

IN THE HON'BLE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

Original Application No. 911/2022

**IN THE MATTER OF:-**

**NGT Bar Association**  
**(Substituted for original applicants**  
**Prof. Dr. Sanjeev Bagai & Ors.)**

.....Applicant

VERSUS

Department of Environment, GNCTD & Ors.

.....Respondents.

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1.	Response on behalf of HP Forest Department in compliance to order dated 06.02.2023	2-11
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3.		

  
Pr. Chief Conservator of Forest (HoFF), Shimla  
Himachal Pradesh

Date: 02.04.2024  
Place: Shimla

IN THE HON'BLE NATIONAL GREEN TRIBUNAL  
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**The Reply to the OA on Behalf of Respondent No 23 of HP Forest Department in compliance to order dated 06.02.2024.**

**May it please your lordships:-**

That the present application under Section 14 and 15 of the National Green Tribunal act, 2010 was filed by the applicant against the cutting, felling and pruning of trees in Vasant Vihar New Delhi in violation of Section 8 read with Section 2 (h) of the Delhi Preservation of trees act, 1994. Later on scope of case was expanded and States of Uttar Pradesh, Uttarakhand, Punjab, Haryana, Himachal Pradesh and NCT of Delhi Union territories of Chandigarh, Jammu and Kashmir and Ladakh and State Pollution Control Boards were impleaded as respondents. These respondents were directed to file their reply/response with respect to the aspects of protection to trees against illegal felling and

pruning of trees and all related aspects and framing of guidelines/rules regarding the same. The CPCB was also directed to obtain and compile the information with respect to the above mentioned aspects from all the States and Union Territories and include such compiled information in its reply /rules.

That in the State Himachal Pradesh issues of protection of trees against illegal felling and pruning of trees and all related aspects and framing of guidelines/rules regarding the same are being regulated in the Forest Department of Government of H.P. under Forest Laws.

The Point wise reply as under:

Para 1: That the contents of this para needs no submission by the replying respondent.

Para 2 That the contents of this para needs no submission by the replying respondent.

Para 3: Pertaining to all aspect of protection of trees against illegal felling and pruning of trees. The Himachal Pradesh Forest Department has number of act and guidelines in place to regulate the protection of trees against illegal felling and pruning of trees from both private area as well as Government forest areas. These act and guidelines include Indian Forest Act, 1927 and Land preservation Act, 1978 and other guidelines that includes SOP for pruning and lopping of trees. ( **Annexure-I,II,III** )

Para 4: That the contents of this para needs no submission by the replying respondent.

Para 5: That the contents of this para needs no submission by the replying respondent.

- Para 6: That the contents of this para needs no submission by the replying respondent.
- Para 7: That the contents of this para needs no submission by the replying respondent.
- Para 8: That the contents of this para needs no submission by the replying respondent.
- Para 9: In this regard Himachal Pradesh Forest Department is of the opinion that there is no requirement for centralized /guidelines for preservation and felling of tree in the State of Himāchal Pradesh as preservation and felling of trees already being regulated under various provisions of the Indian Forest Act,1927 as well as Land preservation Act,1978. Moreover there are specific guideline to regulate pruning and lopping of tree in the State.
- Para 10: That the contents of this para needs no submission by the replying respondent.
- Para 11: That the contents of this para needs no submission by the replying respondent.
- Para 12: That the contents of this para needs no submission by the replying respondent.
- Para 13: That the contents of this para needs no submission by the replying respondent.
- Para 14: That the contents of this para needs no submission by the replying respondent.

Para 15: That the contents of this para needs no submission by the replying respondent.

Para 16: That the contents of this para needs no submission by the replying respondent.

Para 17: That the contents of this para needs no submission by the replying respondent.

That the response of the H.P. Forest are hereby submitted for kind perusal and consideration of the Hon'ble National Green Tribunal please,

In compliance the reply being submitted to NGT in the searchable PDF.

  
Pr. Chief Conservator of Forest (H<sub>0</sub>FF), Shimla  
Himachal Pradesh

Dated: 02.04.2024

Place: Shimla

Item No. 11

(Court No. 2)

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.**

(Through Physical Hearing with Hybrid VC Option)

Original Application No. 911/2022

I. A. No. 16/2023 and I.A. No. 9/2024

NGT Bar Association  
(substituted for original applicants  
Prof. Dr. Sanjeev Bagai & Ors.)

...Applicant

Versus

Department of Environment, GNCTD & Ors.

...Respondents

Date of hearing: 06.02.2024

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER.  
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER.**

**Applicant:** Mr. Narender Pal, Advocate for Applicant- NGT Bar Association (substituted for original applicants Prof. Dr. Sanjeev Bagai & Ors.).  
Ms. Parul Parmar, Advocate for the applicants in I.A. No. 09 of 2024. (through VC)

**Respondent:** Ms. Jyoti Mendiratta, Advocate for respondents no. 1, 3 and 5-GNCTD.  
Mr. Virender Singh, Advocate for respondents no. 2, 4, 7 and 8.  
Mr. P.K. Banerjee, Deputy Director, Horticulture, MCD.  
Ms. Kritika Gupta and Ms. Latika Malhotra, Advocates for respondent no. 6-DDA and respondent no. 37-VC, DDA (through VC).  
Mr. Kush Sharma and Mr. Nishchaya Nigam, Advocates for respondent no. 9-DPCC.  
Mr. Kaushal Gautam, Advocate for respondent no. 20-State of Uttarakhand and respondent no. 27-UKPCB.  
Mr. Rahul Khurana, Advocate for respondent no. 22-State of Haryana and respondent no. 30-HSPCB.  
Mr. Daleep Dhyani, Advocate for respondent no. 28-UPPCB (Through VC).

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Ms. Richa Kapoor and Mr. Amresh, Advocates for respondent no. 29- PPCB.

Mr. Shubham Bhalla and Ms. Ragini Sharma Advocates for respondent no. 24-UT Chandigarh and respondent no. 32-Chandigarh PCC.

Mr. Vaibhav Srivastava, Advocate for respondent no. 31-HPPCB.

Mr. Raj Kumar, Advocate for Respondent no. 34-LPCC  
Mr. B N Sharma, Member Secretary, LPCC (through VC).

Ms. Shilpi Srivastava, Advocate for respondent no. 35-MoEF & CC.

Dr. Shobhita Aggarwal, Assistant Inspector General of Forest. (through VC).

Mr. Vikrant Pachnanda, Advocate for respondent no. 36-CPCB.

Dr. Sharandeep Singh, Scientist E, CPCB (through VC)

None for respondent no. 10 to 19, 21, 23 to 26 and 33.

**Application under Section 14 and 15 of the National Green Tribunal Act, 2010.**

**ORDER**

1. Ms. Parul Parmar, Advocate has appeared for original applicants- Prof. Dr. Sanjeev Bagai, Mr. Rajit Kumar and Mr. Vivek Tandon (who were allowed to withdraw from the case) and has submitted that in order dated 05.12.2023 presence of Mr. Vivek Sibal, Learned Senior Counsel, who had appeared in the case on behalf of the original applicants, was not marked and I.A. No. 09/2024 has been filed by the original applicants for correction of the above said order.

2. On 05.12.2023 Mr. Vivek Sibal, learned Senior Counsel had appeared in the case on behalf of the original applicants but inadvertently his presence could not be marked in the order due to inadvertent clerical/typographical omission. Order dated 05.12.2023 is ordered to be corrected for marking his presence. Correction be made in order dated 05.12.2023 and also in copy of order dated 05.12.2023 uploaded on the website of this Tribunal.

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3. Vide order dated 05.12.2023 Ministry of Environment, Forest and Climate Change, Government of India through the Secretary, Central Pollution Control Board through the Member Secretary, and States of Uttar Pradesh, Uttarakhand, Punjab, Haryana, Himachal Pradesh and NCT of Delhi and Union Territories of Chandigarh, Jammu and Kashmir and Ladakh through the Additional Chief Secretary/Principal Secretary/Secretary, Environment, as the case may be, and Pollution Control Boards/Pollution Control Committees thereof through their Member Secretaries were impleaded and notices were ordered to be issued to them requiring them to file their reply/response with respect to the aspects of protection of trees against illegal felling and pruning of trees and all related aspects and framing of guidelines/rules regarding the same. The CPCB was also directed to obtain and compile the information with respect to the above mentioned aspects from all the States and Union Territories and include such compiled information in its reply/response.

LPA  
TVA

4. As per office report notices have been duly served.

5. Vide order dated 05.12.2023 personal appearance of the officers duly authorised by the Secretary, Ministry of Environment, Forest and Climate Change, Government of India, the Member Secretary, Central Pollution Control Board, the Commissioner, Municipal Corporation of Delhi and the Vice Chairman, DDA before this Tribunal physically or through VC was ordered.

6. In compliance thereof Mr. B N Sharma, Member Secretary, LPCC, Dr. Shobhita Aggarwal, Assistant Inspector General of Forest and Dr.

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Sharandeep Singh, Scientist E, CPCB have appeared before this Tribunal through VC and Mr. P.K. Banerjee, Deputy Director, Horticulture, MCD has appeared before this Tribunal physically and we have interacted with them.

7. Reports/responses have been filed by J&KPCC vide email dated 25.01.2024, by PPCB vide email dated 03.02.2024, by DCF Chandigarh vide email dated 05.02.2024, by Chandigarh PCC vide email dated 05.02.2024 and by HPSPCB vide email dated 05.02.2024.

8. Responses have been filed by MoEF & CC vide email dated 05.02.2024 and by CPCB vide email dated 05.02.2024.

9. In its reply MoEF & CC has submitted information in tabular format regarding Acts/Rules framed by the States/UTs and submitted that MoEF & CC is of opinion that there is no requirement of framing of centralized guidelines for Tree Preservation Acts/Tree Felling Acts as it is already being regulated by State Governments as per existing provisions in State Acts, Rules based on State specific circumstances. CPCB has filed report alongwith copies of information received from the concerned SPCBs/UTPCCs.

10. None has appeared for respondent no. 10 to 19, 21, 23 to 26 and 33.

11. Notices be again issued to respondents no. 19, 21, 23 to 26 and 33 requiring them to file their reply/response as directed vide order dated 05.12.2023 within two months by email at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably

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in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

12. Vide order dated 05.12.2023 MCD and DDA were directed to file response regarding orders passed/permissions granted for pruning of trees in Delhi and also carrying out of pruning of trees in Vasant Vihar by them before and after 29.05.2023 and DCF, West Forest Division was directed to file response regarding complaints made to him and action taken by him in respect of illegal cutting/pruning of trees.

13. Report dated 01.02.2024 has been filed by MCD vide email dated 02.02.2024. Report dated 05.02.2024 has been filed by DDA vide email dated 05.02.2024. Report dated 02.02.2024 has been filed by DPCC vide email dated 02.02.2024.

14. In its reply MCD has given information regarding permissions granted by the Department of Forest and Wild Life, GNCTD for pruning of trees but MCD has not submitted any specific reply in respect of pruning done in Vasant Vihar area. In its report DPCC has mentioned having written a letter to Additional PCCF, Department of Forest and Wild Life, GNCTD. In its reply DDA has given information regarding green strip GHPS at Vasant Vihar and District Park at Vasant Vihar and requested for grant of four weeks time to collect data with respect to pruning of trees undertaken by DDA in entire Delhi.

15. MCD and DDA are directed to file their response with respect to pruning activities carried out by the respondents no. 12 to 18 in Vasant Vihar area mentioning in detail particulars regarding application for permission for pruning of trees or carrying out of the same,

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supervision/monitoring of pruning of trees if any done by them and complaints if any received by them regarding illegal pruning of trees. Response in this regard be filed by them within two months by email at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

16: DCF, West Forest Division has not filed any response in compliance to order dated 05.12.2023 and DCF, West Forest Division is directed to file response in terms of order dated 05.12.2023 within two months by email at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

17. List for further consideration on 05.04.2024.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

February 6<sup>th</sup>, 2024  
ag

## THE INDIAN FOREST ACT, 1927

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- 85. Recovery of penalties due under bond.
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- 86. [*Repealed.*].

THE SCHEDULE—[*Repealed.*].

## THE INDIAN FOREST ACT, 1927

ACT NO. 16 OF 1927<sup>1</sup>

[21st September, 1927.]

An Act to consolidate the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce.

WHEREAS it is expedient to consolidate the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce;

It is hereby enacted as follows:—

## CHAPTER I

## PRELIMINARY

**1. Short title and extent.**—(1) This Act may be called the Indian Forest Act, 1927.

<sup>2</sup>[(2) It extends to the whole of India except the territories which, immediately before the 1st November, 1956, were comprised in Part B States.

(3) It applies to the territories which, immediately before the 1st November, 1956, were comprised in the States of Bihar, Bombay, Coorg, Delhi, Madhya Pradesh, Orissa, Punjab, Uttar Pradesh and West Bengal; but the Government of any State may by notification in the Official Gazette bring this Act into force<sup>3</sup> in the whole or any specified part of that State to which this Act extends and where it is not in force.]

**2. Interpretation clause.**—In this Act, unless there is anything repugnant in the subject or context, —

(1) “cattle” includes elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids;

(2) “Forest-officer” means any person whom <sup>4</sup>\*\*\* the <sup>5</sup>[State Government] or any officer empowered by <sup>4</sup>\*\*\* the <sup>5</sup>[State Government] in this behalf, may appoint to carry out all or any of the purposes of this Act or to do anything required by this Act or any rule made thereunder to be done by a Forest-officer;

1. This Act has been amended in its application to:—

- (1) Madhya Pradesh by Madhya Pradesh Acts 26 of 1950 and 20 of 1954 ;
- (2) Uttar Pradesh by U.P. Acts 18 of 1951, 5 of 1956, 21 of 1960, 11 of 1973 and 13 of 1976 ;
- (3) Orissa by Orissa Act 25 of 1952, 11 of 1954, 27 of 1959 and 14 of 1972 ;
- (4) West Bengal by Bengal Act 11 of 1945, s. 63, West Bengal Acts 14 of 1948 and 14 of 1975 ;
- (5) East Punjab by East Punjab Act 7 of 1948 ;
- (6) Haryana by Haryana Acts 12 of 1973 and 31 of 1973 ;
- (7) Maharashtra by Maharashtra Acts 6 of 1961 and 27 of 1968 ;
- (8) Gujarat by Gujarat Act 14 of 1973 ; and
- (9) Certain parts of Mysore by Mysore Act 10 of 1958:

2. Subs. by the A.O. (No. 3) 1956, for sub-sections (2) and (3).

3. This Act has been declared to be in force in the Khondmals District by the Khondmals laws regulations, 1936 (4 of 1936), s. 3 and the Schedule.; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), and the Schedule. This Act has been extended in its application to:—

- (1) Berar (partially) by the Berar Laws Act, 1941 (4 of 1941);
- (2) The Province of Coorg, see Coorg Gazette, 1930, Pt. I, p. 94;
- (3) The Delhi Province see Gazette of India, 1933, Pt. II-A, p. 293;
- (4) The whole of Madhya Pradesh by Madhya Pradesh Act 23 of 1958 (when notified);
- (5) Dadra and Nagar Haveli (w.e.t. 1-7-1965) by Reg. 6 of 1963, s. 2 and the First Schedule;
- (6) Pondicherry on 1-10-1963: vide Reg. 7 of 1963, s. 3 and the First Schedule;
- (7) Goa, Daman and Diu by Reg. 11 of 1963, s. 3 and the Schedule; and
- (8) the whole of the Union territory of Lakshadweep (w.e.f. 1-10-1967): vide Reg. 8 of 1965, s. 3 and the Schedule. The Act has been repealed in its application to Bellary District by Mysore Act 14 of 1955.
- (9) Extended to the Union territory of Jammu and Kashmir and Union territory of Ladakh by Act 34 of 2019, s. 95 and the Fifth Schedule (31-10-2019).

4. The words “the G.G. in C. or” rep. by the A.O. 1937.

5. Subs. by the A.O. 1950, for “Provincial Government”.

(3) "forest-offence" means an offence punishable under this Act or under any rule made thereunder;

(4) "forest-produce" includes—

(a) the following whether found in, or brought from, a forest or not, that is to say:—

timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers, mahua seeds <sup>1</sup>[ , kuth] and myrabolams, and

(b) the following when found in, or brought from, a forest, that is to say:—

(i) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned, of trees,

(ii) plants not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants,

(iii) wild animals and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals, and

(iv) peat, surface soil, rock, and minerals (including limestone, laterite, mineral oils, and all products of mines or quarries);

<sup>2</sup>[(4A) "owner" includes a Court of Wards in respect of property under the superintendence or charge of such Court;]

(5) "river" includes any stream, canal, creek or other channels, natural or artificial;

(6) "timber" includes trees when they have fallen or have been felled, and all wood whether cut up or fashioned or hollowed out for any purpose or not; and

(7) "tree" includes palms, <sup>3</sup>\*\*\*, stumps, brush-wood and canes.

