78 Disposal of specimen and species by UWA.
Killing of a wild animal through accident or error.	See Section 81 Custody and notification of wildlife specimen/ species.
Failing to report the killing to an officer.	
Absence of wildlife use right to hunt a protected or wild animal.	

#### EVIDENCE:

**Likely to include but not limited to:** Eyewitness evidence, civilian witnesses arresting officer, I.O. Scene of crimes photographs and the expert report by the crime scene officer, forensic evidence to prove the nature of the species, digital evidence, documentary evidence, canine evidence, exhibits, call/phone records, exhibits (proof of killing), relevant licenses.

#### NOTES:

1. The Investigator should establish existence of an accidental killing report at commencement of investigations.
2. The Investigator should also confirm the absence of license/use right.

STATEMENT OF OFFENCE	Failure to report killing of a wild animal through accident or error to an officer contrary to Sections 59 (1) (3) and 70 of the Uganda Wildlife Act, 2019.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on <b>(insert date)</b> at <b>(insert location)</b> failed to report killing of a wild animal namely <b>(name the specific animal)</b> in through accident or error to an officer.

**Sections 60 (1) and 60 (2) Failure to capture/kill a wild animal upon wounding or failure to report wounding a wild animal**

**Penalty: Section 70**

**Fine not exceeding (350) three hundred and fifty currency points, imprisonment to a term not exceeding (10) ten years or both**

POINTS TO PROVE	ANCILLARY POWERS
Date and location of offence.	Section 72 Obliteration of devices.
Identity of the accused.	Sections 73, 74, 75 76 Forfeiture.
Wounding of a wild animal by the accused.	Section 78 Disposal of specimen and species by UWA.
Failing to kill/capture the wounded animal.	Section 81 Custody and notification of wildlife specimen/ species.
Failing to report wounding of a wild animal to an officer.	
That the accused wounded the wild animal.	

**EVIDENCE:**

**Likely to include but not limited to:** Eyewitness evidence, arresting officer, I.O., scene of crimes report, the expert report, forensic evidence to prove the nature of the species, digital evidence, documentary evidence, canine evidence, exhibits, call/phone records, exhibits.

STATEMENT OF OFFENCE	Failure to kill/capture of a wild animal upon wounding or failing to report wounding a wild animal contrary to Sections 60 (1) (2) and 70 of the Uganda Wildlife Act, 2019.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on <b>(insert date)</b> at <b>(insert location)</b> failed to capture/kill a wild animal upon wounding or failed to report wounding a wild animal namely <b>(specify the animal)</b> .



## Section 61 Failing to report wounding a dangerous animal to an officer

### Penalty: Section 70

(a) In the case of a first offence, fine of not exceeding (350) three hundred and fifty currency points or to a term of imprisonment not exceeding (10) ten years or both;

(b) In the case of a second or subsequent offence, fine not exceeding (500) five hundred currency points or to a term of imprisonment not exceeding (20) twenty years or both

POINTS TO PROVE	ANCILLARY POWERS
Date and location of offence. Identity of the accused. Identify the species AND that it is classified as 'dangerous'. That the accused wounded it and having failed to kill or capture it within 20 hours. The accused failed to report the wounding 'immediately' to an officer.	

#### EVIDENCE:

**Likely to include but not limited to:** Eyewitness evidence, possible expert evidence may necessary to prove the nature of the species, evidence from wildlife officers as to receipt of any report first account of the suspect will be key evidence. Weaponry used, forensic evidence and possibly map/sketch plan to show where the incident took place. Gazette Notice that the subject animal is a dangerous animal.

The timeline of reporting is not specified so a test of reasonableness will have to be applied in, for example, considering distances involved or ability of the suspect to communicate either through use of a mobile phones or other means.

#### NOTES:

1. If a person wounds a dangerous animal, he is required to kill it or capture the wounded dangerous animal within 20 hours.
2. Note that under this section, the offence is not wounding or killing a dangerous animal, the offence is the failure to report the said act to the relevant person.
3. "Dangerous animal" means an animal that has potential to cause injury, death and other hazards to a person, which the Minister in consultation with the Board, by notice in the Gazette, determines to be a dangerous animal.
4. It is important to note that the 'dangerous animal' must be gazetted as such in accordance with the law.
5. The requirement to inform the private landowner does not take away the liability to inform of an officer.

STATEMENT OF OFFENCE	Failure to report wounding a dangerous animal contrary to Section 61 (1) and Section 70 of the Uganda Wildlife Act, 2019.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on <b>(insert date)</b> at <b>(insert location)</b> having wounded a dangerous animal namely <b>(identify)</b> thereafter failed to report the wounding to an officer.



**Section 62 (2) (a) Imports/exports or re-exports/attempts to import/export/or re-export any species or specimen without a permit**

**Penalty: Section 62 (3)**

**A fine not exceeding (10,000) ten thousand currency points or to life imprisonment or both**

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offence.</p> <p>Identity of the accused.</p> <p>Identify the wildlife ‘specimen’ or ‘species’.</p> <p>That the accused imported, exported or re-exported or attempts to import, export or re-export that specimen/species.</p> <p>The accused did not have a permit.</p>	<p>Section 73 Forfeiture of anything used in connection with the offence. Where such an article is one where ownership requires registration e.g. a car.</p> <p>Section 75 Where ownership is unclear, the court should make a ‘conditional forfeiture order’ under Section 74. Likewise, for anything seized as a result of the offence under this act and the person responsible is unknown or cannot be found.</p> <p>Section 76 If an offence is committed as part of a process of ‘illegal trading’ accused can be required to disclose assets and can order forfeiture of profits.</p> <p>Court shall also order immediate surrender of the license, permit or certificate issued under this Act and associated with the offence. See Section 77.</p> <p>Section 78 Disposal of specimen and species by UWA.</p> <p>Section 81 Custody and notification of wildlife specimen/species.</p>
<p><b>EVIDENCE:</b></p> <p><b><i>Likely to include but not limited to:</i></b> Eyewitness evidence, civilian witnesses/trade facilitators, arresting officer, I.O. Scene of crimes photographs and the expert report by the crime scene officer, forensic evidence to prove the nature of the species, digital evidence, documentary evidence, canine evidence, exhibits, call/phone records, financial records and relevant cites permits/documents.</p>	

**NOTES:**

1. It is important that a parallel financial and tax investigation is carried out.
2. Unlike the other permits which are issued by Uganda Wildlife Authority, the permit required for purpose of Part X, Section 62 is issued by the CITES Management Authority on the advice of the CITES Scientific Authority and not – See Section 62 (1).
3. “CITES” means the Convention on International Trade in Endangered Species of Wild Flora and Fauna – See definition Section 1.
4. “CITES Management Authority” means an institution of Government designated as such in accordance with CITES – See definition Section 1.
5. “CITES Scientific Authority” means an institution of Government designated as such in accordance with CITES – See definition Section 1.

STATEMENT OF OFFENCE	Importation/exportation/re-exportation or attempted to import/export/re-export of a wildlife specimen/species <b>[delete as appropriate]</b> namely <b>(identify the nature of the species)</b> , without a permit contrary to Sections 63 (2) (a) and 63 (3) of the Uganda Wildlife Act, 2019.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on <b>(insert date)</b> at <b>(insert location)</b> imported/exported/re-exported/(or attempted to) <b>[insert/delete as appropriate]</b> a specimen/species [delete as appropriate] namely <b>(identify the species/specimen and quantity)</b> without a valid permit to so do.

**Section 62 (2) (b) Imports/ exports or re-exports/attempts to import/export/or re-export any species or specimen without passing through a designated customs post or port a permit**

**Penalty: Section 62 (3)**

**A fine not exceeding (10,000) ten thousand currency points or to life imprisonment or both**

POINTS TO PROVE	ANCILLARY POWERS
Date and location of offence. Identity of the accused. Identify the ‘specimen’ or ‘species’. That the accused imported, exported or re-exported that specimen/ species. He/she did so via a post or port that was not customs controlled.	Section 73 Forfeiture of anything used in connection with the offence. Where such an article is one where ownership requires registration e.g. a car.  Section 75 Where ownership is unclear, the court should make a ‘conditional forfeiture order’ under See Section 74. Likewise, for anything seized as a result of the offence under this act and the person responsible is unknown or cannot be found.  Section 76 If an offence is committed as part of a process of ‘illegal trading’ accused can be required to disclose assets and can order forfeiture of profits.  Section 77 Court shall also order immediate surrender of the license, permit or certificate issued under this Act and associated with the offence.  Section 78 Disposal of specimen and species by UWA.  Section 81 Custody and notification of wildlife specimen/species.

**EVIDENCE:**

**Likely to include but not limited to:** Likely to include but not limited to, eyewitness evidence, civilian witnesses/trade facilitators, arresting officer, I.O. Scene of crimes photographs and the expert report by the crime scene officer, forensic evidence to prove the nature of the species, digital evidence, documentary evidence, canine evidence, exhibits, call/phone records, financial records and relevant cites permits/documents.



**NOTES:**

1. "Species" means a population of individual organisms capable of mating with one another and producing fertile offspring in a natural setting and that share common and specialized characteristics from others.
2. "Specimen" means any wildlife, alive or dead, whether or not native to Uganda, and any part or derivative of such wildlife.

STATEMENT OF OFFENCE	Imported/exported/re-exported <b>[delete as appropriate]</b> a wildlife specimen/wildlife species <b>[delete as appropriate]</b> namely <b>(identify the nature of the specimen/species)</b> , passing through undesignated customs post or port contrary to Sections 63 (2) (b) and 63 (3) of the Uganda Wildlife Act, 2019.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on <b>(insert date)</b> at <b>(insert location)</b> imported/exported/re-exported/(or attempted to) <b>[insert/delete as appropriate]</b> a wildlife specimen/wildlife species <b>[delete as appropriate and identify the species and quantity]</b> passing through undesignated customs post or port.

