

THE HIMACHAL PRADESH PRIVATE FORESTS ACT, 1954

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THE HIMACHAL PRADESH PRIVATE FORESTS ACT, 1954

(ACT NO. 6 OF 1955)

(Received the assent of the President on the 6th August, 1955, and was published in Hindi, in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 29th August, 1955, pp. 209-236 and in English in the Rajpatra, Himachal Pradesh, dated the 28th June, 1956, pp. 345-370).

AN ACT to provide for the conservation of Private Forests.

Amended, repealed or otherwise affected by,-

- (i) Himachal Pradesh (Extension of Laws) Act, 1969 (Act No. 5 of 1970), published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 4th April, 1970, p. 290-294.
- (ii) The Himachal Pradesh Adaptation of Laws (State and Concurrent Subjects) Order, 1973, published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 20th January, 1973, pp. 91-112, effective from 25th January, 1971.

It is hereby enacted in the Fifth Year of the Republic of India as follows:-

CHAPTER 1 PRELIMINARY

1. Short title, extent and commencement.- (1) This Act may be called the Himachal Pradesh Private Forests Act, 1954.

(2) It extends¹ to the whole of the State of Himachal Pradesh.

(3) It shall come into force at once.

2. Act not to apply to certain lands.- This Act shall not apply-

(a) to any land which is vested in Government; or

(b) to any land which is a reserved or protected forest under Indian Forest Act, 1927 (Act No. 16 of 1927).

3. Definitions.- In this Act unless there is anything repugnant in the subject or context,-

(1) "Collector" includes any officer empowered by the State Government to discharge the functions of the Collector under this Act;

(2) "Controlled Forest" means a forest in respect of which a notification has been issued under sub-section (1) of section 35;

(3) "estate" means any area:-

(a) for which a separate record of rights has been made, or

(b) which has been separately assessed to land revenue, or would have been so assessed if the land revenue had not been released, compounded for a redeemed, or

(c) which the State Government may, by general rule or special order, declare to be an estate;

(4) "fee" includes also the fee payable to the State Government under the terms of Forest or Revenue Settlement or usage or custom subject to which permission to fell and sell trees was being given by the integrating States before their merger;

(5) "forest" includes any land recorded as forest in a record of rights;

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

(7) "Forest Officer" means any person whom the State Government 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. The Act extended to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 vide H.P. Act No. 5 of 1970.

- (8) "Forest Settlement Officer" means an officer appointed by the State Government to perform the duties of a Forest Settlement Officer under this Act;
- (9) "landlord" means the owner of the estates or tenure in which a forest or waste land is situated who is entitled to exercise any right in such forest or waste land ;
- (10) "notification" means a notification published in the Official Gazette;
- (11) "notified forest" means a forest specified in a notification issued under section 4;
- (12) "owner" includes a patta or jagir holder, lessee, mortgagee in possession, manager, trustee, receiver appointed by a competent court or a Court of Wards in respect of property under the superintendence or charge of such court;
- (13) "private forest" means a forest which is not the property of the Government or over which the State has no proprietary rights or to the whole or any part of the forest produce of which the State is not entitled;
- (14) "prescribed" means prescribed by rules made under this Act;
- (15) "right holder" means a person who has by custom a right of cutting or collecting in, and removing from a forest, timber, fuel and other forest produce for his domestic and agricultural purposes and of pasturing his cattle in a forest;
- (16) "rule" means a rule made under this Act;
- (17) ¹[*****];
18. "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;
- (19) "tree" includes timber and fuel trees, palms, bamboos, stumps, brushwood and canes;
- (20) "wasteland" means any land which the State Government may, by notification, declare to be a wasteland for the purposes of this Act;
- (21) "working plan" means any written scheme for the management and treatment of a forest;
- (22) "year" means a year beginning on the 1st day of April and ending on the 31st day of March of the following year;
- (23) words and expressions used but not defined in this Act and defined in the Indian Forest Act, 1927 (16 of 1927), shall

1 . Clause (17) omitted vide A.O., 1973.

have the meanings respectively assigned to them in that Act.

CHAPTER 2

GENERAL PROVISION RELATING TO THE MANAGEMENT OF, AND EXERCISE OF RIGHT IN A NOTIFIED FOREST

4. Power to prohibit certain acts.- The State Government may, by notification and subject to such conditions as may be imposed by the Forest Officer concerned, prohibit the cutting, felling, girdling, lopping, burning, stripping off the bark or leaves or otherwise damaging any tree or counterfeiting or defacing marks on trees or timber in such private forest as may be specified.

5. Demarcation of private forests.- In every private forest in respect of which a notification is issued under section 4, the Forest Officer shall, within a period of one year from the date of publication of such notification, demarcate the limit of such forest in accordance with the revenue records, and shall erect thereon such number of boundary pillars at such points of the line of demarcation as may be necessary at Government expense.