#### STATE AMENDMENTS

##### Jammu and Kashmir and Ladakh (UTs).—

(i) Section 2.—for clause (1), the following clauses shall be substituted, namely:—

(1) "**authorised officer**" means an officer authorized under sub-section (2) of section 52;

(1A) "**cattle**" include elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, ram, ewes, sheep, lambs, goats and kids;

(1B) "**forest based industry**" means an industry or unit in which any forest produce is used as raw material or as a source of energy.

(ii) for clause (4), the following clause shall be substituted, namely:—

(4) "**forest-produce**" includes—

(a) timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, kuth, myrobalans, dioscorea, firewood, humus, rasaunt, morels (*Morchella* spp), *Aconitum* spp, *Podophyllum* spp, *Picrorhizaspp*, *Trillium* spp, *Nardostachys* spp, *Taxus* spp, *Valerianassp*, *Rheum* spp, wild animals, skins, tusks, horns, bones and all other parts or produce of wild animals whether found in, or brought from, a forest or not; and

(b) the following when found in, or brought from, a forest, namely:—

(i) trees and leaves, flowers and fruits, roots and all other parts or produce of trees not specified in clause (a);

1. Ins. by Act 26 of 1930, s. 2.

2. Ins. by Act 3 of 1933, s. 2.

3. The word "bamboos" omitted by Act 5 of 2018, s. 2 (w.e.f 23-11-2017).

(ii) plants not being trees (including grass, bamboos, creepers, reeds and moss and lichen), and all parts or produce of such plants;

(iii) silk, cocoons, honey and wax; and

(iv) peat, surface soil, rock, and minerals (including limestone, laterite, mineral oils, and all products of mines or quarries).

(iii) after clause (5), insert the following clause, namely:-

(5A) "saw mill" means any plant and machinery with which and the premises (including the precincts thereof) in which or in any part of which sawing is carried on with the aid of electrical or mechanical power.

(iv) after clause (6), insert the following clause, namely:-

(6A) "transporter" includes a person, a private agency, a Government Department, Corporation or any other agency engaged in transport of forest produce whether on his own or on behalf of any other person;

(v) after clause (7), insert the following clause;

(8) "wild animal" shall have the same meaning as assigned to it in the Wild Life (Protection) Act, 1972.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

## CHAPTER II

### OF RESERVED FORESTS

**3. Power to reserve forests.**—The <sup>1</sup>[State Government] may constitute any forest-land or waste-land which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled, a reserved forest in the manner hereinafter provided.

**4. Notification by <sup>1</sup>[State Government].**—(1) Whenever it has been decided to constitute any land a reserved forest, the <sup>1</sup>[State Government] shall issue a notification in the <sup>2</sup>[Official Gazette]—

(a) declaring that it has been decided to constitute such land a reserved forest;

(b) specifying, as nearly as possible, the situation and limits of such land; and

(c) appointing an officer (hereinafter called "the Forest Settlement-officer") to inquire into and determine the existence, nature and extent of any rights alleged to exist in favour of any person in or over any land comprised within such limits, or in or over any forest-produce, and to deal with the same as provided in this Chapter.

*Explanation.*—For the purpose of clause (b), it shall be sufficient to describe the limits of the forest by roads, rivers, ridges or other well-known or readily intelligible boundaries.

(2) The officer appointed under clause (c) of sub-section (1) shall ordinarily be a person not holding any forest-office except that of Forest Settlement-officer.

(3) Nothing in this section shall prevent the <sup>1</sup>[State Government] from appointing any number of officers not exceeding three, not more than one of whom shall be a person holding any forest-office except as aforesaid, to perform the duties of a Forest Settlement-officer under this Act.

**5. Bar of accrual of forest-rights.**—After the issue of a notification under section 4, no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing made or entered into by or on behalf of the Government or some person in whom such right was vested when the notification was issued; and no fresh clearings for cultivation or for any other

1. Subs. by the A.O. 1950, for "Provincial Government".

2. Subs. by the A.O. 1937, for "Local Official Gazette".

purpose shall be made in such land except in accordance with such rules as may be made by the <sup>1</sup>[State Government] in this behalf.

**6. Proclamation by Forest Settlement-officer.**—When a notification has been issued under section 4, the Forest Settlement-officer shall publish in the local vernacular in every town and village in the neighbourhood of the land comprised therein, a proclamation—

- (a) specifying, as nearly as possible, the situation and limits of the proposed forest;
- (b) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest; and
- (c) fixing a period of not less than three months from the date of such proclamation, and requiring every person claiming any right mentioned in section 4 or section 5 within such period either to present to the Forest Settlement-officer a written notice specifying or to appear before him and state, the nature of such right and the amount and particulars of the compensation (if any) claimed in respect thereof.

**7. Inquiry by Forest Settlement-officer.**—The Forest Settlement-officer shall take down in writing all statements made under section 6, and shall at some convenient place inquire into all claims duly preferred under that section, and the existence of any rights mentioned in section 4 or section 5 and not claimed under section 6 so far as the same may be ascertainable from the records of Government and the evidence of any persons likely to be acquainted with the same.

**8. Powers of Forest Settlement-officer.**—For the purpose of such inquiry, the Forest Settlement-officer may exercise the following powers, that is to say:—

- (a) power to enter, by himself or any officer authorised by him for the purpose, upon any land, and to survey, demarcate and make a map of the same; and
- (b) the powers of a Civil Court in the trial of suits.

**9. Extinction of rights.**—Rights in respect of which no claim has been preferred under section 6 and of the existence of which no knowledge has been acquired by inquiry under section 7, shall be extinguished, unless, before the notification under section 20 is published, the person claiming them satisfies the Forest Settlement-officer that he had sufficient cause for not preferring such claim within the period fixed under section 6.

**10. Treatment of claims relating to practice of shifting cultivation.**—(1) In the case of a claim relating to the practice of shifting cultivation, the Forest Settlement-officer shall record a statement setting forth the particulars of the claim and of any local rule or order under which the practice is allowed or regulated, and submit the statement to the State Government, together with his opinion as to whether the practice should be permitted or prohibited wholly or in part.

(2) On receipt of the statement and opinion, the <sup>1</sup>[State Government] may make an order permitting or prohibiting the practice wholly or in part.

(3) If such practice is permitted wholly or in part, the Forest Settlement-officer may arrange for its exercise—

- (a) by altering the limits of the land under settlement so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient for the purposes of the claimants, or
- (b) by causing certain portions of the land under settlement to be separately demarcated, and giving permission to the claimants to practice shifting cultivation therein under such conditions as he may prescribe.

(4) All arrangements made under sub-section (3) shall be subject to the previous sanction of the <sup>1</sup>[State Government].

<sup>1</sup> Subs. by the A.O. 1950, for "Provincial Government".

(5) The practice of shifting cultivation shall in all cases be deemed a privilege subject to control, restriction and abolition by the <sup>1</sup>[State Government].

**11. Power to acquire land over which right is claimed.**—(1) In the case of a claim to a right in or over any land, other than a right-of-way or right of pasture, or a right to forest-produce or a watercourse, the Forest Settlement-officer shall pass an order admitting or rejecting the same in whole or in part.

(2) If such claim is admitted in whole or in part, the Forest Settlement-officer shall either—

(i) exclude such land from the limits of the proposed forest; or

(ii) come to an agreement with the owner thereof for the surrender of his rights; or

(iii) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1894(1 of 1894).

(3) For the purpose of so acquiring such land—

(a) the Forest Settlement-officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1894 (1 of 1894).

(b) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section 9 of that Act;

(c) the provisions of the preceding sections of that Act shall be deemed to have been complied with; and

(d) the Collector, with the consent of the claimant, or the Court, with the consent of both parties, may award compensation in land, or partly in land and partly in money.

**12. Order on claims to rights of pasture or to forest produce.**—In the case of a claim to rights of pasture or to forest-produce, the Forest Settlement-officer shall pass an order admitting or rejecting the same in whole or in part.

**13. Record to be made by Forest Settlement-officer.**—The Forest Settlement-officer, when passing any order under section 12, shall record, so far as may be practicable,—

(a) the name, father's name, caste, residence and occupation of the person claiming the right; and

(b) the designation, position and area of all fields or groups of fields (if any), and the designation and position of all buildings (if any) in respect of which the exercise of such rights is claimed.

**14. Record where he admits claim.**—If the Forest Settlement-officer admits in whole or in part any claim under section 12, he shall also record the extent to which the claim is so admitted, specifying the number and description of the cattle which the claimant is from time to time entitled to graze in the forest, the season during which such pasture is permitted, the quantity of timber and other forest-produce which he is from time to time authorised to take or receive, and such other particulars as the case may require. He shall also record whether the timber or other forest-produce obtained by the exercise of the rights claimed may be sold or bartered.

**15. Exercise of rights admitted.**—(1) After making such record the Forest Settlement-officer shall, to the best of his ability, and having due regard to the maintenance of the reserved forest in respect of which the claim is made, pass such orders as will ensure the continued exercise of the rights so admitted.

(2) For this purpose the Forest Settlement-officer may—

(a) set out some other forest-tract of sufficient extent, and in a locality reasonably convenient, for the purposes of such claimants, and record an order conferring upon them a right of pasture or to forest-produce (as the case may be) to the extent so admitted; or

(b) so alter the limits of the proposed forest as to exclude forest-land of sufficient extent, and in a locality reasonably convenient, for the purposes of the claimants; or

1. Subs. by the A.O. 1950, for "Provincial Government".

(c) record an order, continuing to such claimants a right of pasture or to forest-produce, as the case may be, to the extent so admitted, at such seasons, within such portions of the proposed forest, and under such rules, as may be made in this behalf by the <sup>1</sup>[State Government].

**16. Commutation of rights.**—In case the Forest Settlement-officer finds it impossible, having due regard to the maintenance of the reserved forest, to make such settlement under section 15 as shall ensure the continued exercise of the said rights to the extent so admitted, he shall, subject to such rules as the <sup>1</sup>[State Government] may make in this behalf, commute such rights, by the payment to such persons of a sum of money in lieu thereof, or by the grant of land, or in such other manner as he thinks fit.

**17. Appeal from order passed under section 11, section 12, section 15 or section 16.**—Any person who has made a claim under this Act, or any Forest-officer or other person generally or specially empowered by the <sup>1</sup>[State Government] in this behalf, may, within three months from the date of the order passed on such claim by the Forest Settlement-officer under section 11, section 12, section 15 or section 16, present an appeal from such order to such officer of the Revenue Department, of rank not lower than that of a Collector, as the <sup>1</sup>[State Government] may, by notification in the <sup>2</sup>[Official Gazette], appoint to hear appeals from such orders:

Provided that the <sup>1</sup>[State Government] may establish a Court (hereinafter called the Forest Court) composed of three persons to be appointed by the State Government, and, when the Forest Court has been so established, all such appeals shall be presented to it.

**18. Appeal under section 17.**—(1) Every appeal under section 17 shall be made by petition in writing, and may be delivered to the Forest Settlement-officer, who shall forward it without delay to the authority competent to hear the same.

(2) If the appeal be to an officer appointed under section 17, it shall be heard in the manner prescribed for the time being for the hearing of appeals in matters relating to land-revenue.

(3) If the appeal be to the Forest Court, the Court shall fix a day and a convenient place in the neighbourhood of the proposed forest for hearing the appeal, and shall give notice thereof to the parties and shall hear such appeal accordingly.

(4) The order passed on the appeal by such officer or Court, or by the majority of the members of such Court, as the case may be, shall, subject only to revision by the <sup>1</sup>[State Government], be final.

**19. Pleadings.**—The <sup>1</sup>[State Government], or any person who has made a claim under this Act, may appoint any person to appear, plead and act on its or his behalf before the Forest Settlement-officer, or the appellate officer or Court, in the course of any inquiry or appeal under this Act.

**20. Notification declaring forest reserved.**—(1) When the following events have occurred, namely:—

(a) the period fixed under section 6 for preferring claims has elapsed, and all claims, if any, made under that section or section 9 have been disposed of by the Forest Settlement-officer;

(b) if any such claims have been made, the period limited by section 17 for appealing from the orders passed on such claims has elapsed, and all appeals (if any) presented within such period have been disposed of by the appellate officer or Court; and

(c) all lands (if any) to be included in the proposed forest, which the Forest Settlement-officer has, under section 11 elected to acquire under the Land Acquisition Act, 1894 (1 of 1894), have become vested in the Government under section 16 of that Act.

the <sup>1</sup>[State Government] shall publish a notification in the <sup>2</sup>[Official Gazette], specifying definitely, according to boundary-marks erected or otherwise, the limits of the forest which is to be reserved, and declaring the same to be reserved from a date fixed by the notification.

(2) From the date so fixed such forest shall be deemed to be a reserved forest.

1. Subs. by the A.O. 1950, for "Provincial Government".

2. Subs. by the A.O. 1937, for "Local Official Gazette".

## STATE AMENDMENTS

**Jammu and Kashmir and Ladakh (UTs).—**

Section 20A.— After section 20, insert the following section—

**20A. Demarcated forests deemed to be reserved forests.**— (1) Notwithstanding anything contained in this Act or any other law for the time being in force, any forest which has been notified as a demarcated forest under the erstwhile Jammu and Kashmir Forest Act, 1987 (1930 A.D.), prior to the appointed day notified under the Jammu and Kashmir Reorganization Act, 2019, shall be deemed to be a reserved forest under this Act.

(2) All questions decided, orders issued and records prepared in connection with the constitution of such forest as demarcated forests shall be deemed to have been decided, issued and prepared under this Act, and the provisions of this Act relating to reserved forests shall apply to forest to which the provision of sub-section (1) are applicable.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

**Orissa**

**Insertion of new section after section 20, (16 of 1927).**—After section 20 of the Indian Forest Act, 1927 (16 of 1927) (hereinafter referred to as the said Act), the following new section shall be inserted, namely:—

**20-A. Forest land or waste land deemed to be reserved forests.**—(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, any forest land or waste land in the merged territories, which had been recognized by the Ruler or any merged State immediately before the date of merger as a reserved forest in pursuance of any law, custom, rule, regulation, order or notification for the time being in force or which has been dealt with as such in any administration report or in accordance with any working plan, or register maintained and acted upon immediately before the said date and has been continued to be so dealt with thereafter, shall be deemed to be reserved forests for the purposes of this Act.

(2) In the absence of any rule, order or notification under this Act, application to the area in question any law, custom, rule, regulation, order or notification mentioned in sub-section (1) shall, anything in law to the contrary notwithstanding, be deemed to be validly in force as if he same had the force and effect of rules, orders and notifications made under the provisions of this Act and shall continue to so remain in force until superseded, altered or modified in accordance therewith.

(3) No report working plan, or register as aforesaid or any entry therein shall be questioned in any court of law; provided that the State Government have duly certified that such report, working plan, or register had been prepared under the authority of the said Ruler before the date of the merger and has been under the authority of the State Government continued to be recognized, maintained or acted upon thereafter.

(4) Forests recognized in the merged territories as khesra forests, village forests or protected forests, or forests other than reserved forests, by whatever name designed or locally known, shall be deemed to be protected forests within the meaning of this Act and provisions of sub-sections (2) and (3) shall mutatis mutandis apply.

Explanation I- “Working plan” includes any plan, scheme, project, maps, drawings and lay-outs prepared for the purpose of carrying out the operations in course of the working and management of forests.

Explanation II- “Ruler” includes the Darbar administration prior to the date of the merger and “State Government” includes the successor Government after the said date.”

[Vide the Orissa Act 11 of 1954, s.2]

**21. Publication of translation of such notification in neighbourhood of forest.**—The Forest-officer shall, before the date fixed by such notification, cause a translation thereof into the local vernacular to be published in every town and village in the neighbourhood of the forest.

**22. Power to revise arrangement made under section 15 or section 18.**—The <sup>1</sup>[State Government] may, within five years from the publication of any notification under section 20 revise any arrangement made under section 15 or section 18, and may for this purpose rescind or modify any order made under section 15 or section 18, and direct that any one of the proceedings, specified in section 15 be taken in lieu of any other of such proceedings, or that the rights admitted under section 12 be commuted under section 16.

1. Subs. by the A.O. 1950, for “Provincial Government”

**23. No right acquired over reserved forest, except as here provided.**—No right of any description shall be acquired in or over a reserved forest except by succession or under a grant or contract in writing made by or on behalf of the <sup>1</sup>[Government] or some person in whom such right was vested when the notification under section 20 was issued.

**24. Rights not to be alienated without sanction.**—(1) Notwithstanding anything contained in section 23, no right continued under clause (c) of sub-section (2) of section 15 shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of the <sup>2</sup>[State Government]:

Provided that, when any such right is appendant to any land or house, it may be sold or otherwise alienated with such land or house.