**Section 63 (2) Contravention of additional restriction on import, export, re-export or transit of wildlife species or wildlife specimen**

**Penalty: Section 70**

**(a) In the case of a first offence, fine of not exceeding (350) three hundred and fifty currency points or to a term of imprisonment not exceeding (10) ten years or both;**

**(b) In the case of a second or subsequent offence, fine not exceeding (500) five hundred currency points or to a term of imprisonment not exceeding (20) twenty years or both**

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offence.</p> <p>Identity of the accused.</p> <p>Identify the ‘specimen’ or ‘species’.</p> <p>That the accused imported, exported or re-exported that specimen/species.</p> <p>That the accused breached additional restrictions on import/export or re-export/transit of the specimen/species.</p>	<p>Section 73 Forfeiture of anything used in connection with the offence. Where such an article is one where ownership requires registration e.g. a car.</p> <p>Section 75 Where ownership is unclear, the court should make a ‘conditional forfeiture order’ under Section 74. Likewise, for anything seized as a result of the offence under this act and the person responsible is unknown or cannot be found.</p> <p>Section 76 If an offence is committed as part of a process of ‘illegal trading’ accused can be required to disclose assets and can order forfeiture of profits.</p> <p>Section 77 Court shall also order immediate surrender of the license, permit or certificate issued under this Act and associated with the offence.</p> <p>Section 78 Disposal of specimen and species by UWA.</p> <p>Section 81 Custody and notification of wildlife specimen/species.</p>

**EVIDENCE:**

**Likely to include but not limited to:** Eyewitness evidence, civilian witnesses/trade facilitators, arresting officer, I.O. Scene of crimes photographs and the expert report by the crime scene officer, forensic evidence to prove the nature of the species, digital evidence, documentary evidence, canine evidence, exhibits, call/phone records, financial records and relevant cites permits/documents.



**NOTES:**

1. Carry out parallel financial and tax investigation.
2. The regulations imposing additional restrictions on import, export, re-export or transit of wildlife species or wildlife specimen are to be made by the Minister responsible for wildlife after consulting the Minister responsible for trade.

STATEMENT OF OFFENCE	Contravention of additional restrictions on importation/exportation/re-exportation/transit <b>[delete as appropriate]</b> of a wildlife specimen/wildlife species <b>[delete as appropriate]</b> namely <b>(identify the nature of the species)</b> , contrary to Section 63 (2) and Section 62 (3) of the Uganda Wildlife Act, 2019.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on <b>(insert date)</b> at <b>(insert location)</b> imported/exported/re-exported/sought to transit <b>[delete as appropriate]</b> a wildlife specimen/wildlife species <b>[delete as appropriate]</b> namely <b>(identify the species or specimen and quantity)</b> in breach of additional restrictions on importation/exportation/re-exportation/transit of wildlife species/specimen.

**Section 71 (1) (a) Taking, hunting, molesting or reducing into possession a protected specimen**

**Penalty: Section 71 (1)**

**A fine not exceeding (10,000) ten thousand currency points or to life imprisonment or both**

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offence.</p> <p>Identity of the accused.</p> <p>Identify the 'specimen' is classified as protected.</p> <p>Either: took, hunted, molested or reduced into possession a protected specimen.</p> <p>Without a permit.</p>	<p>Section 73 Forfeiture of anything used in connection with the offence. Where such an article is one where ownership requires registration e.g. a car.</p> <p>Section 75 Where ownership is unclear, the court should make a 'conditional forfeiture order' under Section 74. Likewise, for anything seized as a result of the offence under this act and the person responsible is unknown or cannot be found.</p> <p>Section 76 If an offence is committed as part of a process of 'illegal trading' accused, can be required to disclose assets and can order forfeiture of profits.</p> <p>Section 77 Court shall also order immediate surrender of the license, permit or certificate issued under this Act and associated with the offence.</p> <p>Section 78 Disposal of specimen and species by UWA.</p> <p>Section 81 Custody and notification of wildlife specimen/species.</p>

**EVIDENCE:**  
**Likely to include but not limited to:** Eyewitness evidence, civilian witnesses/trade facilitators, arresting officer, I.O. Scene of crimes photographs and the expert report by the crime scene officer, forensic evidence to prove the nature of the species, digital evidence, documentary evidence, canine evidence, exhibits, call/phone records, financial records.

**NOTES:**

1. The I.O. should establish existence of a permit at investigation stage through question of suspect and or verification with issuing authorities;
2. "Species" means a population of individual organisms capable of mating with one another and producing fertile offspring in a natural setting and that share common and specialized characteristics from others;
3. "Specimen" means any wildlife, alive or dead, whether or not native to Uganda, and any part or derivative of such wildlife;
4. Where the specimen in question is classified as extinct in the wild, critically endangered or endangered – the Penalty: A fine not exceeding one million currency points or life imprisonment or both.

STATEMENT OF OFFENCE	Took, Hunted, molested or reduced into possession <b>[delete as appropriate]</b> a protected specimen/ <b>[delete as appropriate]</b> namely <b>(identify the nature of the specimen/species)</b> , without a permit contrary to Section 71 (1) of the Uganda Wildlife Act, 2019.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on <b>(insert date)</b> at <b>(insert location)</b> Took, Hunted, molested or reduced into his/her possession <b>[insert/delete as appropriate]</b> a protected specimen <b>[delete as appropriate and identify the species and quantity]</b> without a valid permit.

## Section 71 (1) (b) Possession, selling, buying, transferring or accepting transfer of protected specimen

**Penalty: Section 71 (1)**

**A fine not exceeding (10,000) ten thousand currency points or to life imprisonment or both**

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offence.</p> <p>Identity of the accused.</p> <p>Identify the 'specimen' is classified as protected.</p> <p>Either; possessed, sold, bought, transferred or accepted transfer of protected specimen.</p> <p>Without a permit.</p>	<p>Section 75 Where ownership is unclear, the court should make a 'conditional forfeiture order' under Section 74. Likewise, for anything seized as a result of the offence under this act and the person responsible is unknown or cannot be found.</p> <p>Section 76 If an offence is committed as part of a process of 'illegal trading' accused, can be required to disclose assets and can order forfeiture of profits.</p> <p>Section 77 Court shall also order immediate surrender of the license, permit or certificate issued under this Act and associated with the offence.</p> <p>Section 78 Disposal of specimen and species by UWA.</p> <p>Section 81 Custody and notification of wildlife specimen/species.</p>

### EVIDENCE:

***Likely to include but not limited to:*** Eyewitness evidence, civilian witnesses/trade facilitators, arresting officer, I.O., scene of crimes photographs and the expert report by the crime scene officer, forensic evidence to prove the nature of the species, digital evidence, documentary evidence, canine evidence, exhibits, call/phone records, financial records.

### NOTES:

1. The I.O. should establish existence of a permit at investigation stage through question of suspect and or verification with issuing authorities.
2. The regulations imposing additional restrictions on import, export, re-export or transit of wildlife species or wildlife specimen are to be made by the Minister responsible for wildlife after consulting the Minister responsible for trade.
3. Possession is defined under Section 1 of the Uganda Wildlife Act, 2019.
4. Where the specimen referred in the above offences (71) is classified as extinct in the wild, critically endangered or endangered – the Penalty: A fine not exceeding one million currency points or life imprisonment or both.

STATEMENT OF OFFENCE	Possession/selling/buying/transferring or accepting transfer of <b>[delete as appropriate]</b> a protected specimen/ <b>[delete as appropriate]</b> namely <b>(identify the nature of the specimen/species)</b> , without a permit contrary to Section 71 (1) of the Uganda Wildlife Act, 2019.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on <b>(insert date)</b> at <b>(insert location)</b> possessed, sold, bought, transferred or accepted to transfer <b>[insert/delete as appropriate]</b> a protected specimen <b>[delete as appropriate and identify the species and quantity]</b> without a valid permit.

**Section 76 (2) Failing to comply with court order on disclosure of assets**

**Penalty: Section 76 (3)**

**Imprisonment term equivalent to the sentence relating to illegal trading in wildlife or wildlife specimen or not less than (3) three years whichever is longer**

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offence.</p> <p>Identity of the accused.</p> <p>Conviction and sentence on illegal trading in wildlife or wildlife specimen.</p> <p>Order to disclose assets of the convict.</p> <p>Failure to disclose or to disclose within time.</p> <p>False declaration of assets.</p> <p>Obstruction or causing another person to obstruct valuation of declared Assets, gathering of assets for disposal, sale or other disposal of assets or handing over of proceeds of sold assets or forfeited monies to UWA.</p>	<p>Section 75 Where ownership is unclear, the court should make a 'conditional forfeiture order' under Section 74. Likewise, for anything seized as a result of the offence under this act and the person responsible is unknown or cannot be found.</p> <p>Section 76 If an offence is committed as part of a process of 'illegal trading' accused, can be required to disclose assets and can order forfeiture of profits.</p> <p>Section 76 Order sale, valuation and handover of proceeds of sale of declared assets.</p> <p>Section 78 Disposal of specimen and species by UWA.</p> <p>Section 81 Custody and notification of wildlife specimen/species.</p>
<p><b>EVIDENCE:</b>  <b><i>Likely to include but not limited to:</i></b> Eyewitness evidence, civilian witnesses/trade facilitators, arresting officer, I.O., scene of crimes photographs and the expert report by the crime scene officer, forensic evidence to prove the nature of the species, digital evidence, documentary evidence, canine evidence, exhibits, call/phone records, financial records and court order regarding disclosure of assets.</p>	
<p><b>NOTES:</b></p> <ol style="list-style-type: none"> <li>1. Sentence of imprisonment under the above charge does not absolve the convict from disclosure of assets.</li> <li>2. The I.O. should carry out an investigation on the convicts' financial transactions, assets, tax compliance and matrix of communication.</li> </ol>	





