

# FORESTRY DEPARTMENT



# ENFORCEMENT MANUAL FOR FOREST OFFICERS



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ENFORCEMENT  
MANUAL  
FOR  
FOREST OFFICERS

# Table of Contents

1.0	INTRODUCTION.....	1
2.0	INTERPRETATION UNDER THE FOREST ACT .....	2
3.0	POWERS OF A FOREST OFFICER UNDER THE FOREST ACT.....	4
4.0	THE PROCESS OF ENFORCEMENT.....	6
5.0	OFFENCES UNDER THE FOREST ACT 1996 AND THE FOREST REGULATIONS 2001 .....	7
6.0	DETECTION OF AN OFFENCE AND IDENTIFICATION OF AN OFFENDER .....	10
6.1	Detection of an Offence .....	10
6.2	Identification of an Offender.....	10
7.0	INVESTIGATION OF AN OFFENCE .....	12
8.0	EVIDENCE .....	13
8.1	What Constitutes Evidence.....	13
8.2	Types of Evidence.....	13
8.3	Collection of Evidence .....	14
9.0	INVESTIGATIVE PROCESS .....	15
9.1	Tools for Collection of Evidence.....	15
9.2	Entry and Search of Premises and Vehicles .....	15
9.2.1	<i>What Constitutes a Legal Search</i> .....	15
9.2.2	<i>Search of Privately Owned Lands</i> .....	15
9.2.3	<i>Guidelines for Carrying Out a Search</i> .....	16
9.2.4	<i>Search of a Vehicle/Conveyance</i> .....	16
9.3	Seizure of Property.....	17
9.4	Warrant.....	17
10.0	THE NATURE OF EVIDENCE.....	19
10.1	Securing and Preserving Evidence .....	19
10.1.1	<i>Samples</i> .....	19
10.1.2	<i>Notes</i> .....	19
10.1.3	<i>Photographs</i> .....	20
10.1.4	<i>Video/Audio Recording</i> .....	21
10.1.5	<i>Statement Taking</i> .....	22
11.0	INSTITUTION OF PROCEEDINGS .....	24
11.1	Arrest under the Forest Act.....	24
11.2	Making an Arrest.....	25

11.3	Searching a Suspect.....	26
11.4	Issuing a Summons.....	27
12.0	LAYING OF CHARGES.....	29
13.0	TRIAL PREPARATION .....	30
13.1	The Criminal Standard and Burden of Proof.....	30
13.2	Witness Testimony .....	30
	13.2.1 Examination-in-Chief.....	31
	13.2.2 Cross Examination.....	31
	13.2.3 Redirect .....	31
13.3	Presentation of Testimony.....	31
13.4	Matters set for Mention and Trial.....	32
13.5	Trial DOs and DONTs.....	33
14.0	CONCLUSION .....	34

## Appendices

Appendix 1	Format of Cautioned Statement
Appendix 2	Example of a Statement
Appendix 3	Example of a Records of Perishable Goods Form
Appendix 4	Format of a Summons and Endorsements for a Summons
Appendix 5	Format and Example of an Information

# ACKNOWLEDGEMENTS

The Forestry Department (FD) would like to thank all persons who contributed to the preparation of this ***Enforcement Manual for Forest Officers***.

A comprehensive review of the draft manual was made by Ms Paula Llewelyn, Senior Deputy Director of Public Prosecutions (Actg). Comments and recommendations were received from Mrs Carole Excell and Mrs Laleta Davis-Mattis. Presentations made by the Honourable Mrs Marva McDonald-Bishop (Resident Magistrate) and Sergeant Simon McCormack at a series of enforcement workshops involving FD forest officers have been incorporated into sections of the ***Manual***. And finally, Mrs Susie Latham, Trees for Tomorrow Project, provided extensive editing and designed the layout.

The FD would also like to take this opportunity to express its appreciation to the Trees for Tomorrow Project, funded by the Canadian International Development Agency for supporting the ***Manual's*** production.

In this Manual the noun ***he***, together with its objective case ***him*** and possessive case ***his***, refers to a person of unspecified sex unless otherwise expressly stated.

This document, ***Enforcement Manual for Forest Officers***, was prepared by the Forestry Department, Ministry of Agriculture, Jamaica (April 2002).

The Forestry Department encourages the dissemination of the material contained in this document, provided that reference is made to the source.

# 1.0 INTRODUCTION

The Forestry Department is mandated to manage and conserve Jamaica's forested Crown lands and privately owned areas that have been declared forest reserves, protected areas or forest management areas under the Forest Act, 1996 (hereinafter referred to as the "Act") and the accompanying Forest Regulations, 2001 (hereinafter referred to as the "Regulations"). The Act gives the forest officer the authority to charge persons who commit offences in these designated areas under the Act and/or Regulations.

The protection of these forested areas is one of the most important activities that the Department carries out in fulfilling its mandate. The aim of this manual is to:

- familiarise you, the forest officer, with the relevant sections of the Act and the Regulations;
- highlight your powers and duties as a forest officer under the Act and Regulations;
- outline the offences defined and described in the Act and Regulations;
- outline the exceptions to the rules associated with these offences; and
- introduce you to the basic skills that will be needed to build a successful case to go to Court.

This is achieved by a thorough examination of:

- the Act and Regulations;
- the process of investigating an offence and the collecting of evidence;
- entry, search and seizure of items;
- the process of arrest and laying of charges; and
- preparing for trial.

As a forest officer you are the eyes and ears of the prosecutor, who is the Legal Officer of the Forestry Department or the Clerk of the Court. You must ensure that the evidence collected by you is of sufficient accuracy and quality as to assist the Legal Officer or the Clerk of the Court in the presentation of the case before the Court.



## 2.0 INTERPRETATION UNDER THE FOREST ACT

There are several terms used in the Act and Regulations which require specific mention because they have special meanings, when used in the Act and Regulations. You will also notice that throughout the course of the Manual mention is made of “the prosecution”. This refers to either the Legal Officer of the Forestry Department or the Clerk of the Court who will prosecute the matter.

The **Interpretation Section of the Act** seeks to define terms used in the Act. The following are important terms that have to be clearly understood by the forest officer:

“**authorised officer**” – forest officer, member of the Jamaica Constabulary Force, or any other person designated by the Minister;

“**cattle**” – includes horses, mules, asses, goats, sheep and swine;

“**Crown lands**” – includes waste or vacant land vested in Commissioner of Lands and all lands leased by the Commissioner of Lands as forest reserves;

“**forest management area**” – land declared a forest management area under Act;

“**forest officer**” – Conservator and any person so appointed;

“**forest produce**”

- (a) trees, plants, fauna, stones, sand and soil existing in or taken from a forest reserve, Crown land or forest management area; or
- (b) all parts and produce of such trees and plants;

“**forest reserve**” – land declared a forest reserve under the Act;

“**private land**” – all land not Crown lands;

“**protected area**” – land declared by the Minister as such;

“**timber**”

- (a) trees, (standing, fallen, living, dead, limbed, bucked or peeled);
- (b) logs;

**“tree”** - shrubs, bushes, seedlings, saplings, reshoots or any part of a tree;

The description provided above for a forest officer stipulates that it is any person appointed as such. Thus, the various posts in the Department, namely forester I, forester II and forest warden all fall into the description of forest officer. Should you be requested to show proof of the fact that you are a forest officer, the epaulet provided by the Department is sufficient evidence of this, along with your Forestry Department Identification Card.

All lands that are not privately owned, that is, which are seen as lands owned by the Government, are known as **“Crown lands”**. Control and management of this land is vested in the Commissioner of Lands who holds it on behalf of the Government of Jamaica.

The Act gives you jurisdiction over three categories of land. These are **forest reserves, forest management areas** and **protected areas**. This is expanded under the Regulations to include the **forest estate** which is any lands managed by the Forestry Department.