(2) No timber or other forest-produce obtained in exercise of any such right shall be sold or bartered except to such extent as may have been admitted in the order recorded under section 14.

**25. Power to stop ways and watercourses in reserved forests.**—The Forest-officer may, with the previous sanction of the <sup>2</sup>[State Government] or of any officer duly authorised by it in this behalf, stop any public or private way or water-course in a reserved forest, provided that a substitute for the way or water-course so stopped, which the <sup>2</sup>[State Government] deems to be reasonably convenient, already exists, or has been provided or constructed by the Forest-officer in lieu thereof.

**26. Acts prohibited in such forests.**—(1) Any person who—

(a) makes any fresh clearing prohibited by section 5, or

(b) sets fire to a reserved forest, or, in contravention of any rules made by the <sup>2</sup>[State Government] in this behalf, kindles any fire, or leaves any fire burning, in such manner as to endanger such a forest;

or who, in a reserved forest:—

(c) kindles, keeps or carries any fire except at such seasons as the Forest-officer may notify in this behalf;

(d) trespasses or pastures cattle, or permits cattle to trespass;

(e) causes any damage by negligence in felling any tree or cutting or dragging any timber;

(f) fells, girdles, lops, taps or burns any tree or strips off the bark or leaves from, or otherwise damages, the same;

(g) quarries stone, burns lime or charcoal, or collects, subjects to any manufacturing process, or removes, any forest-produce;

(h) clears or breaks up any land for cultivation or any other purpose;

(i) in contravention of any rules made in this behalf by the <sup>2</sup>[State Government] hunts, shoots, fishes, poisons water or sets traps or snares; or

(j) in any area in which the Elephants' Preservation Act, 1879 (6 of 1879), is not in force, kills or catches elephants in contravention of any rules so made;

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both, in addition to such compensation for damage done to the forest as the convicting Court may direct to be paid.

(2) Nothing in this section shall be deemed to prohibit—

(a) any act done by permission in writing of the Forest-officer, or under any rule made by the <sup>2</sup>[State Government]; or

(b) the exercise of any right continued under clause (c) of sub-section (2) of section 15, or created by grant or contract in writing made by or on behalf of the Government under section 23.

(3) Whenever fire is caused wilfully or by gross negligence in a reserved forest, the <sup>2</sup>[State Government] may (notwithstanding that any penalty has been inflicted under this section) direct that in

1. Subs. the A.O. 1950, for "Crown".

2. Subs. by the A.O. 1950, for "Provincial Government".

such forest or any portion thereof: the exercise of all rights of pasture or to forest-produce shall be suspended for such period as it thinks fit.

#### STATE AMENDMENTS

##### Maharashtra

**Amendment of section 26 of Act 16 of 1927.**—In section 26 of the Indian Forest Act, 1927, in its application to the State of Maharashtra (hereinafter referred to as “the principal Act”),—

(a) in sub-section (1),—

(i) for the words “two thousand rupees” the words “five thousand rupees” shall be substituted;

(ii) the following proviso shall be added, namely:—

“Provided that, in cases where the forest-offence is committed after sunset and before sunrise, or after preparation for resistance to lawful authority, or where the offender has been previously convicted for any forest-offence the punishment may extend to double the punishment mentioned in this sub-section.”;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) (a) The Forest-officer may evict from a reserved forest or from any land in a reserved forest any person who, in such forest, trespasses or pastures cattle, or permits cattle to trespass, or clears or breaks up such land for cultivation or for any other purpose, and may demolish any building erected or construction made by such person on such land.

(b) Any agricultural or other crops grown, or any building erected or any construction made, by any person on any land in a reserved forest shall be liable to confiscation by an order of the Divisional Forest-officer.

(c) The provisions of this sub-section shall have effect notwithstanding any punishment inflicted under sub-section (1):

Provided that, nothing in the above sub-section shall adversely affect the forest rights conferred on the forest dwelling Schedule Tribes and other traditional forest dwellers under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007) and the ownership rights of Gram Sabha over the minor forest-produce under the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (40 of 1996).”;

(c) for sub-section (4), the following sub-sections shall be substituted, namely:—

“(4) Any person who causes resistance or hurt to deter public servants or employees engaged on their behalf from discharging their duties under sub-section (1-A) shall, on conviction, be punished with imprisonment for a term which shall not be less than one year but may extend to six years and also with fine which shall not be less than one thousand rupees.

(5) No civil court shall have any jurisdiction in any matter provided for by sub-section (1-A).”.

[Vide Maharashtra Act 21 of 2015, s. 2].

#### STATE AMENDMENTS

##### Jammu and Kashmir and Ladakh (UTs).—

Section 26.-In sub-section (1)-

(i) in clause (e), substitute the word “dragging” with the words “dragging or removing”;

(ii) in clause (f), substitute the words “the same” with the words “the same or any forest produce”;

(iii) for clause (h), substitute the following clause, namely:—

(h) clears or breaks up any land or erects a fence, enclosure or any structure for cultivation or cultivates or attempts to cultivate any land in any other manner in any reserved forest, or for any other purpose;

(iv) in the long line, for the words "six months, or with fine which may extend to five hundred rupees," substitute the words "two years, or with fine which may extend to twenty five thousand rupees."

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

**27. Power to declare forest no longer reserved.**—(1) The <sup>1</sup>[State Government] may, <sup>2\*\*\*</sup> by notification in the <sup>3</sup>[Official Gazette], direct that, from a date fixed by such notification, any forest or any portion thereof reserved under this Act shall cease to be a reserved forest.

(2) From the date so fixed, such forest or portion shall cease to be reserved; but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.

#### CHAPTER III

##### OF VILLAGE-FORESTS

**28. Formation of village-forests.**—(1) The <sup>1</sup>[State Government] may assign to any village-community the rights of Government to or over any land which has been constituted a reserved forest, and may cancel such assignment. All forests so assigned shall be called village-forests.

(2) The <sup>1</sup>[State Government] may make rules for regulating the management of village-forests, prescribing the conditions under which the community to which any such assignment is made may be provided with timber or other forest-produce or pasture, and their duties for the protection and improvement of such forest.

(3) All the provisions of this Act relating to reserved forests shall (so far as they are not inconsistent with the rules so made) apply to village-forests.

#### STATE AMENDMENTS

##### Jammu and Kashmir and Ladakh (UTs).—

###### Section 28.-

(i) in sub-section (1), for the word "reserved forest", substitute the words "reserved forest or declared a protected forest or is a land which has been entered in settlement records as khalsa land";

(ii) in sub-section (3) after the words "reserved forests", insert the words "or protected forests, as the case may be".

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

#### CHAPTER IV

##### OF PROTECTED FORESTS

**29. Protected forests.**—(1) The <sup>1</sup>[State Government] may, by notification in the <sup>4</sup>[Official Gazette], declare the provisions of this Chapter applicable to any forest-land or waste-land which is not included in a reserved forest, but which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forests produce of which the Government is entitled.

(2) The forest-land and waste-lands comprised in any such notification shall be called a "protected forests".

1. Subs. by the A.O. 1950, for "Provincial Government".

2. The words "subject to the control of the G.G. in C." rep. by the A.O. 1937

3. Subs., *ibid.*, for "Local Official Gazette".

4. Subs. by the A.O. 1937, for "Local Official Gazette".

(3) No such notification shall be made unless the nature and extent of the rights of Government and of private persons in or over the forest-land or waste-land comprised therein have been inquired into and recorded at a survey or settlement, or in such other manner as the <sup>1</sup>[State Government] thinks sufficient. Every such record shall be presumed to be correct until the contrary is proved:

Provided that, if, in the case of any forest-land or waste-land, the <sup>1</sup>[State Government] thinks that such inquiry and record are necessary, but that they will occupy such length of time as in the mean time to endanger the rights of Government, the <sup>1</sup>[State Government] may, pending such inquiry and record, declare such land to be a protected forest, but so as not to abridge or affect any existing rights of individuals or communities.

#### STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).—

Section 29A.- After section 29, insert the following section—

**29A. Undemarcated forests deemed to be protected forests.**—(1) Notwithstanding anything contained in this Act or any other law for the time being in force, any undemarcated forest (which means and includes all forest land other than demarcated forest which is the property of the Government of Union territory of Jammu and Kashmir and is not appropriated for any specific purpose and includes all the undemarcated and berun line forest vested in the Forest Department under the provisions of section 48 of the Jammu and Kashmir Village Panchayat Act, 1958 or any other law for the time being in force), prior to the appointed day notified under the Jammu and Kashmir Reorganization Act, 2019, shall be deemed to be a protected forest under this Act.

(2) All questions decided, orders issued and records prepared in connection with the constitution of such forest as undemarcated forests shall be deemed to have been decided, issued and prepared under this Act, and the provisions of this Act relating to protected forests shall apply to forest to which the provision of sub-section (1) are applicable.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

**30. Power to issue notification reserving trees, etc.**— The <sup>1</sup>[State Government] may, by notification in the <sup>2</sup>[Official Gazette],—

(a) declare any trees or class of trees in a protected forests to be reserved from a date fixed by the notification;

(b) declare that any portion of such forest specified in the notification shall be closed for such term, not exceeding thirty years, as the <sup>1</sup>[State Government] thinks fit, and that the rights of private persons, if any, over such portion shall be suspended during such term, provided that the remainder of such forest be sufficient, and in a locality reasonably convenient, for the due exercise of the rights suspended in the portion so closed; or

(c) prohibit, from a date fixed as aforesaid, the quarrying of stone, or the burning of lime or charcoal, or the collection or subjection to any manufacturing process, or removal of, any forest-produce in any such forest, and the breaking up or clearing for cultivation, for building, for herding cattle or for any other purpose, of any land in any such forest.

**31. Publication of translation of such notification in neighbourhood.**—The Collector shall cause a translation into the local vernacular of every notification issued under section 30 to be affixed in a conspicuous place in every town and village in the neighbourhood of the forests comprised in the notification.

**32. Power to make rules for protected forests.**—The <sup>1</sup>[State Government] may make rules to regulate the following matters, namely:—

1. Subs. by the A.O. 1950, for "Provincial Government".

2. Subs. by the A.O. 1937, for "Local Official Gazette".

(a) the cutting, sawing, conversion and removal of trees and timber, and the collection, manufacture and removal of forest-produce, from protected forests;

(b) the granting of licenses to the inhabitants of towns and villages in the vicinity of protected forests to take trees, timber or other forest-produce for their own use, and the production and return of such licenses by such persons;

(c) the granting of licenses to persons felling or removing trees or timber or other forest-produce from such forests for the purpose of trade, and the production and return of such licenses by such persons;

(d) the payments, if any, to be made by the persons mentioned in clauses (b) and (c) for permission to cut such trees, or to collect and remove such timber or other forest-produce;

(e) the other payments, if any, to be made by them in respect of such trees, timber and produce, and the places where such payment shall be made;

(f) the examination of forest-produce passing out of such forests;

(g) the clearing and breaking up of land for cultivation or other purposes in such forests;

(h) the protection from fire of timber lying in such forests and of trees reserved under section 30;

(i) the cutting of grass and pasturing of cattle in such forests;

(j) hunting, shooting, fishing, poisoning water and setting traps or snares in such forests, and the killing or catching of elephants in such forests in areas in which the Elephants Preservation Act, 1879 (6 of 1879), is not in force;

(k) the protection and management of any portion of a forest closed under section 30; and

(l) the exercise of rights referred to in section 29.

**33. Penalties for acts in contravention of notification under section 30 or of rules under section 32.—**(1) Any person who commits any of the following offences, namely:—

(a) fells, girdles, lops, taps or burns any tree reserved under section 30, or strips off the bark or leaves from, or otherwise damages, any such tree;

(b) contrary to any prohibition under section 30, quarries any stone, or burns any lime or charcoal, or collects, subjects to any manufacturing process, or removes any forest-produce;

(c) contrary to any prohibition under section 30, breaks up or clears for cultivation or any other purpose any land in any protected forest;

(d) sets fire to such forest, or kindles a fire without taking all reasonable precautions to prevent its spreading to any tree reserved under section 30, whether standing, fallen or felled, or to any closed portion of such forest;

(e) leaves burning any fire kindled by him in the vicinity of any such tree or closed portion;

(f) fells any tree or drags any timber so as to damage any tree reserved as aforesaid;

(g) permits cattle to damage any such tree;

(h) infringes any rule made under section 32;

shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, or with both.

(2) Whenever fire is caused wilfully or by gross negligence in a protected forest, the State Government may, notwithstanding that any penalty has been inflicted under this section, direct that in such forest or any portion thereof the exercise of any right of pasture or to forest-produce shall be suspended for such period as it thinks fit.

## STATE AMENDMENTS

## Maharashtra

**Amendment of section 33 of Act XVI of 1927.**—In section 33 of the principal Act, in sub-section (1), for the words “two thousand rupees” the words “five thousand rupees” shall be substituted.

[Vide Maharashtra Act 21 of 2015, s. 3].

## STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).—

Section 33.—In Sub-section (1).—

- (i) in clause (c), after the words “or clears”, insert the words “or attempts to break-up or clear”;
- (ii) in clause (f), after the word “drags”, insert the words “or removes”;
- (iii) in the long line for the words “six months, or with fine which may extend to five hundred rupees”, substitute the words “two years, or with fine which may extend to twenty-five thousand rupees”.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

**34. Nothing in this Chapter to prohibit acts done in certain cases.**—Nothing in this Chapter shall be deemed to prohibit any act done with the permission in writing of the Forest-officer, or in accordance with rules made under section 32, or, except as regards any portion of a forest closed under section 30, or as regards any rights the exercise of which has been suspended under section 33, in the exercise of any right recorded under section 29.

## CHAPTER V

## OF THE CONTROL OVER FORESTS AND LANDS NOT BEING THE PROPERTY OF GOVERNMENT

**35. Protection of forests for special purposes.**—(1) The <sup>1</sup>[State Government] may, by notification in the <sup>2</sup>[Official Gazette], regulate or prohibit in any forest or waste-land—

- (a) the breaking up or clearing of land for cultivation;
- (b) the pasturing of cattle; or
- (c) the firing or clearing of the vegetation;

when such regulation or prohibition appears necessary for any of the following purposes:—

- (i) for protection against storms, winds, rolling stones, floods and avalanches;
- (ii) for the preservation of the soil on the ridges and slopes and in the valleys of hilly tracts, the prevention of landslips or of the formation of ravines, and torrents, or the protection of land against erosion, or the deposit thereon of sand, stones or gravel;
- (iii) for the maintenance of a water-supply in springs, rivers and tanks;
- (iv) for the protection of roads, bridges, railways and other lines of communication;
- (v) for the preservation of the public health.

(2) The <sup>1</sup>[State Government] may, for any such purpose, construct at its own expense, in or upon any forest or waste-land, such work as it thinks fit.

(3) No notification shall be made under sub-section (1) nor shall any work be begun under sub-section (2), until after the issue of a notice to the owner of such forest or land calling on him to show cause, within a reasonable period to be specified in such notice, why such notification should not be made or work constructed, as the case may be, and until his objections, if any, and any evidence he may

1. Subs. by the A.O. 1950, for “Provincial Government”.

2. Subs. by the A.O. 1937, for “Local Official Gazette”.

produce in support of the same, have been heard by an officer duly appointed in that behalf and have been considered by the <sup>1</sup>[State Government].

**36. Power to assume management of forests.**— (1) In case of neglect of, or willful disobedience to, any regulation or prohibition under section 35, or if the purposes of any work to be constructed under that section so require, the <sup>1</sup>[State Government] may, after notice in writing to the owner of such forest or land and after considering his objections, if any, place the same under the control of a Forest-officer, and may declare that all or any of the provisions of this Act relating to reserved forests shall apply to such forest or land.

(2) The net profits, if any, arising from the management of such forest or land shall be paid to the said owner.

**37. Expropriation of forests in certain cases.**— (1) In any case under this Chapter in which the <sup>1</sup>[State Government] considers that, in lieu of placing the forest or land under the control of a Forest-officer, the same should be acquired for public purposes, the <sup>1</sup>[State Government] may proceed to acquire it in the manner provided by the Land Acquisition Act, 1894 (1 of 1894).

(2) The owner of any forest or land comprised in any notification under section 35 may, at any time not less than three or more than twelve years from the date thereof, require that such forest or land shall be acquired for public purposes, and the <sup>1</sup>[State Government] shall acquire such forest or land accordingly.

**38. Protection of forests at request of owners.**— (1) The owner of any land or, if there be more than one owner thereof, the owners of shares therein amounting in the aggregate to at least two-thirds thereof may, with a view to the formation or conservation of forests thereon, represent in writing to the Collector their desire—

(a) that such land be managed on their behalf by the Forest-officer as a reserved or a protected forest on such terms as may be mutually agreed upon; or

(b) that all or any of the provisions of this Act be applied to such land.