# OFFENCES UNDER THE ANTI MONEY LAUNDERING ACT 2013

**Section 116 Prohibition of money laundering covering transport, possession, concealment etc.**

**Penalty: Section 136**

**(5) Five years maximum or fine up to (33,000) thirty-three thousand currency points or both**

**Different penalty applies if a ‘legal person’**

**See Notes below on penalty**

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offence.</p> <p>Identify of the accused.</p> <p>Identify the proceeds of crime e.g. the ivory.</p> <p>Defined in the preamble as ANY economic advantage including property obtained directly or indirectly from the committing of a crime, and includes property later successively converted, transformed or intermingled as well as income, capital or other economic gains derived from such property at any time after the committing of the crime.</p> <p>A ‘crime’ is defined in the Act as ‘a) any activity that is a crime, offence or violation under the laws of Uganda’.</p> <p>Under Section 5 of this Act, it is not necessary for the person to have been convicted of the crime generating the proceeds of money laundering.</p> <p>Proof of any of the following:</p> <ul style="list-style-type: none"><li>a) Converting/transfer/transport or transmission of that proceeds of crime.</li><li>b) Concealment or disguising (sic) that proceeds of crime.</li><li>c) Acquiring or possession (sic) of a proceeds of crime.</li><li>d) Assisting another person to benefit from a proceeds of crime.</li><li>e) Participating in, associating with, conspiring or attempting, aiding or abetting or facilitating the commission of any of the above.</li></ul>	<p>Section 44 Production Orders.</p> <p>Section 49 Search and seizure of documents.</p> <p>Section 56 Monitoring Orders (on financial transactions conducted by a person).</p> <p>Section 61 Search and seizure of ‘tainted property’ – definition includes property used in connection with the crime OR constituting the proceeds of a crime.</p> <p>Section 71 Restraint orders.</p> <p>Section 83 Confiscation orders.</p> <p>Section 86 Confiscation on conviction.</p> <p>Section 92 Pecuniary penalty order upon conviction.</p> <p>Extensive provisions for mutual legal assistance covered in Part VI.</p>



The penalty stipulated at Section 136 contains a drafting error. Section 3 AND Section 116 offer identical wording on offences of money laundering though Section 116 explicitly declares it 'an offence'. Section 136 goes on to stipulate the penalty for offences under Section 3 as being up to 15 years imprisonment and/or 200,000 currency points.

Section 136 (2) then goes to state that offences from 115 to 133 hold the lower penalty of up to 5 years imprisonment or up to 33,000 currency points. Accordingly, the identical criminality is punishable with a lesser sentence within the same law. Further Section 115 has NO offence contained therein and it may be that the provision should have referred to Section 117 and thereafter.

This will need amending; as it stands, the proposal is to resolve this in favour of the defendant and charge the provision that attracts the lower penalty, until the law is amended to give effect to the wishes of Parliament as indicated in the sentencing power under Section 136 (1).

Leaving that aside, possession of ivory could be prosecuted as possession of a proceeds of crime. **The involvement of the suspect in predicate offence e.g. hunting needs not be proved.** Charging under this Act is best reserved for those further up the criminal chain where early investigations are launched e.g. where commercial dealing or possession of wildlife is apparent and where it would be appropriate to invoke the financial investigation powers that are available under this Act.

The predicate offence to be indicated (though not necessarily proved) will have to be couched in terms of another offence under the UWA e.g. hunting or possibly the East Africa Community Customs Management Act 2004 e.g. export or import of a restricted good. Evidence as to origin of the trophy will likely be required.

# OFFENCES UNDER THE EAST AFRICAN COMMUNITY CUSTOMS MANAGEMENT ACT 2004 (AMENDED 2009)

Section 200 (a) (ii) Importation or carriage ‘coastwise’ of a ‘restricted good’  Penalty: Section 200  Maximum term: (5) Five years imprisonment and/or fine of 50% of the dutiable value of the goods	
POINTS TO PROVE	ANCILLARY POWERS
Date and location of offence. Identity of the accused. Identify the ‘goods’. The nature of the goods falls within the categories of ‘restricted’ goods under Schedule 2 Part B of the Act. This includes ivory, horn, and other animal products/trophies. That the accused imported the item into Uganda or was carrying it ‘coastwise’. Contrary to conditions regulating the same. Note: he/she does not have to ‘unload’ the item.	Section 11 Forfeiture of anything used in connection with the offence.
<b>EVIDENCE:</b> <i>Likely to include but not limited to:</i> Eyewitness evidence, possible expert evidence may be necessary to prove the nature of the item. Statement from customs as to any representation made by the defendant.  Ivory/animal trophies fall under the schedule relating to ‘restricted’ goods, not ‘prohibited’ goods. Note the lower penalty as compared with the Wildlife Act – See Sections 66, 67 and 76.	

CHARGE COUNT ONE	Import/coastwise carriage <b>[Delete as appropriate]</b> of restricted goods contrary to Section 200 (a) (ii) of the East African Community Customs Management Act 2004 as amended.
PARTICULARS OF OFFENCE	<b>(Name of Accused(s))</b> on or about the <b>(date)</b> , at <b>(location)</b> , imported/ carried along the coast of Uganda, restricted goods, namely <b>(describe the goods)</b> contrary to conditions relating to their importation/carriage <b>[delete as appropriate]</b> .

**Section 200 (d) (ii) Acquiring, possessing, concealing, procuring to be kept or concealed a 'restricted good'**

**Penalty: Section 200**

**Maximum term: (5) Five years imprisonment and/or fine of 50% of the dutiable value of the goods**

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offence.</p> <p>Identify the 'goods'.</p> <p>The nature of the goods falls within the categories of 'restricted' goods under Schedule 2 Part B of the Act. This includes ivory, horn, and other animal products/trophies.</p> <p>That the accused had these items in his/her possession or had concealed them in any way or had procured another to keep or conceal them.</p> <p>AND</p> <p>That he/she knew or reasonably ought to have known that it was a 'restricted good' AND that restricted good had been imported/carried coastwise contrary to regulations.</p>	<p>Section 211 Forfeiture of anything used in connection with the offence.</p>

**EVIDENCE:**

**Likely to include but not limited to:** Eyewitness evidence, possible expert evidence may be necessary to prove the nature of the item. Statement from customs as to any representation made by the accused. Proximity of the accused to the act of importation/carriage will be important in establishing his knowledge or reasonable knowledge as to importation contrary to regulation.

Ivory/animal trophies fall under the schedule relating to 'restricted' goods, not 'prohibited' goods. Note the lower penalty as compared with the Wildlife Act – See Sections 66, 67 and 76.

CHARGE COUNT ONE	Acquiring/possessing/concealing/procuring the keeping or concealing <b>[Delete as appropriate]</b> of restricted goods contrary to Section 200 (d) (ii) of the East African Community Customs Management Act 2004 as amended.
PARTICULARS OF OFFENCE	<b>(Name of Accused(s))</b> on or about the <b>(date)</b> , at <b>(location)</b> , acquired/possessed/concealed/procured the keeping of/concealment [delete as appropriate] of a restricted good namely <b>(identify the goods)</b> knowing or having reasonable cause to believe that it was a restricted good that had been imported into Uganda/carried along the coast of Uganda <b>[delete as appropriate]</b> contrary to regulations.

**Section 202 Importation or exportation of ANY goods that have been concealed in ANY way**

**Penalty: Section 202**

**Maximum term: (5) Five years imprisonment and/or fine of 50% of the dutiable value of the goods**

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offence.</p> <p>Identity of the accused.</p> <p>Identify the 'goods'.</p> <p>That the accused imported or was in the process of 'exporting' said goods.</p> <p>The items were</p> <p>a) Concealed or</p> <p>b) Packaged.</p> <p>In a way 'likely to deceive any (customs) officer' or</p> <p>c) The description given in the entry or application for shipment does not correspond with the goods.</p>	<p>Section 211 Forfeiture of anything used in connection with the offence.</p>
<p><b>EVIDENCE:</b></p> <p><b>Likely to include but not limited to:</b> Eyewitness evidence, possible expert evidence may necessary to prove the nature of the item. Statement from customs as to any representation made by the defendant. Documentary evidence relating to shipment, cargo or entry will be vital.</p> <p>Ideally photographs of the way in which the specimen or trophy was packaged and labelled should be produced.</p>	

CHARGE COUNT ONE	Export/import of restricted or prohibited goods in a concealed manner contrary to Section 202 ( <b>select to use sub-section a, b or c depending on the facts of the case</b> ).
PARTICULARS OF OFFENCE	<b>(Name of Accused(s))</b> on or about the <b>(date)</b> , at <b>(location)</b> , imported/exported goods, namely <b>(describe the goods)</b> which were concealed/ packaged in a manner likely to deceive a customs officer/did not correspond to the entry or application for shipment [ <b>delete as appropriate depending on which sub-section selected</b> ].

## Section 203 (a) (b) (c) False entries/declarations/fraud in relation to customs

### Penalty: Section 203

**Maximum term: (3) Three years imprisonment and/or fine of up to USD (10,000) ten thousand dollars**

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offence.</p> <p>Identity of the accused.</p> <p>The accused:</p> <ul style="list-style-type: none"> <li>a) Made an entry AND that entry was false or incorrect AND that he knew that entry was false or incorrect; or</li> <li>b) Made a declaration or a written representation that was false AND he/she knew that was so; or</li> <li>c) Refused to answer a question to an officer when required by law under this Act OR knowingly made a false or incorrect statement to said officer.</li> </ul>	<p>Section 211 Forfeiture of anything used in connection with the offence.</p>

#### EVIDENCE:

**Likely to include but not limited to:** Eyewitness evidence, possible expert evidence may necessary to prove any written representation was in fact made by the suspect. Statement from customs as to any representation made by the defendant. This is the offence to use when addressing criminality in import/export agents, handlers and customs officials.

CHARGE COUNT ONE	Making a false entry contrary to Section 203 (a) of East Africa Community Customs Management Act 2004.
PARTICULARS OF OFFENCE	<b>(Name of Accused(s))</b> on or about the <b>(date)</b> , at <b>(location)</b> , knowingly made a false entry in relation to a Customs matter, namely <b>(particulars)</b> .