6. Rights in private forests or part thereof to be exercisable in accordance with this Act.- In the forest notified under section 4 the rights of the landlord and, notwithstanding anything contained in any record-of-rights prepared under any law for the time being in force, the rights of any other person to cut, collect or remove trees, timber or other produce in or from, or to pasture any cattle in any forest shall not be exercised in contravention of the provisions made in or under this Act.

7. Restrictions on rights to cut, collect or remove timber etc., and reclaim forests for purposes of cultivation.- In view of the necessity for conservation of soil and moisture and in the interest of the general public-

- (a) a person who has a right to cut, collect or remove trees, timber or fuel from any notified forest shall not cut, collect or remove such trees, timber or fuel except under a permit granted by the Forest Officer in this behalf and in accordance with such conditions as the Forest Officer may impose:

Provided that nothing in this clause shall apply to any trees, timber or fuel which is required by the owner or rightholder for domestic purposes, manufacture of agricultural implements or cremation of dead bodies;

- (b) a person who has a right to reclaim any land in notified forest for the purpose of cultivation and is the owner of the notified forest shall not reclaim any land therein except with the previous permission of the Forest Officer obtained in writing and in accordance with such conditions as the forest officer may impose.

8. Height at which trees and age of bamboo culms that may be cut.- No person with a felling permit shall, in a private forest, cut down any tree at a height of more than six inches from the ground or any bamboo culm less than one year old.

9. Certain persons not to sell or transfer timber.- No person, not being a landlord, a person acting under the authority of a landlord or an officer acting under the provisions of this Act or rules made thereunder shall sell or otherwise transfer any timber obtained by him in the exercise of a right to cut timber in any notified forest, and the timber cut by him in excess of his requirement shall be liable to forfeiture by the State Government.

10. Restrictions of right of landlord or persons claiming through landlord to cut or remove timber or forest produce.- The landlord, or a lessee or other person claiming through the landlord, shall not cut or remove or permit any person to cut or remove any trees, timber or other forest produce in or from any notified forest so as to effect the right of any person which such person may, subject to any rules made under this Act, enjoy under any custom or usage.

11. Grant of licence to fell trees and fees for sale of trees.- (1) A Forest Officer may, on the application of the landlord or owner, grant a license for the felling of trees for such purpose and with such conditions as he may deem proper keeping in view the necessity for conservation of soil and moisture and the interests of the general public, and thereupon it shall be lawful for the landlord or the owner to carry out felling in accordance with the terms of the licence.

(2) The landlord or owner selling trees shall pay 15% of the sale price as fees to the State Government and the timber shall not be removed from the forest unless fees have been paid.

(3) The owner may exercise the option of selling the trees either through the Forest Department or direct to any contractor. In the event of selling the trees direct, the owner shall have to pay 15% fees as prescribed above on the price of the trees calculated in accordance with the prescribed principles.

12. Preparation of a working plan.- (1) The Forest Officer may direct any owner of the notified forest to prepare within a specified period a working plan in the prescribed manner for management of the forest.

(2) The owner of such notified forest may either himself prepare the working plan or request the Forest Officer to prepare a working plan on his behalf.

(3) The Forest Officer may, after considering each working plan submitted to him, by an order in writing, accept or modify such working plan in such manner as he may consider necessary or substitute another working plan for it.

(4) If any owner of such notified forest does not submit a working plan within the period specified under sub-section (1) or does not request the

Forest Officer to prepare one on his behalf within the period specified in sub-section (2), the Forest Officer may prepare a working plan in respect of such forest.

(5) The cost of the preparation of the working plan under sub-section (2) and (4) will be borne by the owner in the case of forests which will be at a profit and by Government in the case of forests run at a loss. Where the cost is payable by the owner such cost may be realised as arrears of land revenue when the landlord fails to pay it within the period to be specified by the Forest Officer.

13. Management of forest.- The forest for which an approved working plan exists will be managed by the owner himself according to prescriptions made in such working plan with the assistance of such trained staff as may be prescribed in the working plan and under the superintendence of the Forest Officer. No deviation from the prescriptions of the working plan will be permitted without the previous sanction of the Forest Officer.

14. Removal of timber and extraction and removal of resin from private forest.- (1) Save as provided in the foregoing sections, no tree, unless marked and no timber, unless hammer marked by the Forest Officer shall be cut or removed from the private forest and no tree or part thereof or timber from the private forest shall be launched into any river, stream or water, unless it bears property mark or marks and is covered by a permit granted in this behalf and fees therefor are first paid, provided always that no removal of a tree or part thereof or timber or fuel shall be done by land, unless covered by a challan issued by the Forest Officer subject to such restrictions as he may consider necessary to impose as regards its check while in transit and the time between which the movement of such tree, timber or fuel shall remain suspended.