The Regulations go further as it describes **‘weapon’** to include guns, chemicals or slingshots or other mechanism used to kill or capture animals. It also mentions the **sawmill** which include any power driven saw (circular saw, band saw or other which can crosscut, or saw timber into boards or planks). The **portable power saw** includes saws which can crosscut, fell, or prune trees/timber.



## 3.0 POWERS OF A FOREST OFFICER UNDER THE FOREST ACT

As a forest officer you derive your jurisdiction to take action against offenders from the Act and the accompanying Regulations. Your role is vital because you often:

- detect the offence;
- collect the evidence; and
- present it at the trial.

It is therefore essential that you are aware of your powers and duties as a forest officer under the Act.

POWERS OF A FOREST OFFICER UNDER THE FOREST ACT, 1996	
SECTION	POWERS
24	A forest officer or person authorised in writing by the Conservator may enter <i>a forest reserve, forest management area or protected area or such lands</i> that are deemed by the Conservator to require declaration to survey and inspect it.
27	The forest officer may <i>at any reasonable time*</i> enter lands declared a forest reserve, forest management area or protected area to ensure compliance with all relevant legislation governing forest protection or such lands on which he has <i>reasonable cause*</i> to believe illegal forest produce is stored or being produced.  *See page 16 (Section 9.2.3) for definition of "reasonable time" *See page 9 for definition of "reasonable grounds/cause"
29	A forest officer may <i>at any reasonable time*</i> enter land in a forest reserve, forest management area to: <ul style="list-style-type: none"> <li>• inspect the condition of the land or work being done there;</li> <li>• determine the plants growing there; and</li> <li>• take measurements and soil samples to determine land use.</li> </ul>
32	Any forest officer <i>may arrest without a warrant</i> any person who has committed, attempted to commit/is reasonably suspected by the forest officer of having committed/attempted to commit an offence against the Act.  <b>PLEASE NOTE:</b> The arrest should only be made <i>if he reasonably believes that:</i> <ol style="list-style-type: none"> <li>1. The person will run off unless arrested.</li> <li>2. If the name and address of the person are unknown to him or cannot be reasonably found out by him.</li> </ol>
33	Where a forest officer has reasonable cause to suspect that a vehicle is/has been used to commit an offence against the Act he may <i>search the vehicle without a warrant</i> and if the search proves his suspicions he may <i>seize and detain the vehicle</i> .  The forest officer where he reasonably suspects that an offence has been committed with forest produce may <i>seize and detain the forest produce, tools, cattle, etc.</i> used or suspected to have been used in committing the offence.

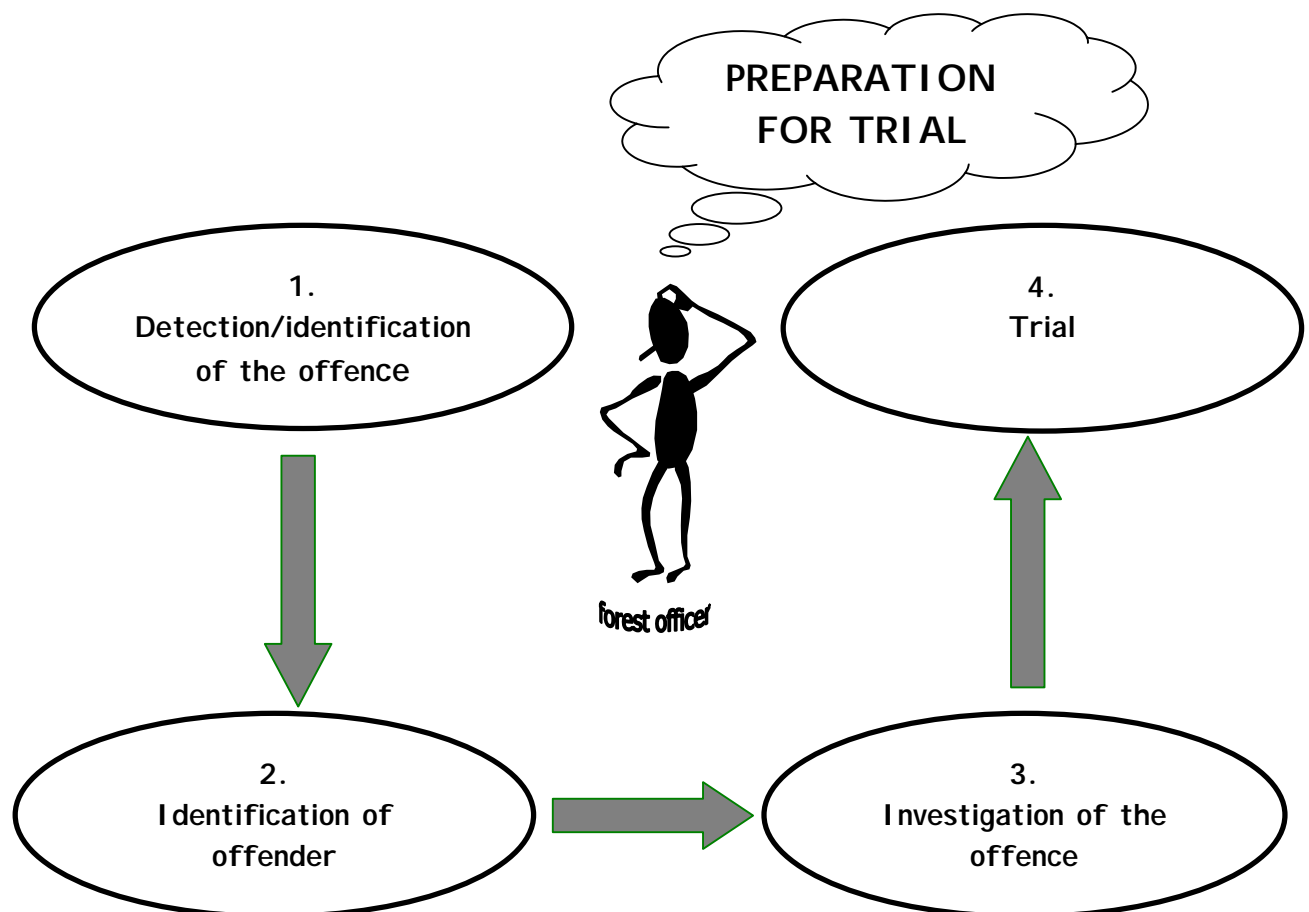
<b>POWERS OF A FOREST OFFICER UNDER THE FOREST REGULATIONS, 2001</b>	
<b>SECTION</b>	<b>POWERS</b>
18	<ul style="list-style-type: none"> <li>• Drive cattle from a forest estate.</li> <li>• Round up and seize and hold cattle.</li> <li>• Sell the cattle/the carcass if they are not claimed twenty-four hours after the offence is committed.</li> <li>• Destroy/slaughter cattle if:               <ul style="list-style-type: none"> <li>(i) the animal threatens the forest officers safety/someone in his presence;</li> <li>(ii) it is impractical to round up and hold the cattle; or</li> <li>(iii) the destruction/slaughter would be a humane act.</li> </ul> </li> </ul>
30(1)	<p>Seize and detain forest produce where:</p> <ul style="list-style-type: none"> <li>• The person in control/possession refuses or fails to tell the forest officer the name/ address of the person they received the forest produce from or any facts relating to the source of the produce.</li> <li>• The forest officer has reasonable grounds to believe charges owed to the Department for the forest produce has not been paid.</li> <li>• The forest officer has reasonable grounds to believe the forest produce was taken illegally from a forest estate or protected area.</li> </ul>
30(2)	Remove the forest produce where detained to a place for safe keeping.
34	In the performance of his duties enter any lands or premises ( <i>other than a dwelling house</i> ) without a search warrant to get timber or forest information about the quantity, type or source of timber or forest produce.
35(1)	Stop and search without a warrant any vehicle on or off any road or highway in ensuring compliance with the Regulations.
35(2)	Question any person operating/travelling/accompanying any vehicle stopped as to their name, address, destination, delivery address or other relevant information on his duties as these relate to forest matters.