CHARGE COUNT ONE	Making or causing to be made a false declaration, certificate, application or document <b>(specify which)</b> contrary to Section 203 (b) of East Africa Community Customs Management Act 2004.
PARTICULARS OF OFFENCE	<b>(Name of Accused(s))</b> on or about the <b>(date)</b> , at <b>(location)</b> , made/caused to be made a declaration/certificate/application/document <b>[delete as appropriate]</b> relating to a matter concerning customs, knowing it to be false/incorrect <b>[delete as appropriate]</b> .

CHARGE COUNT ONE	Making a false statement to a customs officer/failing to give information to customs officer <b>[delete as appropriate]</b> , contrary to Section 203 (c) of East Africa Community Customs Management Act 2004.
PARTICULARS OF OFFENCE	<b>(Name of Accused(s))</b> on or about the <b>(date)</b> , at <b>(location)</b> , when required to answer a question put to him/her by an officer exercising his duties under this Act, made a statement knowing that statement to be false namely <b>(give particulars)</b> OR refused to answer without reasonable excuse or lawful authority <b>[delete as appropriate]</b> .





OFFENCES UNDER THE FIREARMS ACT CAP 299

Section 3 Possession of a firearm without a valid certificate

Penalty maximum term: (10) Ten years imprisonment and/or fine up to (20,000) twenty thousand shillings

Section 25 Possession of ammunition/certain types of weapons without authorisation.

Penalty maximum term: (5) Five years imprisonment and/or fine up to (20,000) twenty thousand shillings

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offence.</p> <p>Identify of the accused.</p> <p>A <b>‘firearm’</b> is defined as: any barrelled weapon (other than an imitation firearm) from which any shot, bullet or other missile capable of causing injury can be discharged, adapted for the discharge of any such shot, bullet or other missile, and any weapon of whatever description designed or adapted for the discharge of any noxious liquid, gas or other thing dangerous to human beings, and includes any component part of any such weapon as aforesaid and any accessory to any such weapon designed or adapted to eliminate or diminish the noise or flash caused by firing any such weapon, but does not include any antique firearm which has been rendered incapable of use as a firearm.</p> <p><b>“Ammunition”</b> “includes grenades, bombs and other like missiles and cartridges blank, tracer, explosive, incendiary, observing or signalling cartridges and any ammunition containing or designed or adapted to contain shot, bullet or any noxious liquid, gas or other thing whether capable of use with a firearm or not.</p> <p><b>“Possession”</b> is defined within the Act (Section 40) as including: actual physical possession; any act, circumstance or state which, under any law for the time being in force in Uganda, would constitute constructive possession; or the placing or keeping or causing or permitting the keeping of a firearm or ammunition in any house, building, lodging, room or place whether open or enclosed, whether the person so placing or keeping occupies the house, building, lodging or place or not or whether or not the person so placing or keeping does so for his or her own use or benefit or for the use or benefit of any other person.</p>	<p>Section 33 Forfeiture of the weapon upon conviction.</p> <p>For police officers only:</p> <p>Section 34 Search and seizure.</p> <p>Section 35 Power to inspect premises.</p> <p>Section 37 Arrest without warrant.</p>



**EVIDENCE:**

**Likely to include but not limited to:** Eyewitness evidence; possible expert evidence regarding the nature of the firearm/weapon/ammunition. Evidence of arresting officer and where multiple suspects are involved, evidence regarding 'constructive possession' and 'joint enterprise' will be vital.

CHARGE COUNT ONE	Being in possession of firearm without a valid firearm certificate contrary to Section 3 of the Firearms Act Cap 299.
PARTICULARS OF OFFENCE	<b>(Name of Accused(s))</b> on or about the <b>(date)</b> , at <b>(location)</b> , was found in possession of <b>(description of firearm)</b> without a valid firearm certificate
CHARGE COUNT ONE	Being in possession of ammunition without authorization certificate contrary to Section 25 of the Firearms Act Cap 299.
PARTICULARS OF OFFENCE	<b>(Name of Accused(s))</b> on or about the <b>(date)</b> , at <b>(location)</b> , was found in possession of <b>(description of ammunition and quantity)</b> without authorization.



# OFFENCES UNDER THE NATIONAL FORESTRY AND TREE PLANTING ACT 2003

## Section 14 Prohibited Activities in Forest Reserves

e.g. Illegal logging/removal of firewood, trees and plants (see notes below)

Penalty: Section 14

Maximum term: (50) fifty currency points and/or Maximum (5) five years imprisonment

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offence.</p> <p>Identity of the accused.</p> <p>That the area is a 'forest reserve' i.e. declared to be a central or local forest reserve under this Act.</p> <p>The accused cut, disturbed, damaged, burned or destroyed any forest produce OR</p> <p>The accused removed any forest produce.</p> <p>And he/she had no authorisation to so do OR, if acting under a license issued under the Act, breached the conditions, regulations or guidelines made for the proper management of the reserve.</p> <p>Forest produce is defined as: anything which grows in a forest and includes trees, timber, firewood, poles, slabs, branch wood, wattle, roots, withes, sawdust, charcoal, bark, fibres, resins, gum, wood oil, latex, leaves, flowers, fruits, seeds, honey, mushrooms, grass, orchids, climbers, creepers, wood ash, litter, soil, and finally, stone, gravel, clay, sand occurring naturally within the forest and which is not a mineral within the Mining Act.</p>	<p>Section 84 Forfeiture of produce, vehicle, machinery, weapon or any other thing used in the commission of the offence.</p> <p>Section 85 Court may order compensation to the State for any loss or damage up to five (5) times the value of the produce OR up to ten (10) times the amount of any fees, royalties or other payments that would have been due had the suspect sought authorisation.</p> <p>Section 86 Cancellation of a license and disqualification from obtaining a license for such period 'as the court thinks fit'.</p> <p>Section 87 Court can order the suspect to do any act that he/she has failed to do if the suspect has been using the land, to clear, vacate, restore the land or remove livestock, buildings, enclosures, crops that the suspect has put there.</p>

**EVIDENCE:**

**Likely to include but not limited to:** Eyewitness evidence, statement from UWA officer OR an officer from the National Forestry Authority confirming the status of the area as a ‘forest reserve’, exhibits officers, arresting officer, I.O. re: interviews, photographs.

**NOTE:**

Under Section 33, a member of a local community can cut and take free of any charge or fee, in reasonable quantities, any dry wood or bamboo from a forest reserve or a community reserve **BUT this must be subject to a management plan.** Accordingly, when faced with such a scenario, the OIC must first confirm whether a management plan exists in relation to that reserve before charging the case; further, the quantity of felled wood must to be carefully documented in order to assert that it was not for domestic use. Further, see the offence provided under Section 32 and Section 43 of the Act.

CHARGE COUNT ONE	Conducting a prohibited activity within a forest reserve, contrary to Section 14 of the National Forestry and Tree Planting Act 2003.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> being a forest reserve, cut, disturbed, damaged, burned, destroyed, removed <b>[delete as appropriate]</b> forest produce, namely a <b>(identify the plant/produce and quantity if appropriate)</b> without lawful authority or reasonable excuse OR in breach of regulations or guidance issued in relation the proper management of the reserve <b>[delete as appropriate]</b> .

## Section 31 (4) Offences in relation to protected trees ON PRIVATE LAND

### Penalty: Section 31

**Maximum term: (30) thirty currency points and/or Maximum (3) three years imprisonment**

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offence.</p> <p>Identity of the accused.</p> <p>That the trees or group of trees were declared 'protected trees' by the Minister or District Council by statutory order under Section 31.</p> <p>The accused cut, disturbed, damaged, destroyed or removed any protected tree.</p> <p>Absence of written consent from the Minister or the District Council.</p>	<p>Section 84 Forfeiture of produce, vehicle, machinery, weapon or any other thing used in the commission of the offence.</p> <p>Section 85 Court may order compensation to the State for any loss or damage up to five (5) times the value of the produce OR up to ten (10) times the amount of any fees, royalties or other payments that would have been due had the suspect sought authorisation.</p> <p>Section 86 Cancellation of a license and disqualification from obtaining a license for such period 'as the court thinks fit'.</p> <p>Section 87 Court can order the accused to do any act that he/she has failed to do if the accused has been using the land, to clear, vacate, restore the land or to remove livestock, buildings, enclosures, crops that the accused has put there.</p>

### EVIDENCE:

**Likely to include but not limited to:** Eyewitness evidence, statement from UWA officer or an officer from the National Forestry Authority confirming the status of the tree or trees as 'protected trees' under this Act; statement from the Minister or the District Council confirming the suspect did not have authorisation in relation to those trees. Suspect's statement.

CHARGE COUNT ONE	Damaging/destroying/removing a protected tree, contrary to Section 31 (4) of the National Forestry and Tree Planting Act 2003.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> cut, disturbed, damaged, destroyed, removed <b>[delete as appropriate]</b> a protected tree(s) namely <b>(identify the species of tree - and quantity if appropriate)</b> without lawful authority.