(2) No resin will be extracted, removed or carried from private forest except in accordance with the rules framed under the Act.

15. Recovery of fees due to the State Government.- (1) Where a licence under section 11 is issued for the sale of tree, timber or fuel from a private forest, the licensee shall not be permitted to remove such trees, timber or fuel unless all prescribed fees payable to the State Government are first paid in full.

(2) The removal of such trees, timber or fuel as are mentioned in sub-section (1) shall be subject to such conditions as the Forest Officer may deem necessary to impose.

16. Prohibition of further contracts.- A contract entered into by an owner with any person after the commencement of this Act conferring on such person the right to cut, collect or remove trees, timber or fuel from the private forest shall be void unless the owner has first obtained a licence in this behalf under section 11.

17. Restrictions on right to graze cattle.- No person shall in exercise of any customary right or other right, pasture or cause to be pastured in any notified forest, any cattle of which he is not the owner.

18. Offences under this chapter and trial of such offences and penalties thereof.- (1) Any person who contravenes any of the provisions of this chapter or deviates from the prescriptions of the sanctioned working plan without the previous sanction of the Forest Officer, shall be punishable with a fine not exceeding rupees one thousand or simple imprisonment not exceeding three months or both.

(2) Offences under this section shall be triable by a Magistrate of the first or the second class and proceedings under this section may be instituted on a complaint made by the landlord of the notified forest in respect of which the offence is alleged to have been committed or by any rightholder of such a notified forest or by the Forest Officer or by any officer specially empowered by the State Government in this behalf.

(3) When any person is convicted of an offence under this section, any trees, timber or other forest produce in respect of which the offence is committed may be liable to forfeiture. If such trees, timber or other forest produce has or have been destroyed or converted or otherwise disposed of by him, the value thereof may be recoverable from him in the same way as a fine imposed on him under sub-section (1).

(4) Any trees, timber or other forest produce forfeited under this section shall be disposed of in such manner as the Collector may, subject to rules, if any, direct.

CHAPTER 3

CONTROLLED FORESTS

19. Power to constitute a controlled forest.- (1) If the State Government is satisfied at any time that the provisions of chapter 2 are not or have not been sufficient to secure due protection of any notified forest or that it is necessary in the interest of the general public to apply the provisions of this chapter to any private forest whether notified or not, it may constitute such forest a Controlled Forest in the manner hereinafter provided.

(2) If it appears from the report of the Forest Officer that any wasteland, the area of which is not less than fifty acres which is lying uncultivated for more than seven years and is suitable for afforestation and that the owner of such land is unwilling or unable to cultivate is by growing therein agricultural crops, or to use it for purposes of horticulture to the satisfaction such Forest Officer or to afforest it, the State Government may, after satisfying itself that such land cannot be more advantageously used for the purposes of agriculture or horticulture than for the purposes of afforestation, constitute such wasteland as controlled forest in the manner hereinafter provided.

20. Notification by State Government.- (1) Whenever it is proposed by the State Government to constitute any area whether private forest or

wasteland or Controlled Forest, the State Government shall issue a notification-

- (a) declaring that it is proposed to constitute such area a Controlled Forest;
- (b) specifying, as nearly as possible, the situation and limits of such area; and
- (c) stating that any landlord whose interests are likely to be effected if such area is constituted a Controlled Forest, may, within such period not being less than six months from the date of the notification, as shall be stated in the notification, present to the Collector in writing any objection to such area being constituted a Controlled Forest.

(2) A copy of such notification shall be served on the landlord in the prescribed manner.

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

21. Hearing of objections.- (1) The Collector shall in the prescribed manner hear any objection presented under clause (c) of section 20 and shall pass an order-

- (a) dismissing such objection, or
- (b) directing that the proposal to constitute the said area a Controlled Forest shall be dropped either in respect of the whole of the said area or in respect of a part of it to be specified in the order.

(2) Any landlord who is aggrieved by an order passed by the Collector under sub-section (1) or any Forest Officer or other person generally or specially empowered by the State Government in this behalf, may file a revision application to the State Government whose orders shall be final.

(3) If no objection is presented under clause (c) of section 20 or if such objection is presented and is finally disposed of under the provisions of this section, the State Government may, where it considers that any area included in the notification issued under section 20, should be constituted a Controlled Forest, issue a notification-

- (a) declaring that it has been decided to constitute such area a Controlled Forest;
- (b) specifying as nearly as possible the situation and limit of that area; and
- (c) appointing a Forest Settlement Officer to enquire into and determine the existence, nature and extent of any rights other than landlord's rights alleged to exist in favour of any person in or over any area comprised within such limits, or in or over

any forest produce and to deal with the same as provided in this chapter.