## 4.0 THE PROCESS OF ENFORCEMENT

Forest officers must have a working knowledge of the Act and Regulations so that they can quickly determine:

- what activities are offences;
- what facts/evidence is required to prove offences; and
- whether there are any statutory exemptions or defences provided by the Act or Regulations which may apply to the offence.

Successful enforcement of the Act and Regulations can only be achieved if the proper processes are followed. These processes are:



## 5.0 OFFENCES UNDER THE FOREST ACT 1996 AND THE FOREST REGULATIONS 2001

The burden of proving that an offence has been committed or that an attempt was made to commit an offence rests solely with the prosecution at all times. The only time **this burden may shift to the suspect**, is where he claims to have a **permit, licence or written permission**, as defined in the Act, to legally carry out the activity.

The following activities are **only offences where they are done without**:

1. the **written permission** from the **Conservator**; or
2. the **permission of the owner/lessee of the land** on which the activity is being carried out; or
3. a **permit/licence** granted under the Act.

OFFENCES UNDER THE FOREST ACT, 1996		
SECTION OF FOREST ACT	OFFENCE	PENALTY
27	Any person obstructing an authorised officer while he is carrying out his duties commits an offence.	One hundred thousand dollars (\$100,000.00) or imprisonment for one (1) year
30	Cutting a tree within a forest reserve or private lands governed by a special agreement with the Conservator without a permit or licence is an offence against the Act.	Five hundred thousand dollars (\$500,000.00)/imprisonment for a maximum of two (2) years or both fine and imprisonment
31 (1)	<p>It is an offence within a forest reserve, forest management area or protected area to:</p> <ul style="list-style-type: none"> <li>• fell, mark, lop, tap, burn, strip (bark or leaves) or damage a tree;</li> <li>• willfully/negligently cause damage when felling, or cutting or dragging timber;</li> <li>• kindle, keep or carry fire;</li> <li>• <b>without reasonable cause</b> lights, drops match/inflammable material;</li> <li>• clear/cultivate/break up land;</li> <li>• start or carry on forest industry;</li> <li>• carry a saw, axe, adze, auger/cutlass;</li> <li>• remove soil, sand/gravel;</li> <li>• kill/wound/capture wild birds/animals.</li> </ul>	Two hundred thousand dollars (\$200,000.00) in default of payment imprisonment - two (2) years.

<b>OFFENCES UNDER THE FOREST ACT, 1996 – continued</b>		
<b>SECTION OF FOREST ACT</b>	<b>OFFENCE</b>	<b>PENALTY</b>
31 (2)	<p>It is an offence within a forest reserve, forest management area or protected area to:</p> <ul style="list-style-type: none"> <li>• erect a building, shelter, remove forest produce/ carry a firearm;</li> <li>• knowingly counterfeit on a tree/timber or possess the hammer used by forest officers to mark goods as the property of the Government of Jamaica;</li> <li>• unlawfully/fraudulently affixing a forest officer's mark to tree timber;</li> <li>• alters, defaces/obliterates mark put on tree/timber by or under the authority of a forest officer;</li> <li>• pastures cattle/allows cattle to trespass;</li> <li>• damages/alters a notice-board, landmark, wall, fence, ditch, embankment, hedge or railing;</li> <li>• assaults/obstructs forest officer/constable/other person carrying out his duty under the Act.</li> </ul>	One hundred thousand dollars (\$100,000.00) in default of payment imprisonment – one (1) year

<b>OFFENCES UNDER THE FOREST REGULATIONS, 2001</b>		
<b>SECTION</b>	<b>OFFENCE</b>	<b>PENALTY</b>
5	Using a forest road without a permit to transport forest produce, carry out unauthorised forest practices or any other commercial use.	Fifty thousand dollars (\$50,000.00)
13	<p>Light/use an open fire/charcoal kiln in or within 1 kilometre of a forest estate without a burning permit unless:</p> <ul style="list-style-type: none"> <li>• the fire is used to cook; or</li> <li>• done by an authorised person to suppress/control fires in a forest estate.</li> </ul>	Fifty thousand dollars (\$50,000.00)
18	Cause cattle/livestock to wander, stray, or be tethered/ driven on to a forest estate.	Fifty thousand dollars (\$50,000.00)
23	Removing or attempting to remove forest produce without a permit.	Fifty thousand dollars (\$50,000.00)
24	Transporting/using a portable power driven saw in a forest estate without a permit.	Fifty thousand dollars (\$50,000.00)
25	<ul style="list-style-type: none"> <li>• Drive, transport or use a sawmill on any premises without a licence; or</li> <li>• Trade, store or buy locally produced lumber without a licence.</li> </ul>	Fifty thousand dollars (\$50,000.00)
33	Interfering with seized items or the notice of seizure.	Fifty thousand dollars (\$50,000.00)

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**AT ALL TIMES YOU MUST MAKE SURE THAT YOU HAVE:****1. The legal authority to act**

You **must** make sure that the offence took place on a forest reserve, forest management area, protected area or on lands managed by the Department; and

**2. A proper foundation on which to base your suspicions/conclusions that an offence under the Act was committed.**

This is known as “**reasonable grounds/cause**” and forms the basis on which you will show that you believe an offence has been committed or would have been committed had the suspected person gotten the opportunity. This may tie in with the evidence that is collected, as it is often something that you observe which arouses your suspicion initially.

A forest officer is granted the power to act where he has reasonable cause to suspect that an offence has been committed. You use these powers following an assessment of the facts and of the events which occurred, as you perceive them. This is important because should your actions be questioned you must ensure you have a valid explanation as to why you acted in the manner that you did. If your explanation is not found to be satisfactory, then a civil suit of malicious prosecution or trespass may be brought against you and the Government by the suspect at a later date.

## 6.0 DETECTION OF AN OFFENCE AND IDENTIFICATION OF AN OFFENDER

The actual detection of the offence and the identification of the offender are equally important aspects of the process of prosecution. Without a suspect, you have only detected the offence. To prosecute, a suspect must be before the Court.

### 6.1 Detection of an Offence

This is the ability to recognise offences or potential offences under the Act and Regulations.

To detect an offence, a forest officer must determine:	To do this, the forest officer must have:	REASON
Is the activity an offence under the Act or the Regulations?	<p>Knowledge of the offences under the Act and the Regulations.</p> <p>Ability to locate the section in the relevant legislation.</p> <p>Exemptions or defences to the offence that are specified in the Act.</p>	<p>Cannot detect an offence if you do not know what to look for.</p> <p>Can show the suspect the relevant section.</p> <p>To ensure that you do not wrongfully prosecute the public.</p>

### 6.2 Identification of an Offender

To identify an offender, the forest officer must:	At the same time, the forest officer must:	REASON
Make careful note of the appearance of the suspect especially if you do not recognise him.	<p>Know the reasons given under the Act when a suspect cannot be arrested.</p> <p>Note any outstanding features or characteristics of the suspect as well as any factors which may have obstructed or enhanced his view of the suspect.</p>	<p>This may prevent unnecessary arrest.</p> <p>This will assist if it is contended later that the wrong person has been brought to Court.</p>

Identification of the offender is key as the charges **must** be laid against the correct individual. The forest officer **must** pay particular attention to this as it could destroy the credibility of the prosecution's case if it turns out that the wrong person has been charged and brought before the court. Where identification of the accused is uncertain, the prosecutor will ask the witness (this is usually the forest officer) the circumstances in which the witness saw the accused, namely:

- the length of time that the witness saw the accused;
- the time of day the accused was observed;
- if there were obstructions that could have blocked observation of the accused; and
- whether the accused was known to the witness and if so, for how long.