Section 32 (1) Prohibited activities in a forest reserve or community forest

Penalty: Section 32 (2)

Maximum term: (30) thirty currency points and/or Maximum (3) three years imprisonment

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offence.</p> <p>Identity of the accused.</p> <p>That the area is a 'forest reserve' or 'community reserve' as declared in accordance with the Act.</p> <p>The accused cut, took, worked or removed forest produce from within that area Section 32 (1) (a) OR</p> <p>The accused cleared or occupied land that within that reserve to:</p> <p>Section 32 (1) (b) i) graze cattle, ii) camp iii) farm livestock iv) plant or cultivate crops v) erect a building or enclosure vi) for recreational, commercial, residential, industrial or hunting purposes;</p> <p>Section 32 (1) (c) collect biotic or abiotic specimens or;</p> <p>Section 32 (1) (d) construct or reopen a road, track, bridge, airstrip or landing site.</p> <p>Absence of license or management plan governing those activities.</p>	<p><b>NOTE: THIS IS REPEATED AT SECTION 43.</b></p> <p>Section 84 Forfeiture of produce, vehicle, machinery, weapon or any other thing used in the commission of the offence.</p> <p>Section 85 Court may order compensation to the State for any loss or damage up to five (5) times the value of the produce OR up to ten (10) times the amount of any fees, royalties or other payments that would have been due had the suspect sought authorisation.</p> <p>Section 86 Cancellation of a license and disqualification from obtaining a license for such period 'as the court thinks fit'.</p> <p>Section 87 Court can order the accused to do any act that he/she has failed to do if the accused has been using the land, to clear, vacate, restore the land or remove livestock, buildings, enclosures, crops that the accused has put there.</p>
<p><b>EVIDENCE:</b></p> <p><b>Likely to include but not limited to:</b> Eyewitness evidence, statement from UWA officer or an officer from the National Forestry Authority (NFA) confirming the status of the area as a forest reserve or community reserve; statement from the NFA confirming the suspect did not have authorisation or a management plan. Suspect's statement under caution.</p> <p>The absence of a corporate responsibility clause may make for harsh consequences for the labourer caught in the act of clearing land for commercial purposes. However, given the prevalence of illegal logging, it is still in the public interest to pursue a prosecution.</p>	

CHARGE COUNT ONE	Conducting a prohibited activity in a forest or community reserve, contrary to Section 32 of the National Forestry and Tree Planting Act 2003.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> being a forest reserve/community reserve <b>[delete as appropriate]</b> carried out an activity without a permit to so do/management plan to so do <b>[delete as appropriate]</b> namely <b>(insert one or more of the options set out in Section 32 (1) (a) to (d))</b> .

<div>Section 34 (1) Causing damage within a forest reserve</div> <div>Penalty: Section 34 (2)</div> <div>Maximum term: (10) ten currency points and/or Maximum (2) two years imprisonment</div>	
POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offence.</p> <p>Identity of the accused.</p> <p>That the area is a 'forest reserve' as declared in accordance with the Act.</p> <p>The accused was involved in cutting, working, harvesting, removing or taking forest produce from that reserve (see note below)</p> <p>AND</p> <p>The accused failed to take reasonable and necessary precautions to prevent damage to other forest produce or to the environment.</p>	<p>Section 84 Forfeiture of produce, vehicle, machinery, weapon or any other thing used in the commission of the offence.</p> <p>Section 85 Court may order compensation to the State for any loss or damage up to five (5) times the value of the produce OR up to ten (10) times the amount of any fees, royalties or other payments that would have been due had the suspect sought authorisation.</p> <p>Section 86 Cancellation of a license and disqualification from obtaining a license for such period 'as the court thinks fit'.</p> <p>Section 87 Court can order the accused to do any act that he/she has failed to do if the accused has been using the land, to clear, vacate, restore the land or remove livestock, buildings, enclosures, crops that the accused has put there.</p>
<div>EVIDENCE:</div> <div><i>Likely to include but not limited to:</i> Eyewitness evidence, statement from UWA officer or an officer from the National Forestry Authority confirming the status of the area as a forest reserve or community reserve, eyewitness testimony, photographs, suspect's answers upon arrest and interview.</div>	
<div>NOTE:</div> <div>This offence is aimed at those who are lawfully conducting activities within a forest reserve but cause damage or conduct themselves in a way that clearly presents a risk of damage.</div>	

CHARGE COUNT ONE	Causing damage within a forest area, contrary to Section 34 of the National Forestry and Tree Planting Act 2003.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> , that being a forest reserve, whilst carrying out an activity namely cutting, working, harvesting, removing, taking <b>[delete as appropriate]</b> forest produce namely <b>(identify the produce)</b> caused damage/failed to take reasonable precautions to prevent damage <b>[delete as appropriate]</b> to other forest produce and/or the environment.



## Section 35 Causing fire in a forest

### Penalty: Section 35 (2)

**Maximum term: (7) Seven years imprisonment – no option of a fine**

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offence.</p> <p>Identity of the accused.</p> <p>That the area is a 'forest' i.e. any area of land containing vegetation association that is predominantly composed of trees of any size and includes a forest defined under this Act, a natural forest, woodland or plantation, forest produce in a forest and the forest ecosystem.</p> <p>The accused lit a fire or caused a fire to be lit.</p> <p>The location of the fire was not established for that purpose OR he/she had no authority to light that fire.</p>	<p>Section 84 Forfeiture of produce, vehicle, machinery, weapon or any other thing used in the commission of the offence.</p> <p>Section 85 Court may order compensation to the State for any loss or damage up to five times the value of the produce OR up to ten times the amount of any fees, royalties or other payments that would have been due had the suspect sought authorisation.</p> <p>Section 86 Cancellation of a license and disqualification from obtaining a license for such period 'as the court thinks fit'.</p> <p>Section 87 Court can order the accused to do any act that he has failed to do if the accused has been using the land, to clear, vacate, restore the land or remove livestock, buildings, enclosures, crops that the accused has put there.</p>

#### EVIDENCE:

Likely to include but not limited to: Eyewitness evidence, statement from UWA officer or an officer from the National Forestry Authority the absence of authority and that the area of the fire was not an area established for the making of fires, eyewitness testimony, photographs, suspect's answers upon arrest and interview.

CHARGE COUNT ONE	Causing fire within a forest, contrary to Section 35 of the National Forestry and Tree Planting Act 2003.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> being a forest, lit or caused to be lit, a fire therein without authority.

## Section 44 Export of timber without a license

### Penalty: Section 44 (2)

**Maximum term: (30) thirty currency points and/or Maximum (3) three years imprisonment**

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offence.</p> <p>Identity of the accused.</p> <p>Identify the timber and quantity.</p> <p>That the accused exported or attempted to export that timber.</p> <p>He/she had no license to so do.</p>	<p>Section 84 Forfeiture of produce, vehicle, machinery, weapon or any other thing used in the commission of the offence.</p> <p>Section 85 Court may order compensation to the State for any loss or damage up to five times the value of the produce OR up to ten times the amount of any fees, royalties or other payments that would have been due had the suspect sought authorisation.</p> <p>Section 86 Cancellation of a license and disqualification from obtaining a license for such period 'as the court thinks fit'.</p> <p>Section 87 Court can order the accused to do any act that he/she has failed to do if the accused has been using the land, to clear, vacate, restore the land or remove livestock, buildings, enclosures, crops that the accused has put there.</p>

#### EVIDENCE:

***Likely to include but not limited to:*** Eyewitness evidence, statement from UWA officer or an officer from the National Forestry Authority the absence of authority, likely customs and excise involvement necessary, eyewitness testimony, photographs, suspect's answers upon arrest and interview.

CHARGE COUNT ONE	Exporting/attempting to export <b>[delete as appropriate]</b> timber, without a license, contrary to Section 44 of the National Forestry and Tree Planting Act 2003.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> exported/attempted to export <b>[delete as appropriate]</b> a quantity of timber namely <b>(specify quantity and type)</b> without a license.

## Section 81 (a) Contravening a license issued under this Act

### Penalty: Section 81

**Maximum term: (40) forty currency points and/or Maximum (5) five years imprisonment**

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offence.</p> <p>Identity of the accused.</p> <p>That the accused had a license granted under this Act.</p> <p>That the accused breached the terms of the license.</p>	<p>Section 84 Forfeiture of produce, vehicle, machinery, weapon or any other thing used in the commission of the offence.</p> <p>Section 85 Court may order compensation to the State for any loss or damage up to five times the value of the produce OR up to ten times the amount of any fees, royalties or other payments that would have been due had the suspect sought authorisation.</p> <p>Section 86 Cancellation of a license and disqualification from obtaining a license for such period 'as the court thinks fit'.</p> <p>Section 87 Court can order the accused to do any act that he/she has failed to do if the accused has been using the land, to clear, vacate, restore the land or remove livestock, buildings, enclosures, crops that the accused has put there.</p>

#### EVIDENCE:

**Likely to include but not limited to:** Eyewitness evidence, statement from UWA officer or an officer from the National Forestry Authority regarding the issue of the license and the terms therein. Eyewitness testimony, photographs, suspect's answers upon arrest and interview. The exact nature of the breach must be identified and supported by evidence.

CHARGE COUNT ONE	Contravening a Forestry license, contrary to Section 81 (1) of the National Forestry and Tree Planting Act 2003.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> being in possession of valid license issued under the National Forestry and Tree Planting Act 2003, breached the terms of that license in that he/she <b>(specify the particulars of the breach)</b> .

## Section 81 (b) Interference or damage to a forest boundary

### Penalty: Section 81

**Maximum term: (40) forty currency points and /or Maximum (5) five years imprisonment**

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offence.</p> <p>Identity of the accused.</p> <p>Identify the location of a boundary mark of the forest concerned.</p> <p>Identify the nature/type of boundary mark.</p> <p>That the accused altered, moved, destroyed or defaced that boundary mark.</p> <p>That he/she had no authority to so do.</p>	<p>Section 84 Forfeiture of produce, vehicle, machinery, weapon or any other thing used in the commission of the offence.</p> <p>Section 85 Court may order compensation to the State for any loss or damage up to five (5) times the value of the produce OR up to ten (10) times the amount of any fees, royalties or other payments that would have been due had the suspect sought authorisation.</p> <p>Section 86 Cancellation of a license and disqualification from obtaining a license for such period 'as the court thinks fit'.</p> <p>Section 87 Court can order the accused to do any act that he/she has failed to do if the accused has been using the land, to clear, vacate, restore the land or remove livestock, buildings, enclosures, crops that the accused has put there.</p>

#### EVIDENCE:

**Likely to include but not limited to:** Eyewitness evidence, statement from UWA officer or an officer from the National Forestry Authority regarding the boundary, it is possible an independent surveyor may be required to ascertain the boundary but consider if the evidence from UWA/NFA officer sufficiently addresses this and whether the accused disputes the boundary mark. Photographic evidence of the mark and any damage, original records of where it was may need to be exhibited in order to show that it has been moved or altered. Eyewitness testimony, photographs, suspect's answers upon arrest and interview.