(4) The Forest Settlement Officer appointed under clause (c) of sub-section (3) shall, in the prescribed manner, give an opportunity to the landlord to be heard in the enquiry referred to in that clause.

22. Proclamation by Forest Settlement Officer.- Where a notification has been issued under sub-section (3) of section 21, the Forest Settlement Officer shall publish in every town and village in the neighbourhood of the area comprised therein, a proclamation-

- (a) specifying as nearly as possible the situation and limits of the proposed area;
- (b) explaining the consequence which as hereinafter provided, will ensue when such area is constituted a Controlled Forest; and
- (c) fixing a period of not less than six months from the date of such proclamation, and requiring every person claiming any right mentioned in sub-section (3) of section 21 (other than landlord's rights) 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.

23. Inquiry by Forest Settlement Officer.- The Forest Settlement Officer shall take down in writing all statements made under section 22 and shall at some convenient place inquire into all claims duly preferred under that section and the existence of any rights mentioned in sub-section (3) of section 21 other than landlord's rights and not claimed under section 22 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.

24. 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 to authorise any officer to enter upon any land, and to survey, demarcate and make a map of the same; and
- (b) the powers of the Civil Court in the trial of suits.

25. Order on claims to rights of pasture or to forest produce.- In the case of claim to rights of pasture or to forest produce, the Forest Settlement Officer shall pass, subject to the provisions of section 26 and 32, an order admitting or rejecting the same in whole or in part.

26. Manner in which Forest Settlement Officer should pass orders.- (1) The Forest Settlement Officer shall when passing orders under section 25-

- (a) prepare a list of the right holders with their father's names, castes, residences and occupations of each;
- (b) decide what fraction of the timber and other forest produce of the forest notified under sub-section (3) of section 21 shall be allotted to the right-holders;
- (c) decide the maximum amount of timber and other forest produce to which each right-holder is entitled;
- (d) determine the number and description of the cattle, if any, which the claimant is from time to time entitled to graze in the area and the season during which such pasture is permitted;
- (e) consider the capacity of the area to supply without danger to its conservation, the requirements of the right-holders.

(2) In deciding what fraction of the timber and other forest produce shall be allotted to the right-holders, the Forest Settlement Officer shall have regard to-

- (a) the entries in any record of rights prepared and finally published under any law for the time being in force and value to be attached to such entries under such law;
- (b) the amount of forest produce which the right-holders have taken from the area notified under sub-section (3) of section 21 for their fuel or other domestic or agricultural purposes;
- (c) the attempts, if any, made from time to time by the landlords or the right-holders to preserve the said forest or utilise the said wasteland;
- (d) any other material showing the respective rights of the land lord and right-holders in the said area; and
- (e) the extent of land not included in the area notified under sub-section (3) of section 21 and is still available for exercise of the rights of right-holders.

27. Suspension of rights when required for the conservation of a forest.- When passing an order under section 25 on any claim, the Forest Settlement Officer is of opinion that the conservation of the Forest or the utilisation of the wasteland concerned so requires, he may instead of permitting the exercise of the full rights proved by the claimant, order that the exercise of such rights shall be suspended wholly, or in part, for such period and subject to such conditions as may be specified in the order:

Provided that it shall be necessary for the Forest Officer to make adequate arrangements for the grazing of cattle.

28. Extinction of rights.- Rights (other than landlord's rights) in respect of which no claim has been preferred under section 22 and regarding the existence of which nothing has come to notice during the inquiry under

section 23 shall be extinguished unless before the publication of the notification under section 35 the person claiming them satisfies the Forest Settlement Officer that he has sufficient cause for not preferring such claim within the period fixed under section 22.

29. Prohibition of further contracts.- After the issue of a notification under section 20, the landlord of the forest or the area specified in such notification, shall not enter into any contract with any person conferring on such person the right to cut, collect or remove timber or other forest produce or trees in or from such area and any such contract entered into after the issue of the said notification under section 20 shall be void:

Provided that this restriction shall, without prejudice to the other provisions of the Act, cease, if the proposal to constitute the area concerned a Controlled Forest, is dropped or the area is eventually not constituted a Controlled Forest.

30. Prohibition of cutting of trees.- (1) At the time of issuing a notification under section 20 or at any time thereafter, the State Government may make an order prohibiting, until the date of the publication of a notification under section 35 and subject to such conditions and exceptions as may be specified in the order, the cutting, collection and removal of any trees or any class of trees in the area in respect of which such notification is issued, and effect shall be given to such order notwithstanding anything contained in any contract, grant or record-of-rights to the contrary:

Provided that the order shall not apply to an area the proposal to constitute which as a Controlled Forest is dropped.

(2) Every such order shall be published in the neighbourhood of the said area in the prescribed manner.