(2) In either case, the <sup>1</sup>[State Government] may, by notification in the <sup>2</sup>[Official Gazette], apply to such land such provisions of this Act as it thinks suitable to the circumstances thereof and as may be desired by the applicants.

## CHAPTER VI

### OF THE DUTY ON TIMBER AND OTHER FOREST-PRODUCE

**39. Power to impose duty on timber and other forest-produce.**— (1) The <sup>3</sup>[Central Government] may levy a duty in such manner, at such places and at such rates as it may declare by notification in the <sup>2</sup>[Official Gazette] on all timber or other forest-produce—

(a) which is produced in <sup>4</sup>[the territories to which this Act extends], and in respect of which the <sup>5</sup>[Government] has any right;

(b) Which is brought from any place outside <sup>1</sup>[the territories to which this Act extends]:

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(2) In every case in which such duty is directed to be levied *ad valorem*, the <sup>7</sup>[Central Government] may fix by like notification the value on which such duty shall be assessed.

(3) All duties on timber or other forest-produce which, at the time when this Act comes into force in any territory, are levied therein under the authority of the <sup>1</sup>[State Government], shall be deemed to be and to have been duly levied under the provisions of this Act.

1. Subs. by the A.O. 1950, for "Provincial Government".

2. Subs. by the A.O. 1937, for "Local Official Gazette".

3. Subs. by the A.O. 1937, for "L.G.".

4. Subs. by the A.O. (No. 3) 1956, for "Part A States and Part C States".

5. Subs. by the A.O. 1950, for "Crown".

6. The Proviso rep. by the A.O. 1937

7. Subs. by the A.O. 1937, for "L.G.".

<sup>1</sup>[(4) Notwithstanding anything in this section, the <sup>2</sup>[State Government] may, until provision to the contrary is made by <sup>3</sup>[Parliament], continue to levy any duty which it was lawfully levying before the commencement<sup>4</sup> of <sup>5</sup>[the Constitution], under this section as then in force:

Provided that nothing in this sub-section authorises the levy of any duty which as between timber or other forest-produce of the <sup>6</sup>[State] and similar produce of the locality outside the <sup>6</sup>[State] discriminates in favour of the former, or which, in the case of timber or other forest-produce of localities outside the <sup>6</sup>[State], discriminates between timber or other forest-produce of one locality and similar timber or other forest-produce of another locality.]

**40. Limit not to apply to purchase money or royalty.**—Nothing in this Chapter shall be deemed to limit the amount, if any, chargeable as purchase-money or royalty on any timber or other forest-produce, although the same is levied on such timber or produce while in transit, in the same manner as duty is levied.

## CHAPTER VII

### OF THE CONTROL OF TIMBER AND OTHER FOREST-PRODUCE IN TRANSIT

**41. Power to make rules to regulate transit of forest produce.**—(1) The control of all rivers and their banks as regards the floating of timber, as well as the control of all timber and other forest-produce in transit by land or water, is vested in the <sup>2</sup>[State Government], and it may make rules to regulate the transit of all timber and other forest-produce.

(2) In particular and without prejudice to the generality of the foregoing power such rules may—

(a) prescribe the routes by which alone timber or other forest-produce may be imported, exported or moved into, from or within <sup>7</sup>[the State];

(b) prohibit the import or export or moving of such timber or other produce without a pass from an officer duly authorised to issue the same, or otherwise than in accordance with the conditions of such pass;

(c) provide for the issue, production and return of such passes and for the payment of fees therefore;

(d) provide for the stoppage, reporting, examination and marking of timber or other forest-produce in transit, in respect of which there is reason to believe that any money is payable to the <sup>8</sup>[Government] on account of the price thereof, or on account of any duty, fee, royalty or charge due thereon, or, to which it is desirable for the purposes of this Act to affix a mark;

(e) provide for the establishment and regulation of depots to which such timber or other produce shall be taken by those in charge of it for examination, or for the payment of such money, or in order that such marks may be affixed to it, and the conditions under which such timber or other produce shall be brought to, stored at and removed from such depots;

(f) prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber or other forest-produce, and the throwing of grass, brushwood, branches or leaves into any such river or any act which may cause such river to be closed or obstructed;

(g) provide for the prevention or removal of any obstruction of the channel or banks of any such river, and for recovering the cost of such prevention or removal from the person whose acts or negligence necessitated the same;

1. Ins. by the A.O. 1937.

2. Subs. by the A.O. 1950, for "Provincial Government".

3. Subs. by the A.O. 1950, for "the Central Legislature".

4. That is, 26th January, 1950.

5. Subs. by the A.O. 1950, for the "Part III of the Government of India Act, 1935".

6. Subs. *ibid.*, for "Province".

7. Subs. by the A.O. 1937, for "British India".

8. Subs. by the A.O. 1950, for "Crown".

(h) prohibit absolutely or subject to conditions, within specified local limits, the establishment of saw-pits, the converting, cutting, burning, concealing or making of timber, the altering or effacing of any marks on the same, or the possession or carrying of marking hammers or other implements used for marking timber;

(i) regulate the use of property marks for timber, and the registration of such marks; prescribe the time for which such registration shall hold good; limit the number of such marks that may be registered by any one person, and provide for the levy of fees for such registration.

(3) The State Government may direct that any rule made under this section shall not apply to any specified class of timber or other forest-produce or to any specified local area.]

<sup>1</sup>[41A. Powers of Central Government as to movements of timber across customs frontiers.—Notwithstanding anything in section 41, the Central Government may make rules to prescribe the route by which alone timber or other forest-produce may be imported, exported or moved into or from <sup>2</sup>[the territories to which this Act extends] across any customs frontier as defined by the Central Government, and any rules made under section 41 shall have effect subject to the rules made under this section.]

42. Penalty for breach of rules made under section 41.—(1) The <sup>3</sup>[State Government] may by such rules prescribe as penalties for the contravention thereof imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

(2) Such rules may provide that penalties which are double of those mentioned in sub-section (1) may be inflicted in cases where the offence is committed after sunset and before sunrise, or after preparation for resistance to lawful authority, or where the offender has been previously convicted of a like offence.

#### STATE AMENDMENTS

##### Maharashtra

Amendment of section 42 of Act 16 of 1927.—In section 42 of the principal Act, in sub-section (1), for the words “two thousand rupees” the words “five thousand rupees” shall be substituted.

[Vide Maharashtra Act 21 of 2015, s. 4].

#### STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).—

Section 42.- In sub-section (1), for the words “six months” and “five hundred rupees”, substitute the words “two years” and “twenty-five thousand rupees” respectively.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

43. Government and Forest-officers not liable for damage to forest-produce at depot.—The <sup>4</sup>[Government] shall not be responsible for any loss or damage which may occur in respect of any timber or other forest-produce while at a depot established under a rule made under section 41, or while detained elsewhere, for the purposes of this Act; and no Forest-officer shall be responsible for any such loss or damage, unless he causes such loss or damage negligently, maliciously or fraudulently.

44. All persons bound to aid in case of accident at depot.—In case of any accident or emergency involving danger to any property at any such depot, every person employed at such depot, whether by the <sup>4</sup>[Government] or by any private person, shall render assistance to any Forest-officer or Police-officer demanding his aid in averting such danger or securing such property from damage or loss.

1. Ins. by the A.O. 1937.

2. Subs. by the A. O. (No. 3) 1956, for “Part A States and Part C States”.

3. Subs. by the A.O. 1950, for “Provincial Government”.

4. Subs. *ibid.*, for “Crown”.

## CHAPTER VIII

## OF THE COLLECTION OF DRIFT AND STRANDED TIMBER

**45. Certain kinds of timber to be deemed property of Government until title thereto proved, and may be collected accordingly.**—(1) All timber found adrift, beached, stranded or sunk;

all wood or timber bearing marks which have not been registered in accordance with the rules made under section 41, or on which the marks have been obliterated, altered or defaced by fire or otherwise; and

in such areas as the <sup>1</sup>[State Government] directs, all unmarked wood and timber;

shall be deemed to be the property of Government, unless and until any person establishes his right and title thereto, as provided in this Chapter.

(2) Such timber may be collected by any forest-officer or other person entitled to collect the same by virtue of any rule made under section 51, and may be brought to any depot which the Forest-officer may notify as a depot for the reception of drift timber.

(3) The <sup>1</sup>[State Government] may, by notification in the <sup>2</sup>[Official Gazette], exempt any class of timber from the provisions of this section.

**46. Notice to claimants of drift timber.**—Public notice shall from time to time be given by the Forest-officer of timber collected under section 45. Such notice shall contain a description of the timber, and shall require any person claiming the same to present to such officer, within a period not less than two months from the date of such notice, a written statement of such claim.

**47. Procedure on claim preferred to such timber.**—(1) When any such statement is presented as aforesaid, the Forest-officer may, after making such inquiry as he thinks fit, either reject the claim after recording his reasons for so doing, or deliver the timber to the claimant.

(2) If such timber is claimed by more than one person, the Forest-officer may either deliver the same to any of such persons whom he deems entitled thereto, or may refer the claimants to the Civil Courts, and, retain the timber pending the receipt of an order from any such Court for its disposal.

(3) Any person whose claim has been rejected under this section may, within three months from the date of such rejection, institute a suit to recover possession of the timber claimed by him; but no person shall recover any compensation or costs against the <sup>3</sup>[Government], or against any Forest-officer, on account of such rejection, or the detention or removal of any timber, or the delivery thereof to any other person under this section.

(4) No such timber shall be subject to process of any Civil, Criminal or Revenue Court until it has been delivered, or a suit has been brought, as provided in this section.

**48. Disposal of unclaimed timber.**—If no such statement is presented as aforesaid, or if the claimant omits to prefer his claim in the manner and within the period fixed by the notice issued under section 46, or on such claim having been so preferred by him and having been rejected, omits to institute a suit to recover possession of such timber within the further period fixed by section 47, the ownership of such timber shall vest in the <sup>3</sup>[Government], or, when such timber has been delivered to another person under section 47, in such other person free from all encumbrances not created by him.

**49. Government and its officers not liable for damage to such timber.**—The <sup>3</sup>[Government] shall not be responsible for any loss or damage which may occur in respect of any timber collected under section 45, and no Forest-officer shall be responsible for any such loss or damage, unless he causes such loss or damage negligently, maliciously or fraudulently.

**50. Payments to be made by claimant before timber is delivered to him.**—No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the

1. Subs. by the A.O. 1950, for "Provincial Government".

2. Subs. by the A.O. 1937, for "Local Official Gazette".

3. Subs. by the A.O. 1950, for "Crown".

Forest-officer or other person entitled to receive if such sum on account thereof as may be due under any rule made under section 51.

**51. Power to make rules and prescribe penalties.**—(1) The State Government <sup>1</sup> [may, by notification in the Official Gazette, make rules] to regulate the following matters, namely:—

- (a) the salving, collection and disposal of all timber mentioned in section 45;
- (b) the use and registration of boats used in salving and collecting timber;
- (c) the amounts to be paid for salving, collecting, moving, storing or disposing of such timber; and
- (d) the use and registration of hammers and other instruments to be used for marking such timber.

<sup>2</sup>[(1A) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.]

(2) The <sup>3</sup>[State Government] may prescribe, as penalties for the contravention of any rules made under this section, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

#### STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).—

Section 51.—In sub-section (2), for the words “six months, or with fine which may extend to five hundred rupees”, substitute the words “two years, or with fine which may extend to twenty-five thousand rupees”.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

#### CHAPTER IX

##### PENALTIES AND PROCEDURE

**52. Seizure of property liable to confiscation.**—(1) When there is reason to believe that a forest-offence has been committed in respect of any forest-produce, such produce, together with all tools, boats, carts or cattle used in committing any such offence, may be seized by any Forest-officer or Police-officer.

(2) Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Provided that, when the forest-produce with respect to which such offence is believed to have been committed is the property of Government, and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

#### STATE AMENDMENTS

##### Maharashtra

**Amendment of section 52 of Act 16 of 1927.**—In section 52 of the principal Act,—

- (a) sub-section (1A) shall be deleted;
- (b) in the marginal note, the words “and forfeiture” shall be deleted.

[Vide Maharashtra Act 21 of 2015, s. 5].

#### STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).—

1. Subs. by Act 4 of 2005, s. 2 and the Schedule, for “may make rules”

2. Ins. by s. 2 and the Schedule, *ibid*.

3. Subs. by the A.O. 1950, for “Provincial Government”.

Section 52.-Substitute section 52 with the following section, namely:-

**52. Seizure of property liable to confiscation and procedure thereof.**— (1) When there is reason to believe that a forest offence has been committed in respect of any reserved forest, protected forest, village forest or forest produce, the forest produce, together with all tools, arms, boats, carts, equipment, ropes, chains, machines, vehicles, cattle or any other article used in committing any such offence, may be seized by a Forest Officer or Police Officer.

(2) Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized and shall, as soon as may be, make a report of such seizure before an officer not below the rank of the Divisional Forest Officer (hereinafter referred to as the 'authorised officer'):

Provided that when the forest produce with respect to which such offence is believed to have been committed is the property of the Government and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

(3) Subject to sub-section (5), where the authorised officer upon receipt of report about seizure, is satisfied that a forest offence has been committed in respect thereof, he may, by order in writing and for reasons to be recorded, confiscate forest produce so seized together with all tools, arms, boats, carts, equipment, ropes, chains, machines, vehicles, cattle or any other article used in committing such offence and a copy of the order of confiscation shall be forwarded without any undue delay to the person from whom the property is seized and to the Conservator of Forest Circle in which the forest produce, tools, arms, boats, carts, equipment, ropes, chains, machines, vehicles, cattle or any other article as the case may be, has been seized.

(4) No order confiscating any property shall be made under sub-section (3) unless the authorised officer,—

(a) sends an intimation in writing about initiation of proceedings for confiscation of the property to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made;

(b) issues a notice in writing to the person from whom the property is seized and to any other person who may, in the opinion of the authorised officer to have some interest in such property;

(c) affords an opportunity to the persons referred to in clause (b) of making a representation within such reasonable time as may be specified in the notice against the proposed confiscation; and

(d) gives to the officer effecting the seizure and the person or persons to whom notice has been issued under clause (b), a hearing on date to be fixed for such purpose.

(5) No order of confiscation under sub-section (3) of any tools, arms, boats, carts, equipment, ropes, chains, machines, vehicles, cattle or any other article (other than timber or forest produce seized) shall be made if any person referred to in clause (b) of sub-section (4) proves to the satisfaction of authorised officer that any such tools, arms, boats, carts, equipment, ropes, chains, machines, vehicles, cattle or any other article were used without his knowledge or connivance or, as the case may be, without the knowledge or connivance of his servant or agent and that all reasonable and necessary precautions had been taken against the use of objects aforesaid for commission of forest offence.

(6) Where the cattle are involved in the commission of a forest offence, the same after seizure by any officer, shall be entrusted to any responsible person under a proper receipt on an undertaking to produce the same when required in case there is no cattle pound within a radius of five kilometres from the place of such offence:

Provided that notwithstanding anything contained in section 57, in case of unclaimed cattle a Forest Officer not below the rank of Range Officer, after giving sufficient publicity in the vicinity of the place of

offence for the owner to come forward to claim the cattle within seven days from the date when such publicity has been given, may dispose them of by public auction.

(7) The provisions of the Cattle Trespass Act, 1871 (1 of 1871), shall apply in respect of the charges to be levied for the upkeep and fee of the cattle.

**Insertion of section 52A to 52D.**-- After section 52, insert the following sections, namely:--

**52A. Revision before Court of Sessions against order of confiscation.**-- (1) Any party aggrieved by an order of confiscation under section 52 may within thirty days of the order or if facts of the confiscation have not been communicated to him, within thirty days of knowledge of such order submit a petition for revision to the Court of Sessions Division whereof the headquarters of Authorised Officer are situated.

*Explanation I.*--In computing the period of thirty days under this sub-section, the time required for obtaining certified copy of the order of Authorised Officer shall be excluded.

*Explanation II.*--For the purposes of this sub-section a party shall be deemed to have knowledge of the order of confiscation under section 52 on publication of such order in two daily newspapers having circulation in the State.

(2) The Court of Sessions may confirm, reverse or modify any final order of confiscation passed by the Authorised Officer.

(3) Copies of the order passed in revision shall be sent to the Authorised Officer for compliance or passing such further order or for taking such further orders or for taking such further action as may be directed by such Court.

(4) For entertaining, hearing and deciding a revision under this section, the Court of Sessions shall, as far as may be, exercise the same powers and follow the same procedure as it exercises and follows while entertaining, hearing and deciding a revision under the Code of Criminal Procedure, 1973.

(5) Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1973 (2 of 1974) the order of Court of Sessions passed under this section shall be final and shall not be called in question before any Court.