## 7.0 INVESTIGATION OF AN OFFENCE

Once it is determined that an offence has been committed or that there is a likelihood of such, the next step is to find evidence to prove this fact. The aim is to collect or record all evidence that could prove or confirm your suspicions. The investigation begins at the point of detection of the offence, for example, the spot in the forest reserve where you first discover tree stumps and you know that no cutting licence was issued.

***It is important to be fully aware of what constitutes the offence before the collection of any evidence, as the actual offence will determine what type of evidence is required to prove it.***

In order to:	The forest officer must have:	REASON
Investigate the offence	Knowledge of the power to enter, search and seize items under the Act. Knowledge of the components of each offence.	To acquire evidence to support the claim that an offence occurred.

A thorough investigation depends on several factors. These will be dealt with in greater detail in the following sections. As the investigator however, you must pay keen attention to the details related to each offence. This includes but is not limited to the actual site where the offence took place. It takes into account anything that may happen between yourself and the suspect as well as any information that may be derived from other sources.

In the end, an investigation is basically an examination of all the facts which will support your case before the Court.



## 8.0 EVIDENCE

### 8.1 What Constitutes Evidence

Evidence is any material that tends to prove/disprove a matter (ie, the case) being investigated. It is required to verify the occurrence of an offence so that a matter can be tried by a Court of Law.

**To be admissible all evidence must be relevant to the matter being tried.** If it is not relevant to the trial of the matter the Court will not acknowledge it. The evidence therefore needs to prove **beyond a reasonable doubt** that the suspect committed the offence. The value of the evidence in proving the offence must outweigh the prejudice which may result to the suspect from the evidence. For example, previous convictions of the suspect for similar offences are of a prejudicial nature and provide no conclusive evidence that the suspect carried out the offence presently being tried. Therefore they cannot be introduced during the trial of a matter except in limited circumstances.

### 8.2 Types of Evidence

1. **Direct**: Evidence of a fact actually in issue. Given by a person who actually perceives the offence, eg, where a person sees or hears something which may be an offence. ***Drawback: Human fallibility – people can be mistaken in what they see or hear.***
2. **Circumstantial**: Evidence of facts (ie, events and or objects) that touch or concern a matter, ie, the case. When put together, circumstantial evidence points to the fact that an offence took place, eg, license plate fell off in the reserve and then the truck was found with one plate missing. They are coincidences that add up to an offence only when taken together. ***Drawback: No single piece of circumstantial evidence speaks for itself.***
3. **Real**: Actual items taken from either the scene of the crime or other place and tendered as evidence. It is tangible and can be looked at and touched.
4. **Conclusive**: Evidence which must be accepted by the Court and cannot be disputed, eg, the Gazette is conclusive evidence for the Court that the area is a forest reserve.
5. **Prima facie**: Evidence which must be accepted by the Court as a proven fact unless it is disproved, eg, it is for the accused to explain why his license plate was found on the reserve. A prima facie case is what the accused has to answer to, eg, Section 30 of

the Act which forbids harvesting trees on a forest reserve without a licence or permit is prima-facie evidence of the fact that there is an offence to answer.

6. **Primary:** Documentary evidence in its original form. Primary evidence usually has the original signature or seal, eg, a permit issued by the Conservator of Forests to harvest 80 board feet of timber.
7. **Secondary:** Copy of the original evidence where the original cannot be found nor evidence of its existence.
8. **Hearsay:** Evidence given by a person about something that they do not have firsthand knowledge of, eg, the person giving evidence is relating something said to him by another person.

**The test for admissibility of evidence in a trial is its relevance to the matter before the Court.** As a forest officer your function is to:

- collect evidence which is directly related to the matter being tried; and
- establish a clear link between the evidence collected and the offence carried or suspected to be carried out.

Throughout the investigative process, all materials **relevant** to the facts being established must be recorded and preserved. Extreme caution must be exercised during the collection of evidence. All attempts must be made to keep the evidence in its original form, that is, in the same condition as when it was collected.

### **8.3 Collection of Evidence**

To properly collect evidence you need to be familiar with the different types of evidence, as described in the previous section, and how these will be used by the prosecution to prove the case. A general knowledge of the offence, including its components, is also a requirement, as it will tell you the kind of evidence you need to collect. Recall that each component of the offence has to be proved therefore evidence to substantiate this has to be produced.

The actual collection should be based on the established standard procedures to avoid any suggestion being made that the evidence was tampered with. Proper procedures for collecting and preserving evidence **must** be followed.

## 9.0 INVESTIGATIVE PROCESS

### 9.1 Tools for Collection of Evidence

Several tools exist to ensure the proper collection of evidence under the Act, namely:

- entry and search; and
- seizure.

### 9.2 Entry and Search of Premises and Vehicles

#### 9.2.1 What Constitutes a Legal Search

***The Act gives forest officers the power to enter and search premises.*** This allows them to carry out their investigative function and to collect evidence to prove the existence of an offence contrary to the Act. ***You must, however, have prior reason/cause to suspect an offence has been or will be committed before using this power.***



This is because there is a **constitutionally protected right that persons cannot be subjected to unlawful searches:**

“except by his own consent, no person shall be subject to the search of his person or his property or the entry by others on his premises”

and there is an established **Common Law principle** that the property of every man is so sacred that:

“... no man can set foot upon his neighbour’s close without his leave; if he does he is a trespasser though he does no damage at all. If he will tread upon his neighbour’s ground he must justify it by law.”

In light of the above, a primary concern when investigating alleged offences is to **ensure that there are no illegal entries, searches or seizures of the property of others.**

#### 9.2.2 Search of Privately Owned Lands

A legal search of privately owned lands may be carried out by a forest officer only in the following circumstances:

- To discover whether or not there is compliance with the legislation governing the protection of forested lands.
- Where there is reasonable cause to believe that unlawful forest produce is being stored or produced on the premises.
- To inspect the condition of the land or work being done there, to determine if the plants growing there are suitable, or to take measurements and soil samples to determine land use.

### ***9.2.3 Guidelines for Carrying Out a Search***

The following guidelines must be followed at all times when making an entry/search:

- All entries and searches must be carried out at a reasonable time, eg, **between 6 am and 6 pm.**
- When the purpose of entry is not to investigate whether an offence was committed the forest officer must produce his authority for entering the property at the request of the landowner.
- When the entry is not to determine whether illegal forest produce is stored there, the forest officer must ensure that:
  - the landowner consents to the entry; or
  - the occupier must be **informed of the proposed entry three days before**; or
  - where such a person cannot be found then **a notice must be posted on the land three days before entry.**

### ***9.2.4 Search of a Vehicle/Conveyance***

The Act and Regulations allows the forest officer to search a vehicle/conveyance without a warrant if he has reasonable cause to suspect that it is being used or has been used to commit an offence against the Act.



Before searching a vehicle you must:

1. Tell the driver and/or person accompanying the vehicle the reason for the search.
2. Ensure that they are able to see the search being carried out.
3. Only one person should be carrying out the search because the driver or person accompanying the vehicle needs to see, at all times, the search being carried out.
4. If things are removed ensure that the driver or the person accompanying the vehicle sees what is removed (and from what location in the vehicle). If a vehicle is suspected of carrying illegal forest produce it can be seized and detained for evidence.

5. The following information about the vehicle should be obtained:
- the licence plate number;
  - description of the vehicle;
  - the name (driver's licence number) or description of the driver;
  - the number of persons in or accompanying the vehicle; and
  - the type of forest produce.

The Act grants the forest officer powers of detention over vehicles<sup>1</sup> which may be used in limited circumstances. **Be aware** that you could be infringing the rights of the suspect if you search his vehicle without due cause.