31. Procedure for dealing with claims of forest contractors.- (1) In the case of a person who claims to have a right under any contract with, or grant made by, the landlord before the issue of a notification under section 20, to cut, collect or remove any forest produce in or from, or to pasture cattle in an area notified under sub-section (3) of section 21 or any part thereof, and who claims compensation, for the loss or modification of such right, the Forest Settlement Officer shall determine the amount which should, in his opinion, be awarded as compensation to such claimant, and subject to the provisions of sub-section (3) shall direct that the amount, if any, so determined shall be awarded to the claimant.

(2) In determining the amount of compensation to be awarded to such claimant, the Forest Settlement Officer shall take into consideration the following and no other matters, namely:-

- (a) any payment made by the claimant to the landlord;
- (b) whether or not such payment was a reasonable and bonafide payment;

- (c) whether or not the exercise by claimant of his rights under any contract entered into between the claimant and the landlord or under any grant made by the land-lord contravened or tended to contravene the provisions of section 7;
- (d) any expense reasonably incurred by the claimant in order to cut, collect or remove trees, timber or other forest produce;
- (e) the value of trees, timber or other forest produce cut, collected or removed by, or with the permission of the claimant.

(3) Instead of directing the award of compensation in cash, the Forest Settlement Officer may direct that the claimant shall be permitted to cut, collect and remove from the said area such quantity of timber or other forest produce as shall not exceed in value the amount determined by the Forest Settlement Officer under sub-section (1).

(4) The claimant shall not cut, collect or remove any timber or other forest produce except in such manner and at such times and in such parts of the said area as may be specified in rules or in instructions issued by the Forest Officer.

(5) The Forest Officer shall decide when the claimant has cut, collected and removed trees, timber or other forest produce to the aggregate value mentioned in sub-section (3) and the decision of the Forest Officer shall, subject to any order that may be passed in revision by the Conservator of Forests, Working Plans Circle, be final.

32. Appeal from orders passed under section 25 or section 31.-

Any person who has made a claim under section 25 or section 31, any Forest Officer or other person generally or specially empowered by the State Government in this behalf, may, within six months of the date of the order passed by the Forest Settlement Officer under section 25 or section 27 or section 31, present an appeal from such order to the prescribed authority.

33. Appeal under section 32.- (1) Every appeal under section 32 shall be made by petition in writing and may be delivered to the Forest Settlement Officer, who shall forward it without delay to the prescribed authority referred to in that section.

(2) The petition of appeal received from the Forest Settlement Officer shall be heard in the manner provided for the time being for the hearing of appeals in matters relating to land revenue.

34. Persons entitled to appear, plead and act.- The State Government, or any person who has made a claim or presented an objection under this Act, may appoint any person to appear, plead and act on its or his behalf before the Collector or the Forest Settlement Officer or the appellate court, in the course of any inquiry, hearing or appeal under this Act.

35. Notifications declaring land to be a Controlled Forest.- (1) When the following events have occurred, namely:-

- (a) the period fixed under section 22 for preferring claims has elapsed, and all claims if any, made under sections 22 and 31 have been disposed of by the Forest Officer; and
- (b) if any such claims have been made, the period limited by section 32 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,

the State Government shall publish a notification in the Gazette specifying definitely according to boundary marks, erected or otherwise, the limits of the area which is to be constituted a Controlled Forest, and declaring the same to be a Controlled Forest from a date fixed by the notification, and from the date so fixed such forest shall be deemed to be a Controlled Forest:

Provided that, if in the case of any area in respect of which notification under section 20 has been issued, the State Government considers that the enquiries, procedure and appeals referred to in this chapter will occupy such length of time as to endanger in the meantime the conservation of the forest, the State Government may pending the completion of the said enquiries, procedure and appeals, declare such area to be a Controlled Forest, but not except as provided in sections 29 and 30 so as to prejudice or affect any existing rights.

(2) Any declaration made in respect of any area by the State Government under the proviso to sub-section (1) shall cease to have effect from the date of any final order passed under section 21, directing that the proposal to constitute such area a Controlled Forest shall be dropped, or of any order passed under sub-section (1).

36. Publication of such notification in neighbourhood of forest.- The Forest Officer shall, before the date fixed by such notification, cause a copy thereof to be published in every town and village in the neighbourhood of the forest.

CHAPTER 4

CONTROL AND MANAGEMENT OF CONTROLLED FORESTS AND POWERS OF FOREST OFFICERS

37. Control and management of Controlled Forests to vest in the State Government.- The control and management of every Controlled Forest shall vest in the State Government.

38. Appointment of Forest Officers for Controlled Forests.-The State Government shall, by notification, appoint a Forest Officer for the purposes of one or more Controlled Forests or of a specified portion thereof.

39. Power to invest Forest Officers with certain powers.- The State Government may invest any Forest officer with all or any of the following powers, that is to say:

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

- (b) the power of a Civil Court to compel the attendance of witnesses and the production of documents and material objects; and
- (c) power to hold inquiry into forest offences and in the course of such inquiry to receive and record evidence.