**52B. Bar to jurisdiction of Courts etc. under certain circumstances.**--(1) On receipt of report under sub-section (4) of Section 52 about intimation of proceedings for confiscation of property by the Magistrate having jurisdiction to try the offence on account of which the seizure of property which is subject matter of confiscation, has been made, no Court, Tribunal or Authority other than Authorised Officer and Court of Sessions referred to in sections 52 and 52A shall have jurisdiction to make orders with regard to possession, delivery, disposal or distribution of the property in regard to which proceedings for confiscation are initiated under section 52, notwithstanding anything to the contrary contained in this Act, or any other law for the time being in force.

*Explanation.*--Where under any law for the time being in force, two or more Courts have jurisdiction to try the forest offences, then receipt of intimation under sub-section (4) of section 52 by one of the Courts shall operate as bar to exercise jurisdiction on all such other Courts.

(2) Nothing in sub-section (1) shall affect the power saved under section 61 of the Act.

**52C. Power of search and seizure.**--(1) Any Forest Officer or Police Officer may, if he has reason to believe that a vehicle has been or is being used for the transport of forest produce in respect of which there is reason to believe that a forest offence has been or is being committed, require the driver or other person in charge of such vehicle to stop the vehicle and cause it to remain stationary as long as may reasonably be necessary to examine the contents in the vehicle and inspect all records relating to the goods carried which are in the possession of such driver or other person in charge of the vehicle.

(2) Any forest officer not below the rank of Range officer, having reasonable grounds to believe that forest produce is, in contravention of the provisions of this Act, in the possession of a person in any place, may enter such place with the object of carrying out a search for the forest produce and its confiscation:

Provided that such search shall not be conducted otherwise than in accordance with the provisions of the Code of Criminal Procedure, 1973.

**52D. Penalty for forcibly opposing seizure.**—Whosoever opposes the seizure of any forest-produce, tools, arms, boats, carts, equipment, ropes, chains, machines, vehicles, cattle or any other article liable to be seized under this Act, or forcibly receives the same after seizure, shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to twenty five thousand rupees, or with both.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

**53. Power to release property seized under section 52.**—Any Forest-officer of a rank not inferior to that of a Ranger who, or whose subordinate, has seized any tools, boats, carts or cattle under section 52, may release the same on the execution by the owner thereof a bond for the production of the property so released, if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.

#### STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).—

Section 53.—For section 53, substitute the following section, namely:—

**53 Power to release property seized under section 52.**— Any forest officer of a rank not inferior to that of a Range Officer, who, or whose subordinate, has seized any tools, arms, boats, carts, equipment, ropes, chains, machines, vehicles, cattle or any other article used in committing any forest offence, including the forest produce, under section 52, may release the same on the execution by the owner thereof, of a security in a form of a bank guarantee, of an amount not less than the value of such property, as estimated by such officer, for the production of the property so released when so required by the Magistrate having jurisdiction to try the offence or by the authorised officer empowered under sub-section (2) of section 52, on account of which the seizure has been made:

Provided that when any forest produce is seized at a remote location from where it is not practicable to transport it immediately, the officer who, or whose subordinate has effected such seizure under section 52, may entrust the same (Supardnama) to any responsible person on the execution of a bond thereof, by such person, for the production of the property so entrusted if and when required by the Magistrate having jurisdiction to try the offence or before the authorised officer empowered under sub-section (2) of section 52, on account of which the seizure has been made.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

#### Orissa

**Amendment of sections 52 and 53, (16 of 1927).**—In section 52 and 53 of the said Act, for the word “carts” wherever it occurs the word “vehicle” shall be substituted.

[Vide the Orissa Act 11 of 1954, s. 3]

**54. Procedure thereupon.**—Upon the receipt of any such report, the Magistrate shall, with all convenient is despatch, take such measures as may be necessary for the arrest and trial of the offender and the disposal of the property according to law.

## STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).—

Section 54.—For section 54, substitute the following section, namely:—

**54 Receipt of report of seizure by Magistrate and procedure thereupon.**— Upon the receipt of any report under sub-section (4) of section 52, the Magistrate shall, with all convenient dispatch, take such measures as may be necessary for the arrest and trial of the offender and the disposal of the property according to law:

Provided that before passing any order for disposal of property the Magistrate shall satisfy himself that no intimation under sub-section (4) of section 52 has been received by his court or by any other court having jurisdiction to try the offence on account of which the seizure of property has been made.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

**55. Forest-produce, tools, etc., when liable to confiscation.**—(1) All timber or forest-produce which is not the property of <sup>1</sup>[Government] and in respect of which a forest-offence has been committed, and all tools, boats, carts and cattle used in committing any forest-offence, shall be liable to confiscation.

(2) Such confiscation may be in addition to any other punishment prescribed for such offence.

## STATE AMENDMENTS

## Maharashtra

Amendment of section 55 of Act 16 of 1927.—in section 55 of the principal Act,—

(a) in sub-section (1), for the words “shall be liable by order of the convicting court to forfeiture” the words “shall be liable to confiscation” shall be substituted;

(b) in sub-section (2), for the word “forfeiture” the word “confiscation” shall be substituted;

(c) in the marginal note, for the word “forfeiture” the word “confiscation” shall be substituted.

[Vide Maharashtra Act 21 of 2015, s. 6].

## STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).—

Section 55.— For sub-section (1), substitute the following sub-section:—

(1) All timber or forest produce which in either case is not the property of the Government and in respect of which a forest offence has been committed, and all tools, arms, boats, carts, equipment, ropes, chains, machines, vehicles, cattle or any other article, in each case used in committing any forest offence shall, subject to the provisions of section 52, 52A and 52B, be liable to confiscation upon conviction of the offender for such offence.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

**56. Disposal on conclusion of trial for forest-offence, of produce in respect of which it was committed.**—When the trial of any forest-offence is concluded, any forest-produce in respect of which such offence has been committed shall, if it is the property of <sup>1</sup>[Government] or has been confiscated, be taken charge of by a Forest-officer, and, in any other case, may be disposed of in such manner as the Court may direct.

1. Subs. by the A.O. 1950, for “Crown”.

## STATE AMENDMENTS

## Maharashtra

**Amendment of section 56 of Act 16 of 1927.**—In section 56 of the principal Act, for the word “forfeited” the word “confiscated” shall be substituted.

[Vide Maharashtra Act 21 of 2015, s. 7].

## STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).—

Section 56.—For the words “When the trial of”, substitute the words, figures and letter, “Without prejudice to the provisions of section 52C, when the trial of”.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

**57. Procedure when offender not known or cannot be found.**—When the offender is not known or cannot be found, the Magistrate may, if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated and taken charge of by the Forest-officer or to be made over to the person whom the Magistrate deems to be entitled to the same:

Provided that no such order shall be made until the expiration of one month from the date of seizing such property, or without hearing the person, if any, claiming any right thereto, and the evidence, if any, which he may produce in support of his claim.

## STATE AMENDMENTS

## Maharashtra

**Amendment of section 57 of Act 16 of 1927.**—In section 57 of the principal Act, for the word “forfeited” the word “confiscated” shall be substituted.

[Vide Maharashtra Act 21 of 2015, s. 8].

## STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).—

Section 57.—For section 57, substitute the following section, namely:—

**57. Procedure when the offender is not known or cannot be found.**—When the offender is not known or cannot be found the Magistrate may, if he finds that an offence has been committed, but subject to section 52B, order the property in respect of which offence has been committed, to be confiscated or forfeited together with all tools, arms, boats, carts, equipment, ropes, chains, machines, vehicles, cattle or any other article used in committing the offence, and taken charge of by the Forest officer, or to be made over to the person whom the Magistrate deems to be entitled to the same:

Provided that, no such order shall be made until the expiration of one month from the date of seizing such property or without hearing the person, if any, claiming any right thereto, and the evidence, if any, which he may produce in support of his claim.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

**58. Procedure as to perishable property seized under section 52.**—The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section 52 and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold.

## STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).--

Section 58.-For section 58, substitute the following section, namely:--

**58. Procedure as to perishable property seized under section 52.** — The Authorised Officer under sub-section (2) of section 52, or the Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section 52 and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt had it not been sold.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

**59. Appeal from orders under section 55, section 56 or section 57.**—The officer who made the seizure under section 52; or any of his official superiors, or any person claiming to be interested in the property so seized, may, within one month from the date of any order passed under section 55, section 56 or section 57, appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

**60. Property when to vest in<sup>1</sup> [Government].**—When an order for the confiscation of any property has been passed under section 55 or section 56 as the case may be, and the period limited by section 59 for an appeal from such order has elapsed, and no such appeal has been preferred, or when on such an appeal being preferred, the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or such portion thereof, as the case may be, shall vest in the<sup>1</sup> [Government] free from all incumbrances.

## STATE AMENDMENTS

## Maharashtra

**Amendment of section 60 of Act 16 of 1927.**—In section 60 of the principal Act, for the word “forfeiture” the word “confiscation” shall be substituted.

[Vide Maharashtra Act 21 of 2015, s. 9].

## STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).--

Section 60.-Renumbered as sub-section (2) thereof and, before sub-section (2) as so renumbered, insert the following sub-section, namely:--

(1) Property ordered to be confiscated by an authorised officer under section 52, subject to the result of revision before Court of Sessions under section 52A shall upon conclusion of proceedings in revision, vest in the Government free from all encumbrances:

Provided that if no revision is preferred under section 52A, such vesting shall take effect on expiry of period specified for the submitting petition for revision under section 52A.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

1. Subs. by the A.O. 1950, for “Crown”.

**61. Saving of power to release property seized.**—Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the <sup>1</sup>[State Government] from directing at any time the immediate release of any property seized under section 52.

#### STATE AMENDMENTS

##### Maharashtra

**Amendment of section 61A of Act XVI of 1927.**—In section 61A of the principal Act,—

(a) for sub-section (3), the following sub-section shall be substituted:—

“(3) Where any timber, sandalwood, firewood, charcoal or any other notified forest-produce, which is the property of the State Government, is seized under sub-section (1) of section 52, or any such forest-produce is produced before any authorised officer under sub-section (1) and he is satisfied that a forest-offence has been committed in respect of such forest-produce, notwithstanding whether or not a prosecution is instituted for the commission of such offence, such authorised officer shall order the forest-produce so seized to be taken charge of by a Forest-officer, and may order confiscation of all tools, boats, vehicles and cattles used in committing such offence.”;

(b) in sub-section (4),—

(i) for clause (a), the following clause shall be substituted, namely:—

“(a) where the authorised officer, after passing an order of confiscation under sub-section (3), is of the opinion that it is expedient in the public interest so to do, he may order sale of all confiscated tools, boats, vehicles and cattles.”;

(ii) in clause (b),—

(1) the words “property or the” shall be deleted;

(2) for the word “auction” the word “sale” shall be substituted.

[Vide Maharashtra Act 21 of 2015, s. 10].

**Amendment of section 61B of Act 16 of 1927.**—In section 61B of the principal Act,—

(a) in sub-section (1), the words “any timber, sandalwood, firewood, charcoal or any other notified forest-produce,” shall be deleted;

(b) after sub-section (2), the following sub-section shall be added, namely:—

“(3) When the offender or the owner of any tool, boat, vehicle or cattle seized under, sub-section (1) of section 52 is not known or cannot to found, and the authorised officer is satisfied that the same has been used in committing a forest-offence in respect of timber, fire-wood, sandalwood, charcoal or any other notified forest-produce which is the property of the State Government, notwithstanding anything contained in the foregoing provisions, the authorised officer may pass order in accordance with the provisions contained in section 61A:

Provided that, no such order shall be made until the expiration of a period of thirty days form the date of seizing such property or without hearing the person claiming any right thereto.”.

[Vide Maharashtra Act 21 of 2015, s. 11].

**Substitution of section 61F of Act 16 of 1927.**—For section 61F of the principal Act, the following section shall substituted, namely:—

**61F. Property etc. confiscated when to vest in Government.**—When an order for confiscation of any property has been passed under section 61A or section 61C, and the period of limitation provided by section 61D for filing an appeal against such order has elapsed, and no such appeal has been preferred or when on such an appeal being preferred, the Appellate Court confirms such order in respect, of the whole or a portion of such property, such property of such portion thereof, or if it has been sold under section 58

1. Subs. by the A.O. 1950, for “Provincial Government”.

or under clause (a) of sub-section (4) of section 61A, the sale proceeds thereof, as the case may be, shall vest in the State Government free from all encumbrances.”

[Vide Maharashtra Act 21 of 2015, s. 12].

**Amendment of section 61G of Act 16 of 1927.**—In section 61G of the principal Act, for the word “offence” the words “forest-offence in respect of such property” shall be substituted.

[Vide Maharashtra Act 21 of 2015, s. 13].

**62. Punishment for wrongful seizure.**—Any Forest-officer or Police-officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

#### STATE AMENDMENTS

##### Maharashtra

**Amendment of section 62 of Act 16 of 1927.**—In section 62 of the principal Act, in sub-section (1), the words “or forfeiture” shall be deleted.

[Vide Maharashtra Act 21 of 2015, s. 14].

**63. Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary-marks.**—Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code (45 of 1860),—

(a) knowingly counterfeits upon any timber or standing tree a mark used by Forest-officers to indicate that such timber or tree is the property of the [Government] or of some person, or that it may lawfully be cut or removed by some person; or

(b) alters, defaces or obliterates any such mark placed on a tree or on timber by or under the authority of a Forest-officer; or

(c) alters, moves, destroys or defaces any boundary-mark of any forest or waste-land to which the provisions of this Act are applied,

shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

#### STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).—

Section 63.—For the words, “or with fine”, substitute the words “or with fine which may extend to twenty-five thousand rupees”.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

**64. Power to arrest without warrant.**—(1) Any Forest-officer or Police-officer may, without orders from a Magistrate and without a warrant, arrest any person against whom a reasonable suspicion exists of his having been concerned in any forest-offence punishable with imprisonment for one month or upwards.

(2) Every officer making an arrest under this section shall, without unnecessary delay and subject to the provisions of this Act as to release on bond, take or send the person arrested before the Magistrate having jurisdiction in the case, or to the officer in charge of the nearest police-station.

(3) Nothing in this section shall be deemed to authorise such arrest for any act which is an offence under Chapter IV unless such act has been prohibited under clause (c) of section 30.

1. Subs. by the A.O. 1950, for “Crown”.

## STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).—

Section 64A.-After section 64, insert the following section, namely:-

**64A. Offences non-bailable.**-Notwithstanding anything contained in this Act or in the Code of Criminal Procedure, 1973 (2 of 1974), all offences under this Act other than those compoundable under section 68 shall be non-bailable.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

**65. Power to release on a bond a person arrested.**—Any Forest-officer of a rank not interior to that of a Ranger, who, or whose subordinate, has arrested any person under the provisions of section 64, may release such person on his executing a bond to appear, if and when so required, before the Magistrate having jurisdiction in the case, or before the officer in charge of the nearest police station.

## STATE AMENDMENTS

## Maharashtra

**Amendment of section 65A of Act 16 of 1927.**—In section 65A of the principal Act, in clause (b), for the words, figures, brackets and letters “Section 26, clauses (a), (b), (f), (g), (h) and (i) of sub-section (1)”, the words, figures, brackets and letters “Section 26, clauses (a), (b), (d), (f), (g), (h) and (i) of sub-section (1) and sub-section (4)” shall be substituted.

[Vide Maharashtra Act 21 of 2015, s. 15].

## STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).—

Section 65A and 65B.-After section 65, insert the following sections, namely:-

**65A. Requisition for police assistance.**-Any forest officer may requisition the services of any police officer to assist him for all or any of the purposes specified in sections 52, 63 and 64 and it shall be the duty of every such officer to comply with such requisition.

**65B. Police officers bound to seek technical clearance from Authorized Officer.**-Any police officer seizing any property under the provisions of this Act or rules framed there under shall be bound to seek technical clearance of the authorized officer to lodge a complaint to the magistrate under section 52 of this Act.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

**66. Power to prevent commission of offence.**—Every Forest-officer and Police-officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offence.

## STATE AMENDMENTS

## Maharashtra

**Insertion of new section 66A in Act 16 of 1927.**—After section 66 of the principal Act, the following section shall be inserted, namely:—

**66A. Punishment for abetment.**—Whoever abets any forest-offence shall, if the offence abetted is committed in consequence of abetment, be punished with the same punishment as is provided for such offence.”

[Vide Maharashtra Act 21 of 2015, s. 16].

**67. Power to try offences summarily.**—The District Magistrate or any Magistrate of the first class specially empowered in this behalf by the <sup>1</sup>[State Government] may try summarily, under the Code of Criminal Procedure, 1898 (5 of 1898), any forest-offence punishable with imprisonment for a term not exceeding six months, or fine not exceeding five hundred rupees, or both.