CHARGE COUNT ONE	Interference with a forest boundary mark, contrary to Section 81 (b) of the National Forestry and Tree Planting Act 2003.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> altered, moved, destroyed, defaced <b>[delete as appropriate]</b> a boundary mark of a forest without lawful authority.

## Section 81 (c) Failing to manage, maintain or control a forest

### Penalty: Section 81

**Maximum term: (40) forty currency points and/ or Maximum (5) five years imprisonment**

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offence.</p> <p>Identity of the accused.</p> <p>That the accused had a duty to maintain manage or control a forest as required under the Act.</p> <p>(specify the way in which this duty has arisen e.g. through a management plan or license).</p> <p>That the suspect failed to maintain/manage or control the forest in accordance with that duty.</p>	<p>Section 84 Forfeiture of produce, vehicle, machinery, weapon or any other thing used in the commission of the offence.</p> <p>Section 85 Court may order compensation to the State for any loss or damage up to five (5) times the value of the produce OR up to ten (10) times the amount of any fees, royalties or other payments that would have been due had the suspect sought authorisation.</p> <p>Section 86 Cancellation of a license and disqualification from obtaining a license for such period 'as the court thinks fit'.</p> <p>Section 87 Court can order the accused to do any act that he/she has failed to do if the accused has been using the land, to clear, vacate, restore the land or remove livestock, buildings, enclosures, crops that the accused has put there.</p>

#### EVIDENCE:

**Likely to include but not limited to:** Eyewitness evidence, statement from UWA officer or an officer from the National Forestry Authority regarding the issue of the license and the terms therein, eyewitness testimony, photographs, suspect's answers upon arrest and interview. The exact nature of the failure must be identified and supported by evidence.

CHARGE COUNT ONE	Failing to manage, maintain or control a forest, contrary to Section 81 (c) of the National Forestry and Tree Planting Act 2003.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> having a duty to manage, maintain or control a forest as required under National Forestry and Tree Planting Act 2003, failed to so do in that <b>(specify the nature of the breach e.g. through act or failure to act)</b> .

Section 81 (d) Failing to comply with a forest management plan	
Penalty: Section 81	
Maximum term: (40) forty currency points and or Maximum (5) five years	
POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offence.</p> <p>Identity of the accused.</p> <p>That there was a management plan in respect of the location in question, issued under this Act.</p> <p>That the accused failed to comply with that management plan.</p>	<p>Section 84 Forfeiture of produce, vehicle, machinery, weapon or any other thing used in the commission of the offence.</p> <p>Section 85 Court may order compensation to the State for any loss or damage up to five (5) times the value of the produce OR up to ten (10) times the amount of any fees, royalties or other payments that would have been due had the suspect sought authorisation.</p> <p>Section 86 Cancellation of a license and disqualification from obtaining a license for such period ‘as the court thinks fit’.</p> <p>Section 87 Court can order the accused to do any act that he/she has failed to do if the accused has been using the land, to clear, vacate, restore the land or remove livestock, buildings, enclosures, crops that the accused has put there.</p>
<b>EVIDENCE:</b> <i><b>Likely to include but not limited to:</b></i> Eyewitness evidence, statement from UWA officer or an officer from the National Forestry Authority regarding the issue of the management plan and the terms therein. Suspect knowledge of the management plan may be in issue and so proof of involvement in the development of the plan, agreement etc may be required. Eyewitness testimony, photographs, suspect’s answers upon arrest and interview. The exact nature of the failure must be identified and supported by evidence.	

CHARGE COUNT ONE	Failing to comply with a Forest Management Plan, contrary to Section 81 (d) of the National Forestry and Tree Planting Act 2003.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> failed to comply with a Forest Management Plan in that he/she <b>(specify particulars of the breach)</b> .

## Section 81 (e) Failing to plant trees in accordance with the Act

### Penalty: Section 81

**Maximum term: (40) forty currency points and/or Maximum (5) five years imprisonment**

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offence.</p> <p>Identity of the accused.</p> <p>That the accused was under a duty to plant trees under the Act.</p> <p>That the accused failed to so do or did so unlawfully/otherwise than in accordance with his obligations under the Act.</p>	<p>Section 84 Forfeiture of produce, vehicle, machinery, weapon or any other thing used in the commission of the offence.</p> <p>Section 85 Court may order compensation to the State for any loss or damage up to five (5) times the value of the produce OR up to ten (10) times the amount of any fees, royalties or other payments that would have been due had the suspect sought authorisation.</p> <p>Section 86 Cancellation of a license and disqualification from obtaining a license for such period 'as the court thinks fit'.</p> <p>Section 87 Court can order the accused to do any act that he/she has failed to do if the accused has been using the land, to clear, vacate, restore the land or remove livestock, buildings, enclosures, crops that the accused has put there.</p>

### EVIDENCE:

**Likely to include but not limited to:** Eyewitness evidence, statement from UWA officer or an officer from the National Forestry Authority regarding the requirement to plant trees and how the suspect is subject to that duty. Suspect knowledge of the same may be in issue. Eyewitness testimony, photographs, suspect's answers upon arrest and interview.

CHARGE COUNT ONE	Failing to plant trees in accordance with the National Forestry and Tree Planting Act 2003, contrary to Section 81 (d) of the National Forestry and Tree Planting Act 2003.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> being under an obligation under the National Forestry and Tree Planting Act 2003 to plant trees at that location, failed to so do.

**Section 81 (f) Failing to comply with the order of an authorised person**

**Penalty: Section 81**

**Maximum term: (40) forty currency points and/or Maximum (5) five years imprisonment**

**See also Section 89 for OBSTRUCTION of an authorised officer**

**Penalty: Section 89**

**Maximum term: (30) thirty currency points and/or Maximum (3) three years imprisonment**

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offence.</p> <p>Identity of the suspect.</p> <p>That an authorised person issued an order to the suspect in compliance with their duties under this Act.</p> <p>If that order was issued in writing, proof of service.</p> <p>That the suspect failed to comply</p> <p>‘Authorised person’ means a forestry officer, an honorary forestry officer, a wildlife protection officer, police officer or any other person designated as such by the Minister under Section 51.</p> <p>Note: the statement of the officer should include details as how he identified him/herself as an officer in advance of issuing the order.</p>	<p>Section 84 Forfeiture of produce, vehicle, machinery, weapon or any other thing used in the commission of the offence.</p> <p>Section 85 Court may order compensation to the State for any loss or damage up to five (5) times the value of the produce OR up to ten (10) times the amount of any fees, royalties or other payments that would have been due had the suspect sought authorisation.</p> <p>Section 86 Cancellation of a license and disqualification from obtaining a license for such period ‘as the court thinks fit’.</p> <p>Section 87 Court can order the accused to do any act that he/she has failed to do if the accused has been using the land, to clear, vacate, restore the land or remove livestock, buildings, enclosures, crops that the accused has put there.</p>

**EVIDENCE:**

**Likely to include but not limited to:** Eyewitness evidence, statement from officer regarding the order issued and circumstances surrounding it. Suspect knowledge of the same may be in issue. Eyewitness testimony, photographs, suspect’s answers upon arrest and interview.

CHARGE COUNT ONE	Failing to comply with an order of an authorised person, contrary to Section 81 (e) of the National Forestry and Tree Planting Act 2003.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> having been issued with an order to <b>(specify the terms of the order)</b> from an authorised person, namely <b>(identify the officer)</b> , failed to comply with the said order.



CHARGE COUNT ONE	Obstructing an authorised person, contrary to Section 89 of the National Forestry and Tree Planting Act 2003.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> obstructed an authorised officer namely <b>(identify that officer)</b> acting in the execution of his/her duties.

## Section 82 Fraud in relation to a forestry license

### Penalty: Section 82

**Maximum term: (5) Five years imprisonment - no option of a fine**

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offence.</p> <p>Identity of the accused.</p> <p>That the accused either:</p> <ol style="list-style-type: none"> <li>Counterfeited or issued without due authority, a license under this Act OR</li> <li>Is found in possession of a license AND that license was issued fraudulently AND the accused knew or had reasonable cause to believe it was fraudulently issued;</li> <li>Submits information in an application for a license under this Act AND he/she knew that information was false;</li> <li>Counterfeits, alters, obliterates, defaces any stamp, mark, sign or license issued under the Act AND in doing so the accused had intent to deceive another;</li> <li>Received or kept possession of forest produce AND that produce was fraudulently marked AND the accused knew or had reasonable cause to believe the marks were fraudulent OR that he/she knew had been cut and removed illegally;</li> <li>Counterfeits, or used a mark used by an authorised person, on forest produce AND the accused knew that mark to be false OR that it belonged to an authorised person;</li> <li>Transported, deals or stores timber AND that timber had counterfeit marks AND the accused knew or had reasonable cause to believe the marks were counterfeit.</li> </ol> <p>'Authorised person' means a forestry officer, an honorary forestry officer, a wildlife protection officer, police officer or any other person designated as such by the Minister under Section 51.</p> <p>Timber includes any tree or part of tree that has fallen or been felled and all wood whether sawn or not, hewn or cut up or fashioned.</p>	<p>Section 84 Forfeiture of produce, vehicle, machinery, weapon or any other thing used in the commission of the offence.</p> <p>Section 85 Court may order compensation to the State for any loss or damage up to five (5) times the value of the produce OR up to ten (10) times the amount of any fees, royalties or other payments that would have been due had the suspect sought authorisation.</p> <p>Section 86 Cancellation of a license and disqualification from obtaining a license for such period 'as the court thinks fit'.</p> <p>Section 87 Court can order the accused to do any act that he/she has failed to do if the accused has been using the land, to clear, vacate, restore the land or remove livestock, buildings, enclosures, crops that the accused has put there.</p>

**EVIDENCE:**

**Likely to include but not limited to:** Eyewitness evidence, document examiner likely to be necessary along with expert evidence if counterfeit is alleged. Suspect's conduct in relation to any fraudulent documents submitted or used will be vital in establishing his state of knowledge or grounds for reasonable belief. Eyewitness testimony, photographs.