40. Demarcation of Controlled Forests.- The Forest Officer shall demarcate the Controlled Forest or portion of the Controlled Forest for which he is appointed in such manner as may appear to be necessary in the circumstances of the case.

41. Extent to which landlord is to be allowed to remove timber and other produce from Controlled Forest.- The Forest Officer appointed for any Controlled Forest shall, subject to the requirements of any working plan prepared for the forest, allow the landlord or rightholders of such forests to cut, collect or remove therefrom such quantity of trees timber or other forest produce as may, in the opinion of the Forest Officer, be required for his reasonable agricultural or domestic needs.

42. State Government to receive all revenues from and incur expenditure on Controlled Forest.- The State Government shall receive all revenues accruing from the working and management of a Controlled Forest and shall pay the whole expenditure incurred in the working and management of such forest, and the landlord of such forest or any other persons shall not be entitled to make any objection to any expenditure that the State Government may consider it necessary to incur on such working and management.

43. Maintenance of revenue and expenditure account.- The State Government, or any authority appointed by them in this behalf, shall maintain in the prescribed manner a revenue and expenditure account, the working and management of every Controlled Forest and shall supply an abstract of the yearly account to the landlord of such forest.

44. Payment of allowances for, and net profits of Controlled Forest to landlord.- (1) The State Government shall during the period of its control and management of any Controlled Forest pay, at prescribed intervals, to the landlord of the area comprising-

I. Forest.-(a) an allowance calculated on the total area of the forest as determined by the Forest Officer at the rate of four annas per acre per annum or such higher rate not exceeding eight annas per acre per annum as the Forest Officer may, from time to time, by general or special order, determine ; and

(b) the net profits, if any, accruing for the working and management of the forest will be paid to the owner, after deducting ten per cent, as the cost of management.

II. Wasteland- (a) no allowance will be paid;

(b) when all expenses incurred by the State Government for the afforestation of any such land have been recouped, the profits resulting from such afforestation shall, during the period the control of such land remains

vested in a Forest Officer be paid to the owner after deducting ten percent as the cost of management.

(2) For the purpose of calculating the net profits, the total expenditure incurred on the working and management of the Forest shall be adjusted against the total income from the working and management up to the date of account and the amount of any deficit shall be carried forward without interest from year to year till such amount is made up and surplus is effected.

(3) For the purposes of sub-section (2)-

- (a) the total expenditure shall include the allowance paid to the landlord concerned under clause (a) of sub-section (1) and any sum determined as compensation under sub-section (1) of section 31 or the value of anything taken from the forest under sub-section (3) of that section; and
- (b) the total income shall include the proceeds of confiscation or forfeiture for forest offences not committed by the landlord in respect of the forest or the forest produce thereof after deducting from such proceeds-
 - (i) the rewards, if any, paid to informers and officers out of such proceeds, and
 - (ii) such incidental expenses as may be fixed by the Forest Officer including that incurred for the storage, transport and sale of the articles or forest produce forfeited or confiscated.

45. Rights of right holders to be exercised in accordance with rules.- The rights of right-holders in a Controlled Forest shall be exercised in accordance with the rules.

46. Grouping of forests for management.- The Forest Officer may, with a view to the more efficient management and control of the forests, order that the Controlled Forests under his control in more than one village and under more than one landlord shall be grouped together.

47. System of annual groups.- (1) When the Forest Officer has ordered the grouping of Controlled Forests under section 46, he may direct that the rights of right-holders in a Controlled Forest shall be exercised in such portion of such group as he may order.

(2) In passing orders under sub-section (1) the Forest Officer shall have regard to the conveniences of the right-holders so far as that is possible without prejudicing the efficient administration and conservation of the Controlled Forest.

48. Extent of rights of right-holder to be varied by Forest Officer.- When the right-holder's share of the produce of a Controlled Forest is insufficient in any year to meet the maximum requirements of the right-holders, the Forest Officer shall determine for that year the amount of such produce which each right-holder may take in accordance with the rules.

49. Release of Controlled Forests.- (1) The State Government may, at any time, by notification, declare that the provisions of this chapter shall cease to apply to a Controlled Forest from such date as may be specified in the notification and that, with effect from the date, the forest shall cease to be a Controlled Forest.

(2) If on the date of the publication of notification under sub-section (1) the balance-sheet of the revenue and expenditure account prepared under section 43 shows that any amount is due to the State Government in respect of the management and working of such forest, such amount shall be recovered from the owner as may be determined generally or specially by the State Government.