#### STATE AMENDMENTS

##### Maharashtra

**Amendment of section 67 of Act 16 of 1927.**—In section 67 of the principal Act, for the words “two thousand rupees” the words “five thousand rupees” shall be substituted.

[Vide Maharashtra Act 21 of 2015, s. 17].

#### STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).—

Section 67.—For the words “not exceeding six months, or fine not exceeding five hundred rupees”, substitute the words “not exceeding two years or with fine not exceeding twenty five thousand rupees”.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

**68. Power to compound offences.**—(1) The <sup>1</sup>[State Government] may, by notification in the <sup>2</sup>[Official Gazette], empower a Forest officer—

(a) to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence, other than an offence specified in section 62 or section 63, a sum of money by way of compensation for the offence which such person is suspected to have committed, and

(b) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.

(2) On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any seized shall be released, and no further proceedings shall be taken against such person or property.

(3) A Forest-officer shall not be empowered under this section unless he is a Forest-officer of a rank not inferior to that of a Ranger and is in receipt of a monthly salary amounting to at least one hundred rupees, and the sum of money accepted as compensation under clause (a) of sub-section (1) shall in no case exceed the sum of fifty rupees.

#### STATE AMENDMENTS

##### Maharashtra

**Amendment of section 68 of Act 16 of 1927.**—In section 68 of the principal Act,—

(a) in sub-section (1), —

(1) in clause (a), —

(i) after the words “other than an offence specified in” the words, brackets and figures “sub-section (4) of section 26 or” shall be inserted;

(ii) for the words “payment of a sum of money or, at his discretion, an undertaking in writing to pay a sum of money,” the words “payment of a sum of money” shall be substituted.

(2) in clause (b), for the words “on payment of, or at his discretion, on acceptance of an undertaking in writing to pay,” the words “on payment of” shall be substituted.

(b) in sub-section (2), for the words “payment of, or on acceptance of an undertaking in writing to pay,” the words “payment of,” shall be substituted.

1. Subs. by the A.O. 1950, for “Provincial Government”.

2. Subs. by the A.O. 1937, for “Local Official Gazette”.

(c) in sub-section (3), for the words "five hundred rupees" the words "five thousand rupees" shall be substituted.

[Vide Maharashtra Act 21 of 2015, s. 18].

#### STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).—

Section 68.-For section 68, substitute the following section, namely:—

**68. Power to compound offences.**- (1) The Government may, by notification in the Official Gazette, empower any forest officer not below the rank of Assistant Conservator of Forests-

(a) to accept from any person against whom a reasonable suspicion exists, that he has committed any forest offence involving damage not exceeding fifty thousand rupees, other than an offence specified in section 62 or section 63, a sum of money by way of compensation for the offence, which such person is suspected to have committed:

Provided that the sum of money accepted by way of compensation shall in no case be less than double the amount involved in the loss caused by such offence; and

(b) when any property has been seized as liable to confiscation, release the same on payment of the value thereof, in addition to the compensation referred to in clause (a) of this subsection, as estimated by such officer.

(2) On the payment of such compensation and such value, to such officer, the suspected person if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

**69. Presumption that forest-produce belongs to <sup>1</sup>[Government].**—When in any proceedings taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any forest-produce is the property of the <sup>1</sup>[Government], such produce shall be presumed to be the property of the <sup>1</sup>[Government] until the contrary is proved.

#### STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).—

Section 69.-For the words, "contrary is proved", substitute the words "contrary is proved by the accused".

Section 69-A.-After section 69, insert the following section, namely:-

**69-A. Double penalties for offences.**-The penalties which are double of those mentioned under the provisions of this Act or rules framed thereunder shall be inflicted in cases where the offence is committed after sunset and before sunrise, or after preparation for resistance to lawful authority or where the offender has been previously convicted of a like offence.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

#### CHAPTERX

##### CATTLE-TRESPASS

**70. Cattle-trespass Act, 1871, to apply.**—Cattle trespassing in a reserved forest or in any portion of a protected forest which has been lawfully closed to grazing shall be deemed to be cattle doing damage to

1. Subs. by the A.O. 1950, for "Crown".

a public plantation within the meaning of section 41 of the Cattle-trespass Act, 1871 (1 of 1871), and may be seized and impounded as such by any Forest-officer or Police-officer.

**71. Power to alter fines fixed under that Act.**—The <sup>1</sup>[State Government] may, by notification in the <sup>2</sup>[Official Gazette], direct that, in lieu of the fines fixed under section 12 of the Cattle-trespass Act, 1871 (1 of 1871), there shall be levied for each head of cattle impounded under section 70 of this Act such fines as it thinks fit, but not exceeding the following, that is to say:—

For each elephant.....	.....ten rupees.
For each buffalo or camel.....	.....two rupees.
For each horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow, or heifer.....	.....one rupee.
For each calf, ass, pig, ram, ewe, sheep, lamb, goat or kid.....	.....eightannas.

#### STATE AMENDMENTS

##### Maharashtra

**Amendment of section 71 of Act 16 of 1927.**—In section 71 of the principal Act,—

- (a) for the words “ten rupees” the words “Two hundred rupees” shall be substituted;
- (b) for the words “two rupees” the words “Two hundred rupees” shall be substituted;
- (c) for the words “one rupees” the words “Two hundred rupees” shall be substituted;
- (d) for the words “fifty nayepaise” the words “One hundred rupees” shall be substituted.

[Vide Maharashtra Act 21 of 2015, s. 19].

#### STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).—

Section 71.—For the words “ten rupees”, “two rupees”, “one rupee” and “eight annas”, substitute the words “one thousand rupees”, “two hundred and fifty rupees”, “one hundred rupees” and “fifty rupees” respectively.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

#### CHAPTER XI

##### OF FOREST-OFFICERS

**72. State Government may invest Forest-officers with certain powers.**—(1) The <sup>1</sup>[State Government] may invest any Forest-officer with all or any of the following powers, that is to say:—

- (a) power to enter upon any land and to survey, demarcate and make a map of the same;
- (b) the powers of a Civil Court to compel the attendance of witnesses and the production of documents and material objects;
- (c) power to issue a search-warrant under the Code of Criminal Procedure, 1898 (5 of 1898); and

1. Subs. by the A.O. 1950, for “Provincial Government”.

2. Subs. by the A.O. 1937, for “Local Official Gazette”.

(d) power to hold an inquiry into forest-offences, and, in the course of such inquiry, to receive and record evidence.

(2) Any evidence recorded under clause (d) of sub-section (1) shall be admissible in any subsequent trial before a Magistrate, provided that it has been taken in the presence of the accused person.

#### STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).—

Section 72.—For section 72, substitute the following section, namely;

**72. Government of Union territory of Jammu and Kashmir may invest Forest officers with certain powers.**—(1) The forest officers shall have the following powers, namely:—

(a) power to enter upon any land and to survey, demarcate and make a map of the same.

(b) the powers of a Civil Court to compel the attendance of witnesses and the production of documents and material objects;

(c) power to hold an inquiry into forest offences and in the course of such inquiry, to receive and record evidence; and

(d) power to issue search warrants under the Code of Criminal Procedure, 1973 (2 of 1974):

Provided that powers under clause (b) and (c) shall not be exercised by a forest officer below the rank of a Range Officer:

Provided further that the powers under clause (d) shall not be exercised by a forest officer below the rank of a Divisional Forest Officer.

(2) Any evidence recorded under clause (c) of sub-section (1) shall be admissible in any subsequent trial before a Magistrate, if that it has been taken in the presence of the accused person.

(3) Any forest officer not below the rank of a Range Officer may delegate his powers of inquiry to an officer of the rank of Forester if the offence is compoundable under section 68 of this Act.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

**73. Forest-officers deemed public servants.**—All Forest-officers shall be deemed to be public servants within the meaning of the Indian Penal Code (45 of 1860).

**74. Indemnity for acts done in good faith.**—No suit shall lie against any public servant for anything done by him in good faith under this Act.

#### STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).—

Section 74.—For section 74, substitute the following section, namely:—

**74. Indemnity for acts done in good faith.**—(1) No suit, prosecution or other legal proceedings shall lie against any public servant for anything done in good faith or omitted to be done likewise, under this Act or the rules or orders made thereunder.

(2) No Court shall take cognizance of any offence alleged to have been committed by a forest officer while acting or purporting to act in the discharge of his official duty except with the previous sanction of the Government of Union territory of Jammu and Kashmir.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

**75. Forest-officers not to trade.**—Except with the permission in writing of the <sup>1</sup>[State Government], no Forest-officer shall, as principal or agent, trade in timber or other forest-produce, or be or become interested in any lease or any forest or in any contract for working any forest, whether in or outside <sup>2</sup>[the territories to which this Act extends].

#### CHAPTER XII SUBSIDIARY RULES

**76. Additional powers to make rules.**—The <sup>1</sup>[State Government] may make rules—

- (a) to prescribe and limit the powers and duties of any Forest-officer under this Act;
- (b) to regulate the rewards to be paid to officers and informers out of the proceeds of fines and confiscation under this Act;
- (c) for the preservation, reproduction and disposal of trees and timber belonging to Government, but grown on lands belonging to or in the occupation of private persons; and
- (d) generally, to carry out the provisions of this Act.

#### STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).—

Section 76A.—After section 76, insert the following section, namely:—

**76A. Power to regulate manufacture and preparation of articles based on forest produce.**—(1) The Government of Union territory of Jammu and Kashmir may make rules,—

(a) to provide for the establishment, and regulation by licence, permit or otherwise (and the payment of fees thereof), of saw mills, timber depots, firewood depots and other units including the factories or industries engaged in the consumption of forest produce for manufacture or preparation of the following articles:—

- (i) katha (catechu) or kutch out of khairwood;
- (ii) rosin, turpentine, other products out of resin, and wood oil;
- (iii) plywood, veneer and wood-based products;
- (iv) match boxes and match splints;
- (v) boxes including packing cases made out of wood;
- (vi) joinery and furniture items made out of wood;
- (vii) charcoal, lime stone and gypsum;

(viii) such other articles based on forest produce as the Government of Union territory of Jammu and Kashmir may, by notification in the Official Gazette, from time to time, specify;

(b) to provide for the regulation by licence, permit or otherwise, of procurement of raw material for the preparation of articles mentioned in clause (a), the payment and deposit of fees therefor and for due compliance of the condition thereof, the forfeiture of the fees so deposited or any part thereof for contravention of any such condition and adjudication of such forfeiture by such authority as the Government of Union territory of Jammu and Kashmir may, by notification, specify.

(2) The Government of Union territory of Jammu and Kashmir may provide that, as the contravention of any rules made under this section shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to twenty five thousand rupees, or both.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

1. Subs. by the A.O. 1950, for "Provincial Government".

2. Subs. by the A.O. (No. 3) 1956, for "Part A States and Part C States".

**77. Penalties for breach of rules.**—Any person contravening any rule under this Act, for the contravention of which no special penalty is provided, shall be punishable with imprisonment for a term which may extend to one month, or fine which may extend to five hundred rupees, or both.

#### STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).—

Section 77.—For the words “extend to one month, or fine which may extend to five hundred rupees”, substitute the words “extend to two years or with fine which may extend to twenty five thousand rupees”.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

**78. Rules when to have force of law.**—All rules made by the <sup>1</sup>[State Government] under this Act shall be published in the <sup>2</sup>[Official Gazette], and shall thereupon, so far as they are consistent with this Act, have effect as if enacted therein.

#### CHAPTER XIII

##### MISCELLANEOUS

**79. Persons bound to assist Forest-officers and Police-officers.**—(1) Every person who exercises any right in a reserved or protected forest, or who is permitted to take any forest-produce from, or to cut and remove timber or to pasture cattle in, such forest, and every person who is employed by any such person in such forest, and

every person in any village contiguous to such forest who is employed by the <sup>3</sup>[Government], or who receives emoluments from the <sup>3</sup>[Government] for services to be performed to the community, shall be bound to furnish without unnecessary delay to the nearest Forest-officer or Police-officer any information he may possess respecting the commission of, or intention to commit, any forest-offence, and shall forthwith take steps, whether so required by any Forest-officer or Police officer or not,—

(a) to extinguish any forest fire in such forest of which he has knowledge or information;

(b) to prevent by any lawful means in his power any fire in the vicinity of such forest of which he has knowledge or information from spreading to such forest, and shall assist any Forest-officer or Police-officer demanding his aid—

(c) in preventing the commission in such forest of any forest-offence; and

(d) when there is reason to believe that any such offence has been committed in such forest in discovering and arresting the offender.

(2) Any person who, being bound so to do, without lawful excuse (the burden of proving which shall lie upon such person) fails—

(a) to furnish without unnecessary delay to the nearest Forest-officer or Police-officer any information required by sub-section (1);

(b) to take steps as required by sub-section (1), to extinguish any forest fire in a reserved or protected forest;

(c) to prevent, as required by sub-section (1), any fire in the vicinity of such forest from spreading to such forest; or

(d) to assist any Forest-officer or Police-officer demanding his aid in preventing the commission in such forest of any forest-offence, or, when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender;

1. Subs. by the A.O. 1950, for “Provincial Government”.

2. Subs. by the A.O. 1937, for “Local Official Gazette”.

3. Subs. by the A.O. 1950, for “Crown”.

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).---

**Section 79.**-In sub-section (2), in the long line, for the words "shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees" substitute the words, "shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees".

**Section 79A to 79C.**-After section 79, insert the following sections, namely:--

**79-A. Penalty for unauthorisedly taking possession of land constituted as reserved or protected forest.**-(1) Any person who unauthorisedly takes or remains in possession of any land in areas constituted as reserved forest or protected forest under section 20 or section 29 as the case may be, may, without prejudice to any other action that may be taken against him under any other provision of this Act, be summarily ejected by order of a forest officer not below the rank of a Divisional Forest Officer and any crop which may be standing on such land or any building or other work which he may have constructed thereon, if not removed by him within such time as such forest officer may fix, shall be liable to forfeiture:

Provided that no order of ejection under this sub-section shall be passed unless the person proposed to be ejected is given a reasonable opportunity of showing cause why such an order should not be passed.

(2) Any property so forfeited shall be disposed of in such manner as the forest officer may direct and the cost of removal of any crop, building or other work and of all works necessary to restore the land to its original condition shall be recoverable from such person in the manner provided in section 82.

(3) Any person aggrieved by an order of the forest officer under sub-section (1) may, within sixty days from the date of such order prefer an appeal by petition in writing to the concerned Chief Conservator of Forests in person or through a duly authorized agent and such petition shall be accompanied by a certified copy of the order appealed against.

(4) On receipt of the appeal and after summoning the parties and perusing the record of the proceedings, the Chief Conservator of Forests shall fix a date and convenient place for hearing the appeal and shall give notice thereof to the parties, and shall hear the appeal accordingly.

(5) The order passed on the appeal by the Chief Conservator of Forests shall be final.

**79B. Summary action by Deputy Commissioner in fire cases.**- If in any case under clauses (a) and (b) of sub-section (1) of section 79, it appears to the Deputy Commissioner of the district within which the forest concerned is situated after local enquiry made in a summary and administrative manner, either by himself, or through a Tehsildar deputed by him for the purpose, that any such person or village or other community has neglected to give such information or to render such assistance as is required thereby, he may impose a fine not exceeding one thousand rupees on, as well as direct payment of compensation for damage to Government's property by, such person, village or other community or such individual member of such village or other community as may be determined in consultation with the Divisional Forest Officer and all fines imposed under this section shall be recoverable as arrears of land revenue.

**79C. Appeal against order of Deputy Commissioner.**- An appeal against every order passed under section 79B may be made to the concerned Divisional Commissioner whose decision thereon shall be final.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

**80. Management of forests the joint property of <sup>1</sup>[Government] and other persons.**—(1) If the <sup>1</sup>[Government] and any person be jointly interested in any forest or waste-land, or in the whole or any part of the produce thereof, the <sup>2</sup>[State Government] may either—

(a) undertake the management of such forest, waste-land or produce, accounting to such person for his interest in the same; or

(b) issue such regulations for the management of the forest, waste-land or produce by the person so jointly interested as it deems necessary for the management thereof and the interests of all parties therein.

(2) When the <sup>2</sup>[State Government] undertakes under clause (a) of sub-section (1) the management of any forest, waste-land or produce, it may, by notification in the <sup>3</sup>[Official Gazette], declare that any of the provisions contained in Chapters II and IV shall apply to such forest, waste-land or produce, and thereupon such provisions shall apply accordingly.

**81. Failure to perform service for which a share in produce of <sup>1</sup>[Government] forest is employed.**—If any person be entitled to a share in the produce of any forest which is the property of <sup>1</sup>[Government] or over which the <sup>1</sup>[Government] has proprietary rights or to any part of the forest-produce of which the Government is entitled upon the condition of duly performing any service connected with such forest, such share shall be liable to confiscation in the event of the fact being established to the satisfaction of the <sup>2</sup>[State Government] that such service is no longer so performed:

Provided that no such share be confiscated until the person entitled thereto, and the evidence, if any, which he may produce in proof of the due performance of such service, have been heard by an officer duly appointed in that behalf by the <sup>2</sup>[State Government].