### 9.3 Seizure of Property

Forest officers may seize forest produce or the tools used by the suspect to illegally harvest the forest produce. The distinction between the produce and the tools is that the forest produce, once it is proved to have been removed from the forest reserve, is already the



property of the Crown. This is because the lands from which the forest produce was extracted are owned by the Crown. The tools are the personal property of the suspect.

The process of seizure of items is governed by the principle that a person is not to be deprived of his property except by the due process of law. Therefore an order has to be made by the Resident Magistrate before the seized items can be forfeited to the Crown.

### 9.4 Warrant

Although the Act prescribes that such entry, search and seizure can be carried out without a warrant **you should obtain a warrant whenever you have the opportunity to do so.**

Essentially, a warrant is a document that legalises an activity that would otherwise be deemed illegal. The main functions of a warrant are:

1. It allows a judicial officer the opportunity to justify the need for a search. You therefore need to provide enough information to the Justice of the Peace to justify that a warrant should be issued;

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<sup>1</sup> Section 33 of the Forest Act and 35 of the Regulations

2. It legalises what might otherwise have been an illegal search by the forest officers; and
3. It limits the powers of the forest officer to act as he or she wishes since the warrant usually specifies the acts to be carried out during the search.

A warrant can be obtained by approaching a Justice of the Peace, or a Resident Magistrate who will make a decision whether or not to draft the warrant based on the explanation given by the forest officer.

# 10.0 THE NATURE OF EVIDENCE

The forest officer must be able to establish **continuity of evidence**, that is, account for the whereabouts of the evidence at all times from the time of collection to the time of trial. This is the case no matter how lengthy the period of time between collection and trial. It is recommended the evidence be kept under lock and key under the responsibility of the forest officer. Where this is not possible and the evidence must be passed to someone or moved to some other place for safe keeping, the transfer of the evidence must be fully documented. **Ensure that a receipt book accompanies the evidence so that other transfers may be recorded.**

## 10.1 Securing and Preserving Evidence

The following are the means by which evidence can be secured/preserved for presentation at trial.

### 10.1.1 Samples

Samples can be used to strengthen the case, as it is a form of real evidence that proves that an offence took place. Samples will be presented as an exhibit in Court therefore they must be carefully preserved to ensure they maintain their original appearance.

### 10.1.2 Notes

There is often a lengthy period of time between when an offence is investigated and when the case is tried. Taking notes is a means of recording data relating to an offence and serves as a means of recalling observations made during the investigation. Notes taken at the time of the incident can be used by a forest officer to refresh his memory during the course of the trial.

Carefully recorded notes:

- provide an accurate record;
- allow for the recollection of small but important details;
- assist in the preparation of more detailed reports in chronological order; and
- assist in Court testimony.



It is recommended that a small lined hardcover notebook be used. Size is important as it may be more convenient if it can be easily carried.



Follow the steps given below when taking notes – they are important and will help you in writing the account of an incident or offence:

General Instructions	Individual Entries
All pages in the notebook must be numbered immediately.	Ensure that the date, day, time and place where the offence was detected are accurately written down.
Write on both sides of each page.	Entries on different events should be separated from previous entries by a bold line
Notebook covers should be labeled to show the period covered by the book.	Ensure the accuracy of all entries including full names, addresses, description of vehicles, etc.
<b>No pages</b> should be removed from the notebook. Missing pages may be seen as an attempt to tamper with the book and thus cast some doubt as to the truth of the contents contained therein. Do not use a notebook whose pages can be easily removed, eg, do not use a binder	Record <b>only the facts</b> , do not include opinions or speculate on the facts
If you are going to leave a page or a part of page blank, draw a large "X" across the blank space  Where a mistake is made draw a line through the error, do not erase or white out item.	Diagrams and sketches can be used to recall positions and measurements.
Use the book to record <b>offences only</b> .	Write up your account of events <b>at the time they happen</b> or as soon as possible while the facts are still fresh in your mind.
Keep all notebooks indefinitely.	Entries should be signed and dated by the person who wrote the account, and the signature of the writer witnessed
	Entries can be made and used by another forest officer once: <ul style="list-style-type: none"> <li>• it is read and checked for accuracy;</li> <li>• agreed on;</li> <li>• all changes are initialed by all officers signing; and</li> <li>• it is signed by all as a true and accurate record of the facts as they took place.</li> </ul>

### 10.1.3 Photographs

Photographs are important tools in the enforcement process as they can be used along with spoken or written testimony to confirm or validate the assertion being made. Photos can be regarded as documentary evidence or real evidence.

Before being admitted as evidence, the Court will look to the admissibility of the photos, that is:

- are they authentic;
- are they the originals; and
- are they relevant to the offence charged.

Originality can be proved once the history of the evidence is established from the point that it was taken, up to the trial of the matter. This includes a detailed explanation of the sequence of events from the time the picture was taken until it was developed and where it was stored after that point.

***Any evidence that has been tampered with will be excluded from the trial.***

Some general instructions for taking photographs are as follows:

- take as many pictures as possible from every perceivable angle **but these must support the offence being tried;**
- try to make the photos complement the notes taken;
- record the subject, day, date, time, and place of each photo and the name of the photographer;
- label each canister;
- get a receipt for processing of film;
- cross match pictures with record made at the time of taking; and
- photographer should sign each photo to confirm the record.



Where evidence is being presented by a witness via **photography** the actual photographer must declare the experience that he has as a photographer as well as the identity of the processor of the film. All issues relating to the production and custody of the photographs have to be established. In addition all persons engaged in this process will need to make statements detailing the extent of their participation.

### ***10.1.4 Video/Audio Recording***

Evidence supplied via video and/or audio recording can be deemed real evidence as it permits individual perception. This is especially important where the evidence is perishable or there is a great chance of the scene being disturbed at some point before trial.

The key factor in the introduction and subsequent use of recorded evidence is its authenticity and originality. The proper foundation has to be established in relation to this before it will be admitted as evidence in the case, that is, the facts concerning the production and custody of the recorded evidence have to be established. Statements will also be required from all the persons involved in the process of documentation of this material. Any suggestion of tampering may lead to the exclusion of the evidence.



### ***10.1.5 Statement Taking***

A statement is merely a written testimony. It can be either:

1. **Voluntary:** This statement is made by the maker at his own request.
2. **Cautioned:** Statements made after a caution has been administered. It usually goes: “Do you wish to say anything? You are not obliged to say anything but whatever you say will be taken down in writing and may be given in evidence against you.” The caution is to alert the maker to the fact that he or she may be prosecuted at a later date for the statement made.<sup>2</sup>

Confessions are often embodied in a Caution statement. The Judges Rules state that the cautioned statement needs to follow a specific format (See Appendix 1).

The format of a statement must strictly adhere to the existing practice (See Appendix 2). The statement **must** contain:

- the day, date, time and place that the offence was detected;
- a description of the suspect (as identification is a key component in establishing a case against an alleged offender);
- the facts (things said and done) as they occurred;
- the declaration of the person making the statement;
- the signature of the person making the statement at the end of each separate page and also at the end of the entire document. Where the person cannot write, a mark (for example an X) can be used instead; and
- the initials of the maker and the taker of the statement in the margin opposite to any mistake/change made.

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<sup>2</sup> *The Admissibility of Cautioned Statements into Evidence and Editing of Cautioned Statements: A Practical Approach* by Paula Llewelyn.

The signature of the witness is indicative of the maker having made the statement. A statement without a signature or mark deemed to be that of the person making the statement decreases its credibility.