CHAPTER 5

PENALTIES AND PROCEDURE

50. Forest offences.-Any person who, without the permission of the Forest Officer in writing or in contravention of any provision of this Act or any rule or order made thereunder-

- (a) fells, girdles, lops, taps or burns any tree in a Controlled Forest, or strips off the bark or leaves from, or otherwise damages, any such tree; or
- (b) quarries any stone, or burns any lime or charcoal, or collects, subject to any manufacturing process, or removes any forest produce from a Controlled Forest; or
- (c) breaks up clears, for cultivation or any others purpose any land in a Controlled Forest; or
- (d) sets fire to a Controlled Forest or kindles a fire without taking all reasonable precautions to prevent its spreading to any portion of such forest; or
- (e) permits cattle to damage any tree in a Controlled Forest, 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.

51. Penalties for breach of rules.- Any person contravening any rule, for the contravention of which no penalty is otherwise provided by this Act, shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to one hundred rupees or with both.

52. Seizure of property liable to confiscation.- (1) When there is a reason to believe that a forest offence has been committed in respect of any forest produce, such produce found within the Controlled Forest where an offence has been committed, may be seized by any Forest 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 a seizure to the magistrate having jurisdiction to try the offence on account of which the seizure has been made.

53. Procedure thereupon.- On receipt of any report made under sub-section (2) of section 52 the Magistrate shall with all convenient despatch take such measure as may be necessary for the apprehension of and trial of the offender and the disposal of the seized property according to law.

54. Trees, timber, forest produce, when liable to confiscation.- (1) All trees, timber or other forest produce in respect of which a forest offence has been committed shall be liable to confiscation.

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

55. 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 tree, timber or other forest produce in respect of which such offence has been committed, shall, if it 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, subject to rules, if any, direct.

56. 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 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 thereof and the evidence, if any, which he may produce in support of his claim.

57. Procedure as to perishable property seized under section 52.- The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale off any property subject to speedy and natural decay seized under sub-section (1) of section 52 and may deal with the proceeds as he would have dealt with such property if it had not been sold.

58. Appeal from orders under sections 54 to 56.- The officer who made the seizure under section 52 or any official superior, or any person claiming to be interested in the property so seized, may, within one month from the date of any order passed under sections 54 to 56 appeal against the order of acquittal or conviction, as the case may be, to court to which orders made by such Magistrate are ordinarily appealable and the order passed on such appeal shall be final.

59. Property when to vest in the State.- When an order for the confiscation of any property has been passed under section 54 or section 56, as the case may be, and the period prescribed by section 58 for an appeal from such order has expired and no such appeal has been preferred or when on an appeal being preferred the appellate court confirms such order in respect of

the whole or portion of such property, or such portion thereof, as the case may be, shall vest in the Government for the purpose of the State free from all encumbrances.

60. Saving of power to release property seized.- Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the State Government from directing at any time the immediate release of any property seized under sub-section (1) of section 52.

61. 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 belongs to a Controlled Forest or is the property of some person or that it may lawfully be cut or removed by some person ;
- (b) alters, defaces or obliterates any such marks placed on a tree in a Controlled Forest or on timber lying in or removed from any such forest by or under the authority of a Forest Officer; or
- (c) alters, moves, destroys or defaces any boundary mark of any Controlled Forest,

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.

62. Power to arrest.- (1) When any person is reasonably suspected of having committed any forest offence punishable with imprisonment for one month or upwards and refuses on the demand of a Forest Officer to give his name and address, or gives a name or address which such officer has reason to believe to be false, he may be arrested by such officer, in order that his name and address may be ascertained.

(2) When the true name and address of such person have been ascertained, he shall be released. If the true name and address of such person are not ascertained within twenty-four hours from the time of his arrest, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

63. Power to prevent commission of offence.- Every Forest Officer shall prevent, and may interfere for the purpose of preventing the commission of any forest offence.

64. Power to compound offence.- The offences other than those specified in section 61 and section 62 punishable under the Act may with the permission of the Court before which any prosecution for such offence is pending be compounded by any Forest Officer so empowered by the State Government in this behalf.

65. Presumption that forest produce belongs to Controlled Forests.- Whenever in connection with any forest offence a question arises as to whether any trees, timber or other forest produce seized within the limit of a Controlled Forest belongs to such forest, such trees, timber or other forest produce shall be presumed to belong to such forest until the contrary is proved.

CHAPTER 6

CATTLE TRESPASS

66. Application of Cattle Trespass Act 1871.- Cattle trespassing in any portion of a Controlled Forest shall be deemed to be causing damage to public plantation within the meaning of section 11 of the Cattle Trespass Act, 1871 (1 of 1871), and any such cattle may be seized and impounded by any Forest Officer.

67. Power to alter fines fixed under Cattle Trespass Act, 1871.- The State Government may, by notification 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 66 of this Act such fines as it thinks fit.