**82. Recovery of money due to Government.**—All money payable to the Government under this Act, or under any rule made under this Act, or on account of the price of any forest-produce, or of expenses incurred in the execution of this Act in respect of such produce, may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of land-revenue.

#### STATE AMENDMENTS

##### Maharashtra

**Amendment of section 82 of Act 16 of 1927.**—In section 82 of the principal Act, the words and figures “or on account of compensation or value of property agreed to be paid under section 68” shall be deleted.

[Vide Maharashtra Act 21 of 2015, s. 20].

##### Orissa

**Amendment of section 82, (16 of 1927).**—For section 82 of the Indian Forest Act, 1927 (16 of 1927), the following section shall be substituted, namely:—

“82. All money, other than fines, payable to the State Government under this Act, or any rules made thereunder, or on account of timber or other forest produce, or of expenses incurred in the execution of this Act in respect of timber or other forest produce, or under any contract relating to timber and other forest produce including any sum recoverable thereunder for the breach thereof, or in consequence of its cancellation, or under the terms of a notice relating to the sale of timber or other forest produce by auction or by invitation of tenders, issued by or under the authority of a Forest Officer and all compensation awarded to the State Government under this Act, may, if not paid when due, be recovered, under the law for the time being in force, as if it were an arrear of land-revenue.”

[Vide the Orissa Act 25 of 1952, s. 2]

#### STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).—

Section 82.—For section 82, substitute the following section, namely:—

1. Subs. by the A.O. 1950, for “Crown”.

2. Subs. by the A.O. 1950, for “Provincial Government”.

3. Subs. by the A.O. 1937, for “Local Official Gazette”.

**82. Recovery of money due to Government.**— All money payable to the Government under this Act or under any rule made under this Act, or on account of the price of timber, or other forest produce, or of expenses incurred in execution of this Act in respect of timber and other forest produce, or under any contract relating to timber and other forest produce including any sum recoverable there under for breach thereof, or in consequence of its cancellation, or under the terms of a notice relating to the sale of timber or other forest produce by auction or by invitation of tenders, issued by or under authority of a forest officer and all compensation awarded to the Government under this Act shall, if not paid when due, be recovered, under the law for the time being in force, as if it were an arrear of land revenue.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).—

Section 82-A to 82-H.—After section 82, insert the following sections, namely:—

**82-A. Recovery of penalties due under a bond.**—When in respect of any forest lease any person binds himself by any bond or instrument to perform any duty or act, or covenants by any bond or instrument that he, or that he and his servant and agents will abstain from any act, the whole sum mentioned in such bond or instrument as the amount to be paid in case of a breach of the conditions thereof shall notwithstanding anything in section 74 of the Indian Contract Act, 1872, be recovered from him in case of such breach as if it were an arrear of land revenue.

**82-B. Restoration of advantage or benefit or payment of compensation.**—Notwithstanding anything contained in this Act or in the Indian Contract Act, 1872, or in any other law for the time being in force,—

(a) where any transaction or lease relating to sale of forest produce or extraction of timber from any forest is or is discovered to be void only on the ground that the transaction or lease is not in conformity with the provisions of article 299 of the Constitution of India or any order or direction issued thereunder, any person who has received any advantage or has enjoyed any benefit by virtue of such transaction or lease shall be bound to restore it or to make compensation for it, to the person or party from whom he received it;

(b) the extent of any advantage or benefit or the amount of compensation payable in lieu thereof, referred to in clause (a), shall be determined in accordance with the provisions of this Act and the value of the advantage or benefit or the amount of compensation so determined shall be recoverable as arrears of land revenue.

**82-C. Constitution of Authority.**—For the purposes of determining the extent of advantage or benefit or the value thereof or the amount of compensation under section 82-B, the Government of Union territory of Jammu and Kashmir shall, by notification in the Official Gazette, constitute, as and when necessary, an Authority consisting of one or more members having such qualification and experience and on such terms and conditions as may be prescribed and where the Authority consists of more than one member, one of them may be appointed as Chairperson thereof.

**82-D. Powers of the Authority.**—(1) The Authority shall, for purposes of holding inquiry for determining the extent of advantage or benefit or value thereof or the amount of compensation, as the case may be, under section 82-B, have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person or witness and examining him on oath or solemn affirmation;

(b) requiring the discovery or production of any document relating to the subject matter of inquiry;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof relating to the subject matter of inquiry from any court or office; and

(e) issuing commissions for examination of witnesses, documents or other books of accounts relating to the subject matter of inquiry.

(2) The Authority shall also have power to issue a commission to such person as it considers fit for local investigation which may be requisite or proper for the purpose of elucidating any matter which is the subject matter of inquiry or of ascertaining the market value of any property.

(3) The person directed to execute a commission for any purpose under this section shall have all the powers of a commissioner appointed by a Civil Court in pursuance of the provisions of the Code of Civil Procedure, 1908 (5 of 1908).

(4) The Authority shall have the power to pass such orders as it thinks fit for the seizure, attachment, management, preservation, interim custody or sale of any forest produce or timber (wherever it may be in the State) which may be the subject matter of proceedings before it including the appointment of a receiver for any of the aforesaid purposes.

**82-E. Restriction on alienation.**—(1) Notwithstanding anything contained in any law for the time being in force,—

(a) where at any stage of the inquiry, the Authority is satisfied by affidavit or otherwise that a person liable to restore any advantage or benefit or to pay compensation in lieu thereof under any transaction or lease referred to in section 82-B, is likely to alienate his movable or immovable property with intent to evade payment or to defeat the recovery, of the advantage or benefit or the value thereof or the amount of compensation, that may be determined by him, it may by order in writing direct that such person shall not alienate his movable and immovable property or such portion thereof, as it may specify in the order, during the pendency of the inquiry;

(b) any alienation of property made in contravention of any order or direction issued under clause (a) shall be void, and no transferee of such property shall be deemed to have acquired any right, title or interest therein.

**Explanation.**—For the purposes of this section “alienation” includes mortgage, sale, gift, bequest, benami transaction, family settlement or any other mode of transfer of any right, title or interest in the property.

(2) For removal of doubts it is hereby declared that restrictions imposed under this section on the rights conferred by clause (1) of article 19 of the Constitution of India shall be deemed to be reasonable restrictions.

**82-F. Procedure to be followed by the Authority.**—(1) The Authority shall, subject to any rules made by the Government of Union territory of Jammu and Kashmir in this behalf, have power to regulate its own procedure in all matters arising out of or connected with the discharge of its functions, in consonance with the principles of natural justice.

(2) The parties shall have a right of being represented by counsel.

**82-G. Appeal.**—(1) Any person aggrieved by a final order of the Authority, determining the extent of advantage or benefit or value thereof or the amount of compensation under section 82-B, may, within thirty days of the date of the order, file an appeal against such order before the High Court and every such appeal shall be heard by a Division Bench of the High Court.

(2) No other order of the Authority shall be appealable.

(3) The order of the Authority shall, subject to the decision of the High Court under sub-section (1) in appeal, be final and shall be deemed to be a certificate within the meaning of section 90 of the Jammu and Kashmir Land Revenue Act, 1996.

(4) No further appeal shall lie against the decision of the High Court.

**82-H. Exclusion of jurisdiction of Civil Court.**— No Civil Court shall have jurisdiction to entertain any suit or other proceeding in respect of any matter which the Authority has taken cognizance of under section 82-B.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

**83. Lien on forest-produce for such money.**—(1) When any such money is payable for or in respect of any forest-produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by a Forest-officer until such amount has been paid.

(2) If such amount is not paid when due, the Forest-officer may sell such produce by public auction, and the proceeds of the sale shall be applied first in discharging such amount.

(3) The surplus, if any, if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to [Government].

#### STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).—

Section 83A. — After section 83, insert the following section, namely:—

**83A. Restriction on alienation.**—(1) Notwithstanding anything contained in the Transfer of Property Act 1882, or in any other law for the time being in force, no property offered by a forest lessee or by any other person on behalf of a forest lessee, as security for payment of royalty, interest, compensation, penalty or any other amount chargeable from the forest lessee, under any lease deed, bond or instrument shall be alienated without the previous permission of the Government of Union Territory of Jammu and Kashmir, till such time as the Chief Conservator of Forests certifies that such forest lessee has duly performed all the obligations devolving upon him under such lease deed, bond or instrument.

(2) Any alienation of property made in contravention of sub-section (1) shall be void, and no transferee of such property shall be deemed to have acquired any right, title or interest therein.

(3) Any amount of royalty, interest, compensation or penalty or any other sum falling due from a forest lessee under any lease deed, bond or instrument shall be recoverable as arrears of land revenue in accordance with the law for the time being in force, from the property offered by him or on his behalf as security and from any other movable or immovable property owned by the forest lessee.

**Explanation.**— For the purposes of this section,

(a) “alienation” includes sale, gift, exchange, bequest, mortgage, benami transaction, family settlement or any other mode of transfer of any right, title or interest therein or creation of any encumbrance thereon;

(b) the expression “forest lessee” shall be construed to mean a person in whose favour a right to convert and remove forest produce from any forest has been granted under any lease deed, bond or instrument.

(4) For removal of doubts it is hereby declared that restriction imposed under this section on the rights conferred by clause (1) of article 19 of the Constitution of India shall be deemed to be reasonable restrictions.

[Vide the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

**84. Land required under this Act to be deemed to be needed for a public purpose under the Land Acquisition Act, 1894.**—Whenever it appears to the State Government that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of section 4 of the Land Acquisition Act, 1894 (1 of 1894).

#### STATE AMENDMENT

Jammu and Kashmir and Ladakh (UTs).—

Section 84A.—After section 84, insert the following section, namely:—

**84A. Application of the Act to land.**— The Government may, by notification in the Official Gazette, declare that any of the provisions of this Act shall apply to any land which is the property of the Government of the Union territory of Jammu and Kashmir or the Central Government, and thereupon such provisions shall apply to such land accordingly.

[*Vide* the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order, 2020, notification No. S.O. 1123(E) dated (18-3-2020).]

**85. Recovery of penalties due under bond.**—When any person, in accordance with any provision of this Act, or in compliance with any rule made thereunder, binds himself by any bond or instrument to perform any duty or act, or covenants by any bond or instrument that he, or that he and his servants and agents will abstain from any act, the whole sum mentioned in such bond or instrument as the amount to be paid in case of a breach of the conditions thereof may, notwithstanding anything in section 74 of the Indian Contract Act, 1872 (9 of 1872), be recovered from him in case of such breach as if it were an arrear of land-revenue.

<sup>1</sup>[**85A. Saving for rights of Central Government.**—Nothing in this Act shall authorise a Government of any State to make any order or do anything in relation to any property not vested in that State or otherwise prejudice any rights of the Central Government or the Government of any other State without the consent of the Government concerned.]

**86. [Repeals].**—*Rep. by the Repealing and Amending Act, 1948 (2 of 1948), s. 2 and the Schedule.*

*THE SCHEDULE.*—[*Enactments repealed.*] *Rep. by s. 2 and the Schedule, ibid.*

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1. Subs. by the A.O. 1950, for section 85A. Earlier it was inserted by the A.O. 1937.



The Himachal Pradesh Land Preservation Act, 1978

Act 28 of 1978

Keyword(s):

Land, Cho, Tree, Person interested, Right-holder, Erosion

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## LAND PRESERVATION ACT

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## THE HIMACHAL PRADESH LAND PRESERVATION ACT, 1978

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**THE HIMACHAL PRADESH LAND PRESERVATION ACT, 1978**  
(ACT NO. 28 OF 1978)<sup>1</sup>

(Received the assent of the President of India on the 4th August, 1978 and was published in R.H.P., Extra, dated the 26th August, 1978, p. 1121-1129).

*An Act to provide for the better preservation and protection of certain portions of the territories of Himachal Pradesh.*

BE it hereby enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-ninth Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Himachal Pradesh Land Preservation Act, 1978.

(2) It shall extend to the whole of the State of Himachal Pradesh.

(3) It shall come into force at once.

2. Definitions.—In this Act, unless a different intention appears from the subject or context,—

- (a) "land" means land within any area preserved and protected or otherwise dealt within the manner provided in this Act and includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth;
- (b) "cho" means a stream or torrent flowing through or from the mountainous ranges within Himachal Pradesh;
- (c) "tree", "timber", "forest produce" and "cattle", respectively, shall have the meanings severally assigned thereto in section 2 of the Indian Forest Act, 1927 (16 of 1927);
- (d) "person interested" includes all persons claiming any interest in compensation to be made on account of any measures taken under this Act;

<sup>1</sup>For Statement of Objects and Reasons, see R.H.P. Extra, Dated 3-4-1978, p. 326.

- (e) "Deputy Commissioner" includes any officer or officers at any time specially appointed by the State Government to perform the functions of a Deputy Commissioner under this Act;
- (f) "right-holder" includes—
  - (i) persons not being tenants or mortgagees having rights to, or in land; and
  - (ii) persons having rights of collection of forest produce or of grazing of pasture; and
- (g) "erosion" includes the removal or displacement of earth, soil, stones or other materials by the action of wind or water.

## CHAPTER II

## NOTIFICATION AND REGULATION OF AREAS

3. Notification of areas.—Whenever it appears to the State Government that it is desirable to provide for the conservation of sub-soil water or the prevention of erosion in any area subject to erosion or likely to become subjected to erosion, the State Government may, by notification published in the Official Gazette, make a direction accordingly.

4. Power to regulate, restrict or prohibit, by general or special order, within notified areas, certain matters.—In respect of areas notified under section 3 generally or the whole or any part of any such area, the State Government may, by general or special order, temporarily regulate, restrict or prohibit—

- (a) the clearing or breaking up or cultivating of land not ordinarily under cultivation prior to the publication of the notification under section 3;
- (b) the quarrying of stone or the burning of lime at places where such stone or lime had not ordinarily been so quarried or burnt prior to the publication of the notification under section 3;
- (c) the cutting of trees or timber, or the collection or removal or subjection to any manufacturing process, otherwise than as described in clause (b) of this section, of any forest produce other than grass save for *bona-fide* domestic or agricultural purposes of a right holder in such area;
- (d) the setting on fire of trees, timber or forest produce;
- (e) the admission, herding, pasturing or retention of sheep, goats or camels;
- (f) the examination of forest produce passing out of any such area; and
- (g) the granting of permits to the inhabitants of towns and villages situated within the limits or in the vicinity of any such area to take any tree, timber or forest produce for their own use therefrom or to pasture sheep, goats or camels or to cultivate or erect buildings therein and the production and return of such permits by such persons.

5. Power in certain cases to regulate, restrict or prohibit, by special order, within notified areas, certain further matters.—In respect of any specified villages or part or parts thereof comprised within the limits of any area notified under section 3, the State Government may, by special order, temporarily regulate, restrict or prohibit—

- (a) the cultivation of any land ordinarily under cultivation prior to the publication of the notification under section 3;
- (b) the quarrying of any stone or the burning of any lime at places where such stone or lime had ordinarily been so quarried or burnt prior to the publication of the notification under section 3;
- (c) the cutting of trees or timber or the collection or removal or subjection to any manufacturing process, otherwise than as described in clause (b) of this section, of any forest produce for any purposes; and
- (d) the admission, herding, pasturing or retention of cattle generally other than sheep, goats and camels or of any class or description of such cattle.

6. Power to require execution of works and taking of measures.—In respect of areas notified under section 3 generally or the whole or any part of any such area, the State Government may, by general or special order, direct—

- (a) the levelling, terracing, drainage and embanking of fields;
- (b) the construction of earth works in fields and ravines;
- (c) the provision of drains for stream water;
- (d) the protection of land against the action of wind or water;
- (e) the training of streams; and
- (f) the execution of such other works and the carrying out of such other measures as may, in the opinion of the State Government be necessary for carrying out the purposes of this Act.

7. Necessity for regulation, restriction or prohibition to be recited in the order under sections 4, 5 or 6 and publication of order.—Every order made under sections 4, 5 or 6 shall be published in the Official Gazette and shall set forth that the State Government is satisfied, after due inquiry, that regulations, restrictions, prohibitions or directions contained in the order are necessary for the purpose of giving effect to the provisions of this Act.