CHARGE COUNT ONE	Counterfeiting a license/issuing a license without authority <b>(delete as appropriate)</b> , contrary to Section 82 (a) of the National Forestry and Tree Planting Act 2003.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> issued a license that purported to be issued under the National Forestry and Tree Planting Act 2003, without due authority OR  counterfeited a license that purported to be issued under the National Forestry and Tree Planting Act 2003 <b>[delete as appropriate]</b> .
CHARGE COUNT ONE	Possession of a false license, contrary to Section 82 (b) of the National Forestry and Tree Planting Act 2003.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> was found in possession of a license namely <b>(identify the nature of that license)</b> that was fraudulently issued.
CHARGE COUNT ONE	False representation, contrary to Section 82 (c) of the National Forestry and Tree Planting Act 2003.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> whilst making an application for a license for <b>(specify the nature of the license)</b> , made a representation that he/she knew to be false namely <b>(identify the nature of the representation)</b> .
CHARGE COUNT ONE	Interference with a stamp, mark, sign or license, contrary to section 82(d) of the National Forestry and Tree Planting Act 2003.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> counterfeited/ altered/obliterated/defaced [delete as appropriate] a stamp/mark/sign/ license <b>[delete as appropriate]</b> issued under the National Forestry and Tree Planting Act 2003.

CHARGE COUNT ONE	Unlawfully receiving/unlawful possession of <b>[delete as appropriate]</b> forest produce, contrary to Section 82 (e) of the National Forestry and Tree Planting Act 2003.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> on the <b>(date)</b> at <b>(location)</b> knowingly received/ was in possession of <b>[delete as appropriate]</b> forest produce <b>(identify nature and quantity)</b> that was fraudulently marked/that had been cut or removed <b>[delete as appropriate]</b> in contravention of the National Forestry and Tree Planting Act 2003.
CHARGE COUNT ONE	Fraudulent use of/counterfeiting <b>[delete as appropriate]</b> a mark used by authorised person, contrary to Section 82 (f) of the National Forestry and Tree Planting Act 2003.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> , not being an authorised person within the meaning of the National Forestry and Tree Planting Act 2003, on the <b>(date)</b> at <b>(location)</b> counterfeited/knowingly used <b>[delete as appropriate]</b> a mark on forest produce, namely <b>(identify the nature and quantity of the produce)</b> that mark being authorised for use only by an authorised person.
CHARGE COUNT ONE	Unlawful transportation/dealing/storage of timber, contrary to Section 82 (g) of the National Forestry and Tree Planting Act 2003.
PARTICULARS OF OFFENCE	<b>(Name of the accused)</b> , <b>(date)</b> at <b>(location)</b> transported/dealt in/ stored <b>[delete as appropriate]</b> a quantity of timber namely <b>(identify the quantity and nature of the timber)</b> that bore marks that were counterfeit and <b>(name of accused)</b> knew or had reasonable cause to believe that the marks were counterfeit.

## Section 90 Contravention of a Statutory Order

### Penalty: Section 90

**Maximum term: (40) forty currency points and/or Maximum (5) five years imprisonment**

**If a 'continuing offence' additional (2) two currency points for each day or part thereof that the offence continues**

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and location of offence.</p> <p>Identity of the accused.</p> <p>Identify the statutory order in play (cite the provision under this Act).</p> <p>That the accused contravened the terms of that order (with specifics).</p>	<p>Section 84 Forfeiture of produce, vehicle, machinery, weapon or any other thing used in the commission of the offence.</p> <p>Section 85 Court may order compensation to the State for any loss or damage up to five (5) times the value of the produce OR up to ten (10) times the amount of any fees, royalties or other payments that would have been due had the suspect sought authorisation.</p> <p>Section 86 Cancellation of a license and disqualification from obtaining a license for such period 'as the court thinks fit'.</p> <p>Section 87 Court can order the accused to do any act that he/she has failed to do if the accused has been using the land, to clear, vacate, restore the land or remove livestock, buildings, enclosures, crops that the accused has put there.</p>

#### EVIDENCE:

**Likely to include but not limited to:** Eyewitness evidence; statement from officer the statutory order, what authority it was issued and what to what it related. The order should be exhibited. Suspect knowledge of the same may be in issue. Eyewitness testimony, photographs, suspect's answers upon arrest and interview.

CHARGE COUNT ONE	Contravening a statutory order, contrary to Section 90 of the National Forestry and Tree Planting Act 2003.
PARTICULARS OF OFFENCE	<b>(Name of the accused), (date) at (location)</b> in relation to which a statutory order had been made under the National Forestry and Tree Planting Act 2003, contravened the terms of that Order by <b>(give particulars)</b> .

## ANCILLARY POWERS FOR “AUTHORISED OFFICERS”

### National Forestry and Tree Planting Act 2003 – Section 88

Authorised person’ means a forestry officer, an honorary forestry officer, a wildlife protection officer, police officer or any other person designated as such by the Minister under Section 51.

Section 88 (1) Arrest without warrant any person whom he/she reasonably suspects has committed or is in the process of committing an offence under this Act.

(2) Search a person, baggage, package, parcel, conveyance, vehicle, tent or building under the control of that person IF he/she has reasonable grounds to suspect that the person is in possession of forest produce unlawfully obtained.

(3) Seize and detain any forest produce, livestock, tools, boats, conveyances, machinery or other implements that he reasonably suspects are liable to be forfeited under the Act.

(4) If item is subject to decay, or will entail avoidable expense, can sell it; the proceeds shall be treated in the same manner as the seized item would have been treated.

**DUTY: Officer must commence administrative proceedings with a view to prosecution WITHOUT DELAY.**

## ANCILLARY POWERS OF THE COURT ON SENTENCING FORESTRY OFFENCES:

### **FORFEITURE: Section 84**

- (1) The court by which a person is convicted of an offence under this Act may order the forfeiture of:
  - a) Any forest produce in respect of which the offence was committed or which was found in the that person's possession; or
  - b) Any vehicle, machinery, weapon or other thing which was used to commit the offence or which was capable of being used to take forest produce found in his or her possession.
- (2) Any forest produce forfeited under sub-section (1) shall, unless otherwise ordered by the court, be sold or otherwise disposed of:
  - a) As the responsible body may direct; or
  - b) Where the responsible body has been convicted of the offence sold or otherwise disposed of as the Minister directs.

### **COMPENSATION: Section 85**

A person convicted of an offence under this Act may be held liable for any loss or damage caused by the offence and may be ordered by the court to pay:

To the State in addition to any penalty imposed by the court for the offence an amount of compensation for that loss or damage up to five times the value of the produce

Up to ten (10) times the amounts of any fees, royalties or other payments which, had the act constituting the offence been authorised, would have been payable in respect of the authorised act.

### **CANCELLATION OF LICENSES etc.: Section 86**

The court may, on convicting a person granted a license under this Act of an offence under this Act:

- a) Order that the license be cancelled; or
- b) Disqualify that person from obtaining a license for a period as the court thinks fit.

## **FURTHER POWERS OF THE COURT: Section 87**

A court, on convicting a person:

- a) For an offence under this Act may order that person within a time specified in the order to do any act the person had failed, refused or neglected to do;
- b) Of clearing, using or occupying land in a forest reserve shall, in addition to any other penalty it may impose, order that person, within a time to be specified in the order:
  - i. To vacate the land;
  - ii. To restore the land to its original state; or
  - iii. To remove from the land any livestock, buildings or enclosures which he or she may have erected, and any crops which he or she may have planted on that land.





# OFFENCES UNDER THE ANTI-CORRUPTION ACT 2009 AS AMENDED BY THE ANTI CORRUPTION (AMENDMENT) ACT 2015

ANY CASE INVOLVING CORRUPTION SHOULD GO TO THE DPP AND/OR INSPECTORATE OF GOVERNMENT

<p><b>Section 5 (a) (ii) Bribing a public official</b></p> <p><b>Penalty: Section 26</b></p> <p><b>Maximum imprisonment (10) ten years and/ or a fine not exceeding (240) two hundred and forty currency points</b></p> <p><b>Prosecution requires consent of the DPP or the Inspectorate of Government though arrest can take place before that consent is obtained – Section 49</b></p>	
POINTS TO PROVE	ANCILLARY POWERS
<p>Date and Location.</p> <p>Identity of the accused.</p> <p>He/she directly or indirectly offers or confers any ‘gratification’ defined as ‘money, loan, fee, reward, commission, security or property or interest in property’.</p> <p>Identify the intended recipient.</p> <p>That the recipient was a member of public office.</p> <p>The purpose of the gratification was to induce the official to perform or refrain from performing an official act.</p>	<p>Section 46 Disqualification from holding public office (more applicable to offences below).</p> <p>Section 63 as amended by the Anti Corruption (Amendment) Act 2015: prosecution should seek within six months for the assessment of benefit by the person from corruption. The court can look at the property or interests owned by the accused and may PRESUME that any property or interest acquired in the last ten years derived from the corruption and that any expenditure was met from the benefits for corruption.</p> <p>Section 27 Payment of the gratification sum or money sum equivalent to the value of the gratification – payable as a ‘fine’. Court to assess the value.</p> <p>In addition:</p> <p>Section 36 Power of inspection of documents.</p> <p>Section 37 Search and seizure.</p> <p>Section 41 Power to obtain ‘information’.</p> <p>Section 44 Protection of informers.</p>

**EVIDENCE:**

**Likely to include but not limited to:** electronic evidence, money and items involved, witness statements, mobile phone data print outs, video and photography, expert evidence, documents etc. This offence is aimed at the person offering the bribe and so will take primarily the evidence of the public official to establish the offence although presence of witnesses may support a prosecution alone – consider the need for witness protection. Note: MUST read with the Amendment Act as significant changes have been made!