The best means of taking a statement is to remember the following:

**H** ear the story and determine whether it is relevant;

**U** ntil the facts are clearly established in your mind do not start writing;

**R** emember to start at the **very** beginning; and

**T** ake the story in the person's actual words.

# 11.0 INSTITUTION OF PROCEEDINGS

There are two means by which the forest officer can inform the suspect of the fact that action is being taken against him pursuant to the Act. These are:

1. Arrest
2. Summons

## 11.1 Arrest under the Forest Act

**Arrest** is the taking or restraining of a person from the exercise of his liberties. Arrest is not necessarily confined to physically restraining them since merely stopping someone to question them results in the person not being able to continue about his business. Arrest usually occurs when the person has, or is in the process of, or is suspected of committing an offence. The two types of arrest are:

1. **Informal calling** where the person is merely questioned without being taken into custody.
2. Taking the person and **placing them in custody**, then proceeding to put them before the Court.

An arrest is legal when carried out with a warrant issued by a Justice of the Peace or Resident Magistrate. An arrest is also legal without a warrant where an **arrestable offence** has been or may have been committed. An arrestable offence is one that justifies a summary arrest, that is, one without a warrant.

The Act authorises a forest officer to arrest a person without a warrant where they have committed, attempted to commit or is reasonably suspected of committing an offence contrary to the Act ***if the forest officer:***

1. has reasonable grounds to believe that **the person will abscond if not arrested;**  
**OR**
2. does not know the **name and address** of the person and **cannot reasonably ascertain** this.

It is recommended that the powers of arrest be used only as a last resort. The forest officer should make an assessment based on the facts of the case as to whether or not an arrest should be made.

Once an arrest is made the person should be taken immediately to a police station and be put before a Resident Magistrate at the earliest opportunity to answer to the charge laid against him.

**Use of force should be limited to the amount required to maintain personal safety.** The level of force is therefore dependent on the facts of the case, the attitude of the forest officer and his perception of what is required to maintain control of the situation. Whether or not you need to exercise the right to defend yourself (the rule of self-defence) depends on the particular circumstances of the case.

**Detention** is different from arrest in that the person is actually confined. This process is not supposed to last for longer than twenty-four hours without the person being charged. If the detention lasts for more than this time a civil suit can be brought against you for unlawful detention.



## 11.2 Making an Arrest

When making an arrest, take the following steps immediately after you have accosted the person:

- inform the person of your identity;
- inform the person of the offence;
- state that he is not obliged to say anything but if he does it might be held against him;
- once cautioned, write down anything that he may say;
- the accused has the constitutional right to contact one person, so give him this opportunity; and
- ensure safe custody (search the body in halves).

When transporting the suspect **never** carry him on:

- a busy street;
- over or close to a bridge or precipice; or
- public transportation.

**Do not** allow him to:

- sit beside or behind the driver; or
- to drive.

Where a vehicle is involved, a forest officer can take charge and drive the vehicle but only when the forest officer possesses a valid licence to drive such a vehicle. If this is not the case, or you are already driving a vehicle, you can instruct the suspect to drive with you to a certain point.

If there are many items which may constitute evidence which cannot be transported, then get a Records of Perishable Goods form (See Appendix 3) and write it up. A Justice of the Peace should verify the information on the form.

### **11.3 Searching a Suspect**

When searching a suspect the situation should be uncomfortable for the suspect but not humiliating.

If the search is in an open space:

- Ask the person to turn his back to you and to clasp hands on top of his head.
- Put his feet as close as possible together and ask him to lean back as far as possible.

If the search is by a wall or other solid surface:

- Facing the wall, let the suspect put his hands against it with his feet spread apart.
- Put your right leg between the suspect's legs closer to his left leg so that you can kick his leg and control his balance if he decide to resist.

Use the following general search procedure:

- Search the person by grasping each section of clothing covered area with cupped hands, that is, wring each section thoroughly until the entire body is covered.
- If you need to walk him, eg, to the Police Station or a nearby vehicle, hold his power arm (right hand if in doubt) straight out and make sure you have a full grip of the hand and his waistband from behind to control their movement.
- If you find a firearm during the search, take the firearm, remove the magazine if it is a pistol; if it is a revolver, empty the chamber. Show the suspect that you have the firearm and ammunition.
- Voice control is a very important. Talk to the person in an assertive manner using eye contact.
- Use a pair of latex gloves if possible to protect the evidence.

**Never** put your hand in the suspect's pocket - ask him to empty them.

Search the groin area as well. You can also ask the suspect to remove his shoes.

**If the person has a deadly weapon do not attempt to apprehend the person.**

Preservation of life is the most important thing in the enforcement of any type of law.

**The forest officer must ensure the safety of his person at all times.**

A forest officer can use as much force as necessary. You can hit the person in the forehead, elbow or knee. The aim is not to kill but to control the individual. Deadly force should only be used where one's life is threatened. If you hit the individual too hard and he dies, you will have to justify the use of what may be seen as excessive force.

**A female can only be searched by another female.** If you find yourself as a male confronted with a situation where you have to search a female suspect then you may ask a female member of the public to search the individual. If this is not possible then take the woman to a place where a female can search her.

#### **11.4 Issuing a Summons**

A summons is another means of informing the suspect that a charge has been laid against him. It is a written directive to the person which tells him where and when they are to attend Court as well as the charge which has been laid and the name of the judge or magistrate he will be appearing before. It is issued by the Clerk of the Court and puts the person on notice that he has a charge to answer in the Court (See Appendix 4).

If a person who has been summoned to court does not attend on the specified date, then a bench warrant will be issued for his arrest. He will then be brought before the Court via the drafting of an "Information" which is signed by the Clerk of the Court, or a Justice of the Peace.



An Information is the means by which a matter is commenced in the Resident Magistrates Court. The Information (see Appendix 5) outlines the particulars of the offence:

- the parish where the offence took place;
- the person making the complaint and his occupation;
- the date on which the information is made;
- the date and place where the offence took place;
- the name of the offender and the parish where he lives;



- the jurisdiction of the Court (that is the parish); and
- the offence and the section of the Act creating the offence.

Two copies of a summons is prepared. One is served on the suspect and the other is endorsed by the person serving it and then passed on to the Clerk of the Court.

- A summons **must not be served at night**.
- It must be given to the person three clear or work days before the date that the matter is to be heard. It may be served on a weekend but the 3-day rule still stands.
- It can be dropped at the person's feet or pushed under a door. What is important is that the person's attention is drawn to it.

The summons has to be endorsed that it was served in one of the three ways (See Appendix 4 for an example of each of endorsement):

1. Personal service: The summons is served directly on to the suspect.
2. Non-service: The summons could not be served on the named person.
3. Inmate: The summons was given to someone at the residence of the suspect. A summons should not be served if the person receiving it is under 16 years of age or if the person is mentally handicapped.

## 12.0 LAYING OF CHARGES

When a matter is going to be tried summarily, it is done via an Information. As described in the previous section, an Information is the first document that is laid before the Court and brings the accused under the jurisdiction of that particular Court.

***Example:*** On the fourth day of November in the Parish of Hanover David Brown lit a fire in an area of the Forest Reserve contrary to Section 31(c) of the Act.

### **Points to remember:**

- The proper charge has to be laid before a prosecution may begin.
- Ensure that the offence with which the suspect has been charged is the one that the evidence collected will support.
- Inform the suspect of the offence with which they are charged. You must be familiar the various offences listed in the Act and the penalty provisions for each.
- If there is more than one charge to be laid against a suspect, each must be placed on a separate Information.
- The Information must be signed by a Clerk of the Court or a Justice of the Peace.

## 13.0 TRIAL PREPARATION

### 13.1 The Criminal Standard and Burden of Proof

As stated previously, the burden of proof of the existence of an offence contrary to the Act rests solely with the prosecution. In a Summary matter this would be the Clerk of the Court or the Legal Officer of the Department. The standard that has to be attained is that of guilt beyond a reasonable doubt. Once this is established based on evidence presented at the trial, then the prosecutor has done his duty. Evidence then has to be produced that supports the charges made against the suspect.