8. Proclamation of regulations, restrictions and prohibitions and admission of claims for compensation for rights which are restricted or prohibited.—(1) When in respect of any area a notification has been published under section 3, and—

- (a) upon such publication any general order made under section 4 or section 6 becomes applicable to such area, or
- (b) any special order under sections 4, 5 or 6 is made in respect of such area,

the Deputy Commissioner shall cause public notice of the provisions of such general or special order to be given, and if the provisions of any such order restrict or prohibit the exercise of any existing rights, shall also publish in the language of the country and in every town and village the boundaries of which include any portion of the area within or over which the exercise of any such rights is so restricted or prohibited, a proclamation stating the regulations, restrictions and prohibitions, which have been imposed by any such order, within the limits of such area or in any part or parts thereof, fixing a period of not less than three months from the date of such proclamation and requiring every person claiming any compensation in respect of any right so restricted or prohibited, within such period either to present to such officer a written notice specifying, or to appear before him and state the nature and extent of such right and

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the amount and particulars of the compensation, if any, claimed in respect thereof.

(2) Any claim not preferred within the time fixed in the proclamation made under sub-section (1), shall be rejected:

Provided that with the previous sanction of the Commissioner, the Deputy Commissioner may admit any such claim as if it had been made within such period.

9. Power to fix time within which work to be executed, etc.—(1) When an order has been issued under section 6, the Deputy Commissioner may by notice require the owner or occupier of the land to execute such works or take such measures as may be specified in the notice.

(2) Every such notice shall state the time within which the works are to be executed or measures are to be taken.

(3) A person aggrieved by an order contained in such a notice as aforesaid may, within thirty days from the service of such notice or within such longer period as the Deputy Commissioner may allow in this behalf, serve a notice of his objections on the Deputy Commissioner in such manner as may be provided by the rules made under this Act.

(4) If and in so far as an objection under this section is based on the ground of some informality, defect or error in or in connection with the notice, the Deputy Commissioner shall dismiss the objection, if he is satisfied that the informality, defect or error was not a material one.

(5) If the objection is brought on all or any of the following grounds that is to say—

- (a) that the notice might lawfully have been served on the occupier of the land in question instead of on the owner, or on the owner instead of on the occupier, and that it would have been equitable for it to have been so served;
- (b) that some other person, being the owner, occupancy-tenant, mortgagee with possession, or lessee, or farm-holder, or possessing some other right in or over the land to be benefited, ought to contribute towards the expenses of executing any works or taking any measures required;
- (c) where the work or measure is work or measure for the common benefit of the land in question and other land, that some other person being the owner or occupier of land to be benefited, ought to contribute towards the expenses of executing any works or taking any measures required;

the objector shall serve a copy of his notice of objection on each other person referred to, in clauses (a) to (c) and on the hearing of the objection the Deputy Commissioner may make such order as he thinks fit with respect to the person by whom any work is to be executed or measure is to be taken and the contribution to be made by any other person towards the cost of the work or measure, or as to the proportions in which any expenses which may become recoverable by the Deputy Commissioner under sub-section (6) are to be borne by the objector and such other persons:

Provided that no such order shall be made unless the person who is likely to be affected thereby has been given a reasonable opportunity of being heard.

In exercising his power under this sub-section the Deputy Commissioner shall have regard—

- (a) as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of the tenancy and to the nature of the works and measures required, and
- (b) in any case, to the degree of benefit to be derived by the different persons concerned.

(6) Notwithstanding anything to the contrary contained in any law for the time being in force, no person required by a notice or an order under this section to execute any work or to take any measure shall be required to obtain the consent of any other person before complying with such notice or order.

(7) Subject to such right of objection as aforesaid and the right of appeal under section 15, if the person required by the notice to execute the works or to take the measures fails to execute the works and take the measures indicated within the time thereby limited, the Deputy Commissioner may himself or by an agent execute the works or take the measures and recover from that person the expenses reasonably incurred by him in so doing:

Provided that it shall not be necessary for the Deputy Commissioner to wait for the decision of any objection other than an objection under clause (a) of sub-section (5), or an appeal against any decision on such objection, before taking action under this sub-section.

(8) If the cost of any work executed or any measure taken by any person remains unpaid by the person from whom it is due after the date specified in a notice issued in this behalf by the Deputy Commissioner or such other date as is fixed by him, such cost shall be recoverable as an arrear of land revenue and a certificate issued by the Deputy Commissioner in this behalf shall be final and conclusive evidence of the sum so recoverable and the person liable for the same.

(9) Every order issued under this section shall be published in such manner, as may be prescribed in the rules made under this Act, and upon such publication every person affected thereby shall, unless the contrary be proved, be deemed to have had due notice thereof.

(10) The Deputy Commissioner, may, by general or special order, authorise any revenue officer subordinate to him to enquire into any objection that may be brought under this section;

Provided that no final order on any such objection shall be passed except by the Deputy Commissioner himself.

(11) In making an order on objections brought under this section, the Deputy Commissioner shall be guided by such rules, if any, as the State Government may make in this behalf.

(12) For the purposes of this section, the expression "estate" shall have the meaning assigned thereto in the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954).

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## CHAPTER III

POWER TO ENTER UPON AND DELIMIT NOTIFIED AREAS  
AND BEDS

10. Power to enter upon, survey and demarcate local areas notified under section 3.—It shall be lawful for the Deputy Commissioner and any other person, as may be authorised by him, from time to time, as occasion may require,—

- (a) to enter upon and survey any land comprised within any area in regard to which any notification has been issued under section 3 or in regard to which a notification is proposed to be issued under section 6;
- (b) to erect bench-marks on and to delimit and demarcate the boundaries of any such area; and
- (c) to do all other acts and things which may be necessary in order adequately to preserve or protect any land or to give effect to all or any of the provisions of this Act:

Provided that reasonable compensation, to be assessed and determined in the manner in this Act provided, shall be made in respect of any damage or injury caused to the property or rights of any person in carrying out any operations under the provisions of this section.

## CHAPTER IV

## INQUIRY INTO CLAIMS AND AWARDS OF COMPENSATION

11. Inquiries into claims and awards thereupon.—(1) The Deputy Commissioner shall—

- (a) fix a date for inquiring into all claims made under section 8 and may in his discretion, from time to time, adjourn the inquiry to a date to be fixed by him;
- (b) record in writing all statements made under section 8;
- (c) inquire into all claims duly preferred under section 8; and
- (d) make and award upon such claim, setting out therein the nature and extent of the right claimed, the person or persons making such claim, the extent, if any, to which, and the person or persons in whose favour, the right established, the extent to which it is to be restricted or prohibited and the nature and amount of the compensation, if any, awarded.

(2) For the purposes of every such inquiry the Deputy Commissioner may exercise all or any of the powers of a civil court in the trial of suits under the Code of Civil Procedure (5 of 1908).

(3) The Deputy Commissioner shall announce his award to such persons interested, or their representatives, as are present and shall record the acceptance of those who accept it. To such as are not present, the Deputy Commissioner shall cause immediate notice of his award to be given.

12. Method of awarding compensation and effect of such award.—(1) In determining the amount of compensation the Deputy Commissioner shall be guided, so far as may be, by the provisions of sections 23 and 24 of the Land Acquisition Act, 1894 (1 of 1894), and as to matters which cannot be dealt with under those provisions, by what is just and reasonable in the circumstances of each case.

(2) The Deputy Commissioner may, with the sanction of the State Government and the consent of the person entitled, instead of money, award compensation in land or by reduction in revenue or in any other form.

(3) If in any case, the exercise of any right is prohibited for a time only, compensation shall be awarded only in respect of the period during which the exercise of such rights is so prohibited.

#### CHAPTER V

#### PROCEDURE, RECORDS AND APPEAL

13. Record of rights in respect of notified areas.—(1) For every area, notified under section 3, the Deputy Commissioner shall prepare a record setting forth the nature, description, local situation and extent of all rights mentioned in section 4 and section 5—

- (a) existing within such area at the time of the publication of the notification relating thereto under section 3;
- (b) regulated, restricted, or prohibited by any order under section 4 or section 5.

(2) When any award is made under section 11 its effect upon any right shall also be recorded therein.

(3) The record prepared under this section shall be presumed to be correct until contrary is proved or a new entry lawfully substituted therefor.

14. Mode of proclaiming notifications and of serving notices, orders and processes, issued under the Act.—(1) Upon the publication of a notification issued under any of the provisions of this Act, the Deputy Commissioner shall cause public notice of the substance thereof to be given at convenient places in the locality to which such notification relates.

(2) The procedure prescribed in sections 21, 22 and 23 of the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954), shall be followed, as far as may be, in proceeding under this Act.

15. Appeal, review and revision.—Every order passed and every award made by a Deputy Commissioner under this Act shall for the purposes of appeal, review and revision; respectively, be deemed to be the order of a Collector within the meaning of sections 14, 15, 16 and 17 of the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954):

Provided that nothing in this Act contained shall be deemed to exclude the jurisdiction of any civil court to decide any dispute arising between the persons interested in any compensation awarded as to the apportionment or distribution thereof amongst such persons or any of them.

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## CHAPTER VI

## PUNISHMENTS, BAR OF SUITS AND RULES

16. Punishments for offences.—Any person who, within the limits of any area notified under section 3, commits any breach of any regulation made, restrictions or prohibitions imposed, order passed or requisition made under sections 4, 5, 6 or 9 or obstructs or resists in any way whatever the execution of acts or things done under section 10, shall be punished with imprisonment for a term which may extend to 6 months, or with a fine which may extend to five hundred rupees, or with both.

17. Applications of provisions of the Indian Forest Act, 1927.—The provisions of sections 52, 54, 55, 56, 57, 58, 59, 60, 61, 62, 64 (excluding the last sentence), 66 and 73 of the Indian Forest Act, 1927 (16 of 1927) shall, so far as applicable, be read as part of this Act and for the purposes of those provisions, every offence punishable under section 16 shall be deemed to be a "forest offence" and every officer employed in the management of any area notified under section 3 as caretaker or otherwise, shall be deemed to be a forest officer.

18. Power to try offences summarily.—The Chief Judicial Magistrate or any Judicial Magistrate of the first class specially empowered in this behalf by the State Government shall try summarily, under the Code of Criminal Procedure, 1973 (2 of 1974), any forest offence punishable with imprisonment for a term not exceeding six months, or with a fine not exceeding five hundred rupees, or with both.

19. Power to compound offences.—(1) The State Government may, by notification in the Official Gazette, empower a Gazetted Forest Officer—

- (a) to accept from any person, against whom a reasonable suspicion exists that he has committed any forest offence, other than an offence specified in section 62 of the Indian Forest Act, 1927 (16 of 1927), a sum of money by way of compensation for the offence which such person is suspected to have committed; and
- (b) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.

(2) On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceeding shall be taken against such person or property.

(3) The sum of money accepted as compensation under clause (a) sub-section (1) shall in no case exceed the sum of five hundred rupees in each case.

20. Bar of suits.—No suit shall lie against the State Government for anything done under this Act, and no suit shall lie against any public servant, for anything done, or purporting to have been done, by him, in good faith, under this Act.

21. Power to make rules.—(1) The State Government may make rules, consistent with this Act,—

- (a) regulating the procedure to be observed in any inquiry or proceeding under this Act; and
- (b) generally for the purpose of carrying into effect all or any of the provisions of this Act.

(2) All rules made under this section shall be published in the Official Gazette.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days, which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

22. Repeal and savings.—The Punjab Preservation Act, 1900 (2 of 1900), as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 (31 of 1966) and the Mandi State Anti-Erosion Act, 2004 B.K. (4 of 2004 B.K.), as in force in the areas comprised in the erstwhile princely State of Mandi, are hereby repealed:

Provided that anything done or any action taken, including rules made, notifications issued or proceedings commenced or continued under the provisions of the Acts hereby repealed shall, unless it is inconsistent with the provision of this Act, be deemed to have been done, taken, made, issued, commenced or continued under the corresponding provisions of this Act.

**2498**  
BEFORE THE NATIONAL GREEN TRIBUNAL  
(PRINCIPAL BENCH), NEW DELHI  
ORIGINAL APPLICATION NO.911/2022  
I.A No. 16/2023 and I.A. No. 9/2024

**IN THE MATTER OF:**

NGT Bar Association  
(Substituted for original applicants  
Prof. Dr. Sanjeev Bagai &Ors.)

.....Applicant

Versus

Department of Environment, GNCTD &Ors

....Respondents

**AFFIDAVIT**

I, Rajiv Kumar, S/o Sh. Inderjit Kumar about, 59 years, presently posted as Principal Chief Conservator Forests (HoFF), Shimla, Himachal Pradesh having office at Shimla do hereby solemnly affirm and state as under: -

1. That I am the authorised signatory for the State of Himachal Pradesh in the captioned matter. I am fully conversant with the facts and circumstances of the case and I have been duly authorized and am, therefore, competent to affirm this affidavit.
2. I state that I have read the contents of the Reply. I state that the facts contained therein are true to the best of my knowledge and belief as derived from the record.
3. I state that the legal argument in the Reply is based on the legal advice given to me by my Counsel and factual statements are based on documents/records relied upon.

*Sohanal*  
Identified by

  
Principal Chief Conservator of Forests  
(Head of Forest Force)  
**DEPONENT**  
Himachal Pradesh, Shimla-1

**ATTESTED**  
OATH COMMISSIONER

**VERIFICATION**

I, the Deponent abovenamed, do hereby verify that the contents of paragraph no. 1 to 3 of the above affidavit are true and correct to the best of my knowledge and belief, no part of it is false and nothing material has been concealed therefrom.

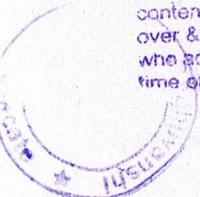
Verified at Shimla on this 30<sup>th</sup> day of March 2024.

Be it remembered that the above-named deponent has appeared before me on solemn affirmation of truth on this day of March 2024 at Shimla in the District of Shimla by Rajiv Kumar who was identified by Sohanal who is personally known to me and the contents of the above affidavit have been read over & explained to the deponent in vernacular who admitted them to be correct and true at the time of making thereof

Rajiv Kumar  
30-3-24  
Oath Commissioner  
HP High Court, Shimla

  
Principal Chief Conservator of Forests  
(Head of Forest Force)  
**DEPONENT**  
Himachal Pradesh, Shimla-1

All Oaths and Commissions  
are duly attested by me.  
30-3-24  
Oath Commissioner



2499

BEFORE THE NATIONAL GREEN TRIBUNAL  
(PRINCIPAL BENCH), NEW DELHI  
ORIGINAL APPLICATION NO.911/2022

I.A No. 16/2023 and I.A. No. 9/2024

IN THE MATTER OF:

NGT Bar Association  
(Substituted for original applicants  
Prof. Dr. Sanjeev Bagai & Ors.)

.....Applicant

Versus

Department of Environment, GNCTD & Ors

....Respondents

VAKALTNAMA

KNOW ALL to whom these presents shall come that I/we Rajiv Kumar  
working as Asst CCF (HoFF) Shimla H.P. in the State of  
Himachal Pradesh, do hereby appoint **SHRI DIVYANSHU SRIVASTAVA (D/1383/2015)**,  
hereinafter called the Advocate to be My/our Advocates in the above noted case and authorize  
them/him:

- To act, appear and plead in the above noted case in this court in any other court in which the same may be tried or heard and also in the appellate courts.
- To sign, file, verify and present pleading, applications, appeals, cross-objections or petitions for execution, review, revision, withdrawal, compromise or other petition, replies, objections affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages.
- To file and take back documents.
- To withdraw, or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.
- To take out execution proceedings.
- To deposit, draw and receive moneys, cheques and grant receipts therefor and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.
- To appoint and instruct any other Legal Practitioner authorising him to exercise the powers and authorities hereby conferred upon the Advocate whenever he may think fit to do so and to sign the power of attorney on my/our behalf.

And I/we the undersigned do hereby agree to ratify and confirm acts done by the Advocate or his substitute in the matter my/our own acts as if done by me/us to all intents and purposes.

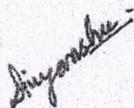
And I/we undertake that I/we or my/our authorised agent would appear in the court on all hearings and will inform the Advocate for appearance when the case is called.

And I/we the undersigned do hereby agree not to hold the Advocate or his substitute responsible for the result of the said case in consequence of his absence from the court when the said case is called up for hearing, or for any negligence of the said Advocate or his substitute.

And I/we the undersigned do hereby agree that in the event of the whole or any part of the fee agreed by me/us to be paid to the Advocate remaining unpaid, he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. If any costs are allowed for an adjournment, the Advocate would be entitled to the same.

IN WITNESS WHERE OF I/we do hereunto set my/our hand to these presents of which have been understood by me/us this 15h day of March, 2024.

ACCEPTED:



(DIVYANSHU KUMAR SRIVASTAVA)  
48, Lawyer's Chamber, Supreme Court,  
Tilak Marg, New Delhi -110001  
[Dksrivastava0511@gmail.com](mailto:Dksrivastava0511@gmail.com)  
9711872319



Principal Conservator of Forests  
CLIENT  
(Head of Forest Force)  
Himachal Pradesh, Shimla-1