CHARGE COUNT ONE	Offering a gratification to a public official, contrary to Section 5 (a) (ii) of the Anti-Corruption Act 2009.
PARTICULARS OF OFFENCE	<b>(Name of Accused(s))</b> on or about the <b>(date)</b> , at <b>(location)</b> directly or indirectly offered/conferred <b>[delete as appropriate]</b> a gratification namely <b>(identify the money/property)</b> to a public official namely <b>(identity the officer)</b> with a view to inducing that officer to act otherwise than in accordance with his/her public duty.

**Section 5 (b) Acceptance of a bribe by a public official**

**Penalty: Section 26**

**Maximum imprisonment (10) ten years and/or a fine not exceeding (240) two hundred and forty currency points**

**Prosecution requires consent of the DPP or the IG though arrest can take place before that consent is obtained – Section 49**

POINTS TO PROVE	ANCILLARY POWERS
<p>Date and Location.</p> <p>Identity of the accused.</p> <p>That the accused is a public official.</p> <p>That the accused directly or indirectly accepted or solicited a ‘gratification’ (see definition in preamble).</p> <p>That gratification was either for the accused or could be for another.</p> <p>The purpose of accepting or soliciting that gratification was as inducement or reward for performing or not performing his/ her public duty.</p>	<p>Section 46 Disqualification from holding public office - this should be actively sought upon conviction.</p> <p>Section 63 as amended by the Anti Corruption (Amendment) Act 2015: prosecution should seek within six months for the assessment of benefit by the person from corruption. The court can look at the property or interests owned by the accused and may PRESUME that any property or interest acquired in the last ten years derived from the corruption and that any expenditure was met from the benefits for corruption.</p> <p>Section 27 Payment of the gratification sum or money sum equivalent to the value of the gratification – payable as a ‘fine’. Court to assess the value.</p> <p>In addition:</p> <p>Section 36 Power of inspection of documents.</p> <p>Section 37 Search and seizure.</p> <p>Section 38 Power of police or investigator to get information (see amendment act of 2015).</p> <p>Section 41 Power of the DPP or IG to obtain ‘information’.</p> <p>Section 44 Protection of informers.</p>

**EVIDENCE:**

**Likely to include but not limited to:** electronic evidence, money and items involved, witness statements, mobile phone data print outs, video and photography, expert evidence, documents etc. This offence is aimed at the person offering the bribe and so will take primarily the evidence of the public official to establish the offence although presence of witness may support a prosecution alone – consider the need for witness protection. Note: MUST read with the Amendment Act as significant changes have been made!

CHARGE COUNT ONE	Soliciting/accepting a gratification contrary to Section 5 (b) of the Anti-Corruption Act 2009.
PARTICULARS OF OFFENCE	<b>(Name of Accused(s))</b> on or about the <b>(date)</b> , at <b>(location)</b> , being a member of public office, namely <b>(identify his/her office)</b> directly or indirectly accepted/solicited [delete as appropriate] a gratification namely <b>(identify the money/property)</b> from <b>(identify the person who was solicited for a bribe)</b> as inducement or reward for performing otherwise than in accordance with his/her official public duties <b>(possible, specify what that would be)</b> .





# APPENDIX 1

## OFFENCES UNDER THE NATIONAL FORESTRY AND TREE PLANTING ACT, 2003 - UGANDA

### PROHIBITED ACTIVATES FOREST RESERVES: Section 14

- (1) No person shall, in a forest reserve, cut, disturb, damage, burn or destroy any forest produce, or remove or receive any forest produce except -
  - (a) In accordance with regulations or guidelines made for the proper management of the forest reserve;
  - (b) In the course of the management of the forest reserve by the responsible body;
  - (c) In terms of the exercise of a right or interest in the forest reserve; or
  - (d) In accordance with a licence issued under this Act.
- (2) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding fifty currency points or to imprisonment for a term not exceeding five years, or both.

### PROTECTED TREES: Section 31

- (1) The Minister or a District Council may, by statutory order, in respect of private land declare a particular tree, or group of trees on that land to be a protected tree or trees subject to such controls as the Minister may specify in the order.
- (2) A declaration under subsection (1) shall be for the purpose of:
  - (a) Preserving scenic beauty or attraction;
  - (b) Conserving a distinctive specimen of any tree species;
  - (c) Preventing soil erosion;
  - (d) Conservation of biological diversity or species diversity; or
  - (e) Conservation, protection and development of natural resources.
- (3) The Minister or a District Council shall, before making an order under this section:
  - (a) Assess, make and publish a report on the socio economic and ecological impacts of the proposed declaration;
  - (b) Ensure that the declaration is based on the results of an assessment relating to species status and the state of the particular tree or group of trees; and
  - (c) Take into account the views of the affected communities.

- (4) Any person who, without the written consent of the Minister or the respective District Council:
- (a) Cuts, damages, destroys, disturbs or removes any protected tree; or
  - (b) Collects, removes, transports, exports, purchases, sells, donates or in any other manner acquires or disposes of any part of a protected tree,  
commits an offence and is liable, on conviction, to imprisonment for a term not exceeding three years or a fine not exceeding thirty currency points or both.

### **PROHIBITED ACTIVITIES: Section 32**

- (1) No person shall, except, for forestry purposes and in accordance with a management plan, or in accordance with a licence granted under this Act, in a forest reserve or community forest
- (a) Cut, take, work or remove forest produce;
  - (b) Clear, use or occupy any land for:
    - (i) Grazing;
    - (ii) Camping;
    - (iii) Livestock farming;
    - (iv) Planting or cultivation of crops;
    - (v) Erecting of a building or enclosure; or
    - (vi) Recreational, commercial, residential, industrial or hunting purposes.
  - (c) collect biotic and abiotic specimens; or
  - (d) construct or re-open a road, track, bridge, airstrip, or landing site.
- (2) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding thirty currency points or to imprisonment for a term not exceeding three years, or both.

### **PREVENTION OF DAMAGES: Section 34**

- (1) A person cutting, working, harvesting, removing or taking forest produce from a forest reserve shall take all care and necessary precautions to prevent damage to other forest produce or to the environment.
- (2) Any person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding ten currency points or to imprisonment for a term not exceeding two years, or both.

### **PRECAUTION AGAINST FIRE: Section 35**

- (1) No person shall light or cause to be lit a fire in a forest, except in a place established for that purpose, or as otherwise permitted by an authorised person.
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to imprisonment for a term not exceeding seven years.



- (3) An authorised person may burn or authorise any person to burn such fire-lines or grass or other inflammable material as may, in his or her opinion, be necessary for the control of fire or for the better protection or management of any part of a forest.

#### **UNLICENCED ACTIVITIES: Section 43**

- (1) No person shall, except in accordance with Section 33 or where he or she has been granted a licence for the purpose, grow, cut, take, work or remove any forest produce from a forest reserve or community forest.
- (2) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding thirty currency points or to imprisonment for a term not exceeding three years, or both.

#### **TIMBER EXPORT LICENCES: Section 44**

- (1) No person shall export timber without an export licence issued by a licensing authority appointed by the Minister.
- (2) A person who exports or attempts to export timber without a licence issued in accordance with subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding thirty currency points or imprisonment for a term not exceeding three years or both.
- (3) An export permit issued under this section shall be issued only for the export of graded timber.

#### **GENERAL OFFENCES: Section 81**

Any person who:

- (a) Contravenes any of the terms or conditions of a licence granted under this Act;
  - (b) Without due authority, alters, moves, destroys or defaces any boundary mark of a forest;
  - (c) Fails to sustainably manage, maintain and control a forest in accordance with this Act;
  - (d) Fails to comply with a management plan;
  - (e) Fails or neglects to plant trees in accordance with this Act; or
  - (f) Fails to comply with the order of an authorised person;
- commits an offence and is liable, on conviction, to a fine not exceeding forty currency points; or to imprisonment for a term not exceeding five years, or both.

#### **COUNTERFEITING AND SIMILAR OFFENCES: Section 82**

Any person who:

- (a) Counterfeits or issues without due authority, any licence;
- (b) Is found in possession of a licence which is fraudulently issued;
- (c) Submits false information in an application for a licence under this Act;

- (d) Counterfeits, alters, obliterates or defaces any stamp, mark, sign or licence issued under this Act;
  - (e) Knowingly receives or keeps in his or her possession any forest produce, which is fraudulently marked, or which has been cut or removed in contravention of this Act;
  - (f) Counterfeits or fraudulently uses on any forest produce, a mark used by an authorised person; or
  - (g) transports, deals in or stores timber with counterfeit marks;
- commits an offence and is liable, on conviction, to imprisonment for a term not exceeding five years.

### **PENALTIES: Section 83**

A person convicted of an offence under this Act for which no penalty is provided is liable:

- (a) In the case of a first offence, to a fine not exceeding thirty currency points or imprisonment for a term not exceeding three years or both; and
- (b) In the case of a second or subsequent offence, to a fine not exceeding forty currency points or imprisonment for a term not exceeding five years or both.

### **OBSTRUCTION OF AUTHORISED PERSON: Section 89**

A person who obstructs an authorised person in the execution of his or her duties under this Act commits an offence and is liable, on conviction, to a fine not exceeding thirty currency points, or to imprisonment for a term not exceeding three years, or both.

### **PENALTIES UNDER STATUTORY ORDERS: Section 90**

A statutory order made under this Act may prescribe in respect of a contravention of the statutory order, that the offender is liable to a fine not exceeding forty currency points or imprisonment for a term not exceeding five years, or both, and in the case of a continuing offence, to an additional fine not exceeding two currency points in respect of each day or part of a day on which the offence continues.





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