A crime is usually comprised of an act or event and the accompanying state of mind to commit this act. The act or event must be proven to have occurred and the person accused must be proven to have committed the act.

A criminal offence will require proof of some intention where the statute contains words such as:

1. “knowingly” - requires proof that the person has knowledge that he is committing the offence and that it is prohibited;
2. “intentionally” or “permits” - may require proof of *mens rea* (intention), there must be knowledge of the offending state of affairs or willful blindness; and
3. “causing” - requires proof of an act done on a person’s actual authority or proof of a positive act (“express authorisation of the forbidden act”).

Thus all the evidence that is collected and presented at trial will be geared towards proving beyond a reasonable doubt that the suspect committed the crime with which he has been charged. At trial the evidence is presented or introduced via witness testimony. Evidence can only be presented in Court by oral testimony, that is, via the testimony of a witness.



### 13.2 Witness Testimony

A witness may refresh his memory from his statement prior to the trial starting. Refreshing will also be allowed during the trial where this is done from a document, for example, notes taken by the witness. The notes must have been made while the incident was still fresh in the mind of the witness.

There are three means of getting information from a witness:

1. Examination-in-chief is where the witness is questioned by the side who requested that he be brought to Court.
2. Cross examination is where the other side questions the witness who had been examined in chief.
3. Redirect allows the two sides to clear up any discrepancies that may have arisen during either examination in chief or cross examination.

### ***13.2.1 Examination-in-Chief***

An examination-in-chief is basically a questioning process between the legal counsel and a witness and is used to:

- allow the party calling the witness to put forward information in support of their case;
- introduce proof of an offence; and
- discover whether a further statement is required where facts material to the case arise later.

The aim of examination-in-chief is to:

- set out your case;
- build the evidence; and
- assist the witness, eg, with dates, times, locations, identities, etc.

### ***13.2.2 Cross Examination***

This allows one side to question the other based on the evidence put forward in examination-in-chief. A document may also be given to a witness on which they will have to answer questions on.

### ***13.2.3 Redirect***

The main objective for carrying out a redirect exercise is to allow either side to correct any inconsistency that may have arisen during either examination in chief or cross examination.

## **13.3 Presentation of Testimony**

As a forest officer, your testimony is critical to the case being tried. To ensure your testimony is understood, keep the following in mind:

1. Speak clearly.

2. Cases may be called up before yours – pay attention and listen for yours to be called up.
3. Stand when suspect is asked how they plead.
4. The prosecutor may open to the facts (that is with a summary of the facts) and the witnesses will have to leave before any testimony is presented.
5. Stand at attention in the box or sit if invited to do so.
6. Answer respectfully.
7. Do not show emotions.
8. Answer all questions even if they don't seem relevant.
9. The judge will be writing so talk slowly and clearly.
10. Be objective and stick to the facts.
11. Do not use jargon or technical terms without explaining these.
12. Listen to the questions posed by the defence clearly, eg, Is this the first time you are telling a lie? Answer: I am not lying.
13. The prosecution will present the evidence from the statements given. Do not take exhibits into the box.
14. You can use notes when giving evidence. If you can recall all the events, then do not use the notes but do not guess.
15. Relate the facts in sequence of how they occurred.
16. Correct errors immediately.
17. Do not give opinions. Expert witness are allowed to give opinions, for example, the identification of trees.

### **13.4 Matters set for Mention and Trial**

When a matter is set for mention it merely means that it will be called up. The accused person will be asked what is the nature of his plea and the charges will be read out to them. A matter that is set for trial is one where the accused either pleads not guilty or guilty with explanation. A trial is required because there will be opposing views which will require clarification.



**13.5 Trial DOs and DONTs**

<b>DO</b>	<b>DO NOT</b>
Arrive at Court on time - if you will be late inform the Clerk beforehand.	Don't whisper/discuss the case during the break.
Attend Court on the date for trial properly attired in formal clothing or approved uniform.	Don't cross your legs unless there is a barrier between you and the Court.
Use any extra time to refresh your memory. If you did not make a copy of your statement then you may ask the Prosecutor if you could be allowed to refresh your memory from the copy they have.	Do not answer questions if you do not remember the answers. You may ask permission to refresh your memory, or if the information is not written, merely reply that you do not recall.
Travel with at least two copies of the Gazette listing the relevant Forest Reserve, the Act 1996 and the Regulations 2001 and present these to the Clerk of the Court and the Resident Magistrate.	Do not sit in the witness box unless invited to do so by the Resident Magistrate.
Take your notebook.	Do not read from your notebook in the witness stand unless you have been given permission to do so by the Resident Magistrate.
Meet with the prosecutor before the trial (where possible) so that you can be briefed as to what types of questions to expect.	Do not get angry or annoyed with the Prosecutor or defence counsel.
Ensure that where real evidence is in the custody of the Department that it be readily accessible should it be required for presentation during the trial.	Do not be disrespectful to any officers of the Court at any point. Always answer only the questions asked. Do not embellish.
Speak slowly to the judge as s(he) has to record all you are saying.	Do not be nervous – speak carefully and slowly. Listen to all questions before you respond.
Attend court at all times when your matter is called up. If you have to be absent inform the Clerk beforehand.	

## 14.0 CONCLUSION

The information in this manual makes it clear that the actions of the forest officer can make or break the successful prosecution of a matter under the Act and the Regulations. This is because the forest officer is the only source of information for the prosecutor. As such it is of utmost importance you observe the proper steps from the time the offence is detected through to the actual trial of the matter.

Insufficient evidence to support the case of the prosecution will result in the accused not having a case to answer. This can also occur where the witnesses are discredited to such an extent that the Resident Magistrate deems their testimony unbelievable.

There may be times when it is advisable to take the person prosecuting the matter to the *locus in quo* - the site where the incident took place. This may serve to give them a better idea as to the logistics of the area and thus assist in the presentation of the case. In some instances a request may be made for the relevant parties to visit the site. This is usually done on the request of the prosecutor or the Resident magistrate.

A forest officer serves not only as an enforcer but also in a preventative capacity. The objective of the forest officer is to carry out duties in such a manner as to decrease the number of offences which actually take place.

## **APPENDIX 1**

### **Format of a Cautioned Statement**



- i. Words of caution (stated below);
- ii. Signature of the accused (maker of the statement) and the date;
- iii. Signature of the witness and the date;
- iv. The request - (desire of the accused to make the statement):

“I, *(insert name of person making the statement)*, wish to make a statement and I want someone to write down what I say. I have been told that I need not say anything unless I wish to do so and whatsoever I say may be given in evidence.”

- v. Signature of the accused and date;
- vi. Signature of the witness;
- vii. Narrative of story;
- viii. Narrative ends;
- ix. Signature of accused and date;
- x. Signature of witness and date;
- xi. Certificate confirming the fact that the statement was read over to the accused:

“The foregoing statement was read over to me and by me. I have been told that I can correct, alter or add anything I wish. This statement is true. I have made it of my own free will ”

- xii. Signature of accused and date;
- xiii. Signature of witness and date;
- xiv. Certificate of the recorder of the statement:

“The foregoing statement was recorded by me in the presence of *(insert name of witness to the statement)* of *(place where witness resides)* at *(place where statement was taken)* between *(time when accused started making statement)* and *(time when accused finished statement)*. It was read over to the maker who signed it as true and correct.”

- xv. Signature of recorder of statement and date.

**Please note:**

- Signature of accused and witness at the end of each page and date.
- All alterations / corrections need to be initialed by the maker of the statement.