CHAPTER 7

MISCELLANEOUS

68. Forest Officers deemed to be public servants.- All forest Officers shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

69. Forest Officers not to trade.- Except with the permission in writing of the State Government no Forest Officer shall, as principal or agent, trade in trees, timber or other forest produce, or be or become interested in any lease of any forest or in any contract for working in any forest.

70. Bar of suits and other proceedings.- When a notification has been issued in respect of any forest under section 20 or under sub-section (1) of section 35 or when an order has been made under sub-section (1) of section 30 or under sub-section (3) of section 31, no suit or other proceedings shall, save as otherwise provided in this Act lie in or be entertained by any civil, criminal or revenue court-

- (a) in respect of any modification, suspension or extinction as a result of any such modification or order or as a result of restriction imposed by section 28 or section 29 of any right which any person was entitled by virtue of any contract or otherwise to exercise in such forest;
- (b) to vary or set aside any order passed by a Forest Settlement Officer under sections 25, 27 or 31, or any order passed in appeal or revision under sub-section (2) of section 33;

- (c) against the State Government or any servant of the Government in respect of anything done or omitted to be done in a Controlled Forest by the State Government or any such servant of the State Government while such forest was under the control or management of the State Government, or in respect of any profits claimed by the landlord to be due to him in respect of the management and working of such forest; and
- (d) in respect of anything done or purporting to be done in good faith by any servant of the Government in the discharge of any duty or the exercise of any power imposed or conferred on him under this Act.

71. Persons bound to assist Forest Officers.- (1) Every person who exercises any right in a Controlled Forest or who is permitted to take any forest produce from or to cut or remove trees or timber in or from, or to pasture cattle, in such forest, and every person in any village contiguous to such forest who is employed by the Government, or who receives emoluments from the Government for services to be performed to the community, shall be bound to furnish without unnecessary delay, to the nearest Forest Officer any information he may possess respecting the commission of, or intention to commit, any forest offences, and shall forthwith take steps, whether so required by any Forest 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 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 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 any information required by sub-section (1); or
- (b) to take steps, as required by sub-section (1) to extinguish any forest fire in a Controlled Forest; or
- (c) to assist any Forest 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,

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.

72. Recovery of money due to Government.- All money payable to the State Government under this Act, or under any rule made under this Act, or on account of the price of any forest 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.

73. Lien on forest produce for money due to Government.- (1) When any such money is payable for or in respect of any forest produce, the amount thereof shall be deemed to be 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 and the surplus, if any, shall be paid to the person.

74. Recovery of penalties due under bond.- When any person in accordance with any provision of this Act, or in compliance with any rule, binds himself by any bond or instrument to perform any duty or act, or covenants by any bond or instrument 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 the 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.

75. Power to make rules.- (1) The State Government may make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may regulate all or any of the following matters, namely:-

- (a) the cutting, sawing, conversion and removal of trees and timber, and the collection, manufacture and removal of forest produce from Controlled Forests;
- (b) the granting of licences to the inhabitants of towns and villages in the vicinity of Controlled Forests to take trees, timber or other forest produce for their own use, and the production and return of such licences by such persons;
- (c) the granting of licences to persons for felling or removing trees or timber or other forest produce in or from such forests for the purposes of trade, and the production and return of such licences by such persons;

- (d) the payment, if any, to be made by the persons mentioned in clause (b) or (c) for permission to cut such trees or to collect and remove such timber or other forest produce;
- (e) other payments, if any, to be made by them in respect of such trees, timber and forest produce and the places where such payments 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 trees;
- (i) the cutting of grass and the pasturing of cattle in such forests;
- (j) hunting, shooting, fishing, poisoning water and setting traps or snares in such forests:

Provided that the rules made under this clause shall not require the landlord of a Controlled Forest or any person authorised by him and by the Forest Officer to obtain a permit, or to pay any fee to hunt, shoot or fish in such forest;

- (k) the burning of charcoal, or the subjection of any forest produce to any manufacturing process in such forests;
- (l) the exercise in such forests of right-holders;
- (m) to regulate rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Act;
- (n) the extracting of resin in, and its removal from a private forest;
- (o) to regulate working of mines and quarrying for minerals for purposes of section 50;
- (p) the powers and duties of a Forest Officer under this Act;
- (q) the items to be included as revenue and items to be included as expenditure in the account mentioned in section 43 and the manner, in which such account shall be prepared; and
- (r) any matter which is by this Act, expressly required or authorised to be prescribed or to be provided for by rules.

(3)(a) The power to make rules under this section shall be subject to the condition of their being made after previous publication.

(b) All rules made under this section shall be published in the Official Gazette and they shall, unless a different date has been specified, come into force from the date of notification.

76. Savings.- Nothing in this Act, shall affect any right to minerals lying in or under the Controlled Forest and the State Government shall make adequate provisions for exercise of this right by the person or persons legally entitled to this right in accordance with any rule made by the State Government in this behalf.