## **APPENDIX 2**

### **Example of a Statement**

**NAME:** Mr Chinua Achebe  
**AGE:** 32  
**OCCUPATION:** Forest Officer  
**ADDRESS:** 12 Montage Way, St. Ann  
**DATE:** October 22, 2001

**STATES,**

I am a forest officer, attached to the Central Regional Office of the Forestry Department. On Monday the 22<sup>nd</sup> of October, 2001 at about 5:45 a.m., I left the Regional Office in a motor van licensed 23 4413 driven by forest officer Tom Brown for the Bogue forest reserve.

We arrived at the forest reserve at approximately 8:55 a.m. and I noticed that a cow was tied to one of the pine trees and that two of the smaller trees close to the cow were damaged. I took three photographs of the cow, showing the owner's mark, tied to the tree and another of the two damaged trees. I cut the cow loose and drove it from the forest reserve.

We then started our patrol of the reserve. At approximately 12:33 p.m., after patrolling a section of the reserve, we passed the area where the cow had been tied before. On reaching this spot I noticed a man who I later recognised as John Stokes tying what appeared to be the same black and white cow to another pine tree. On approaching him I overheard him saying "mek mi ketch di smaddy weh loose mi cow an see". At this point I took four pictures of him tying the cow and then approached him.

I asked him what he was doing and if he did not know this was a forest reserve. He replied to my query "offica gi mi ah chance, fire bun up di grass inna mi field an mi nuh hab nuh wey fi tie mi cow". After he said this I pointed out the damage that had been done to the seedlings by his cow and asked him whether he was willing to pay for the damage. He begun to curse saying that government land belonged to no one and that I had no right to accost him. I then warned him for prosecution under the Forest Act and told him to remove the cow right away. Mr. Stokes proceeded to do this and we left the reserve together.

I then proceeded to the St. Ann's Bay Police Station and made a report to Constable Derrick Scott, at which point I proceeded to make this statement.

.....

Chinua Achebe

This statement consisting of two pages signed by me is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I will be liable to prosecution if I have willfully stated anything that I know to be false or do not believe to be true.

.....

Chinua Achebe

## **APPENDIX 3**

### **Example of a Records of Perishable Goods Form**

**JAMAICA CONSTABULARY FORCE: APPENDIX 'A' TO FORCE ORDERS**

**DIVISION: ENVIRONMENTAL WARDEN SERVICE**

**DATE:**

**RECORDS OF PERISHABLE GOODS:**

Where as application made before the under signed one of Her Majesty's Justice of the Peace for the Parish of ..... For a written record of perishable goods, I so hereby certify that I have examined the perishable goods and have prepared this written record of such goods.

Quantity	Description of Goods

Given under my hand this ....., 2002

At ..... in the Parish of.....

.....  
 Justice of The Peace for the Parish of  
 .....

**APPENDIX 4**

**Format of a Summons  
and  
Endorsements for a Summons**

AFFIDAVIT OF SERVICE OF SUBPOENA

In the Court  
of Petty Sessions holden the  
day of 20

JAMAICA SS  
PARISH of

REGINA

Summons

Constable, do swear that on the day of  
at Two Thousand and noon at  
in the parish of I served upon  
a copy of the within Summons (now marked) dated the  
day of 20 and issued by  
of the parish of Esquire, Clerk of the Courts  
therein-named on the information of the  
the said copy Summons on the said against the said  
I read over the within Summons to At the time I served  
Before the day of the said  
service I the said  
personally Taken and sworn to before me at  
in the parish of  
day of this 20



PETTY SESSIONS – FORM Y  
JAMAICA SS.

Summons to Person Charged

Parish of

To

of the said parish

whereas Information hath this day been laid before the undersigned, one of Her Majesty's Justices of the Peace in and for the said parish of that you

on the day

in the year of Our Lord Two thousand and and within my jurisdiction at the said parish of

against the form of the Statute in such case made and provided and against the Peace of Our Sovereign Lady the Queen, Her Crown and Dignity.

These are therefore, to require you, in Her Majesty's name to be and appear on

the day of

Two thousand and at ten o'clock in the forenoon at the Court House at before such Justices of the Peace for the said parish of as may then be there to answer to the said Complaint and to be further dealt with according to Law.

Given under my hand this day of

In the year of Our Lord Two Thousand and at the parish aforesaid

## ENDORSEMENTS FOR A SUMMONS

A summons has to be endorsed that it was served in one of three ways:

### 1. Personal Service

Served personally by me this ..... day of ..... 20..... at about ..... am/pm in the parish of ..... on ..... the .....within named ..... whom I knew / did not know before the date of service (but who was pointed out to me). It was read over and handed to him / her. She/ he took it and said that s/he understood it / it was thrown at his / her feet and his / her attention was called to it.

Signed:

Date:

### 2. Nonservice

Taken out by me this ..... Day of ..... 20 ..... and not served. Information received from ..... that the defendant has ..... and may be reached at that location / his current location is unknown.

Signed:

Date:

### 3. Inmate Service

Served inately by me on this day of ..... 20 ..... at about ..... am/pm on ..... age ..... (relationship to the addressee) of defendant ..... It was read over to him / her s/he accepted it and said s/he would deliver it to the defendant on his / her return from ..... the same day.

Signed:

Date:

## **APPENDIX 5**

### **Format and Example of an Information**

**In the parish of**

REGINA

vs.

Information of

**in the parish of**

REGINA

vs.

Information of

For

Tried on

Before

Guilty

Sentence

1

**INFORMATION**

Parish of

The Information and Complaint of  
of the parish of \_\_\_\_\_ made and taken upon oath  
before the undersigned this \_\_\_\_\_ day of \_\_\_\_\_ in the year of Our Lord Two  
Thousand and \_\_\_\_\_ who saith that on \_\_\_\_\_  
the \_\_\_\_\_ day of \_\_\_\_\_ in the year aforesaid one  
\_\_\_\_\_ of the said parish of \_\_\_\_\_  
at \_\_\_\_\_ and within the jurisdiction of this Court

against the form of the Statute in such case made and provided, and against the Peace of Our  
Sovereign Lady the Queen Her Crown and Dignity, and thereupon the said Complainant prays  
that the said \_\_\_\_\_ defendant may be summoned to answer  
unto the said Complaint according to Law.

Taken and sworn to before me at \_\_\_\_\_  
in the parish of \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_  
Two thousand and \_\_\_\_\_

.....  
**Justice of the Peace or Clerk of the Courts**  
**for the Parish of \_\_\_\_\_**

To be holden in the Ocho Rios Resident Magistrate

Court on Monday, 17<sup>th</sup> Sept 2001 at 10 am

In the parish of St. Ann

in the parish of

REGINA

REGINA

vs.

Information of

Information of

Tom Stokes

Brown

for

John

felling

(forest officer or

of Trees

constable)

For

Tried on

Before

Guilty

Sentence

1

**INFORMATION**Parish of **St Ann**

The Information and Complaint of **John Brown, Forest Officer**  
of the parish of **St. Ann** made and taken upon oath  
before the undersigned this **12th** day of **September** in the year of Our  
Lord Two Thousand and **One** who saith that on **Monday**  
the **10th** day of **September** in the year aforesaid  
one **Tom Stokes** of the said parish of **St. Ann**  
at **Alexandra** and within the jurisdiction of this Court

wilfully felling timber in the  
**Boge Forest Reserve** contrary to  
**Section 31(B) of the Forest Act 1996.**

against the form of the Statute in such case made and provided, and against the Peace  
of Our Sovereign Lady the Queen Her Crown and Dignity, and thereupon the said  
Complainant prays that the said **Tom Stokes** defendant may be  
summoned to answer unto the said Complaint according to Law.

Taken and sworn to before me at **Eltham**  
in the parish of **St. Ann** this **12th** day of  
**September** Two thousand and **one**.

.....  
**Justice of the Peace or Clerk of the Courts**  
**for the Parish of St. Ann**